

MATEO H. REYES AND JUAN H. REYES, PETITIONERS AND APPELLANTS, VS. MATEO RAVAL REYES, RESPONDENTS AND APPELLEES.

G.R. No. L-21703-04. August 31, 1966

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Direct appeal on pure question of law from an order of the Court of First Instance of Ilocos Norte, in its Cadastral Cases Nos. 31, L. R. C. Rec. No. 1188, and 42, L. R. C. Rec. No. 1194, denying petitioners' motion to compel respondent to surrender their owners' duplicates of Original Certificates of Title Nos. 22161 and 8066, as well as from a subsequent order of the same court, refusing, upon petitioners' motion, to reconsider the first order of denial.

The undisputed facts are: three brothers, Mateo H., Juan H., and Francisco H., all surnamed Reyes, are the registered owners of several parcels of land, to wit: Lots Nos. 15891, 15896, 15902 and 15912, of the Laoag (Ilocos Norte) Cadastre, embraced in and covered by Original Certificate of Title No. 22161, and also Lots Nos. 20481 and 20484, of the same cadastral survey, embraced in and covered by Original Certificate of Title No. 8066, both of the Registry of Deeds of Ilocos Norte. These titles were issued pursuant to a decree of registration, dated 31 May 1940.

On 17 July 1962, petitioners Mateo H. Reyes and Juan H. Reyes filed, in the above stated cadastral cases, a motion for issuance of writs of possession over all the lots covered by both Certificates of Title above referred to.

Respondent Mateo Raval Reyes opposed the motion, admitting that he is only in possession of the lots covered by Original Certificate of Title No. 22161, but denying that he possesses the lots covered by Original Certificate of Title No. 8066; however, he claimed that he has been in, and is entitled to, the possession thereof (i.e., Lots Nos. 20481 and 20484), having acquired by way of absolute sale (not recorded) from petitioners' brother, Francisco H. Reyes, the latter's undivided one-third (1/3) share, interest and participation to these disputed lots.

After due hearing on this incident, the court a quo issued, on 20 December 1962, the writ of possession with respect to Lot Nos. 15891 and 15896, which writ was, upon petitioners' motion for reconsideration, amended, on 7 January 1963, to include all the other lots covered by both titles.

Respondent did not appeal from this order amending the writ of possession.

Subsequently, petitioners in the above stated cadastral cases, as plaintiffs, commenced, on 15 January 1963, before the same court of first instance, an ordinary civil action seeking to recover the products of the disputed lots, or their value, and moral damages against respondent Mateo Raval Reyes, as defendant. This case was docketed as its Civil Case No. 3659.

Defendant therein (now respondent M. Raval Reyes) answered the complaint and pleaded a counterclaim for partition of all the disputed lots, alleging the same ground he had heretofore raised in his answer and/or opposition

to the motion for issuance of writ of possession, i.e., he is their (petitioners') co-owner, he having bought from plaintiffs' brother, Francisco H. Reyes, the latter's undivided one-third (1/3) share, interest and participation to these disputed lots.

Pending trial on this ordinary civil case (No. 3659), petitioners presented, on 25 February 1963, in the cadastral cases aforementioned, a motion to compel respondent Mateo Raval Reyes to surrender and deliver to them the owners' duplicates of Original Certificates of Title Nos. 22161 and 8066. Respondent opposed this motion.

The court a quo denied petitioners' motion, on the ground that the parcels of land covered by both titles are subjects of litigation in Civil Case No. 3659 and the same has not yet been decided on the merits by it. Petitioners subjected the foregoing order to a motion for reconsideration, but without success; hence, the present appeal.

Petitioners-appellants dispute the above ruling of the trial court, contending that, since the subject matter of Civil Case No. 3659 are not the lots covered by the titles in question but their products or value, and moral damages, these lots are not in litigation in this ordinary civil case; and that since respondent had already raised the issue of ownership and possession of these lots in his opposition to the (petitioners') motion for issuance of writ of possession and, despite this opposition, the court a quo granted the writ, without any appeal being taken, respondent is barred and estopped from raising the same issue in the ordinary civil case, under the principle of *res judicata*.

On the other hand, respondent-appellee maintains that, having pleaded a counterclaim for partition of the lots in question in said Civil Case No. 3659, the trial court correctly held that these lots are subjects of litigation in this ordinary civil case. He also maintains that petitioners not having impleaded their brother, Francisco H. Reyes, or his heirs, as parties in their motion for issuance of writ of execution, and because these heirs have not intervened in this particular incident, the writ of possession issued by the trial court is, at most, valid only with respect to their (petitioners') undivided two-third (2/3) share and participation in these disputed lots; hence, he concludes that he is not barred and estopped from raising the issue of ownership and possession of the undivided one-third (1/3) share and participation of petitioners' brother, Francisco H. Reyes, which share respondent allegedly bought from the latter.

In their reply brief, petitioners-appellants refute the latter argument of respondent-appellee by showing that they had previously obtained special authority from the heirs of their deceased brother to represent them in the proceedings had in the court below.

The sole issue to be resolved in the instant appeal is: who between petitioners-appellants or respondent-appellee has a better right to the possession or custody of the disputed owners' duplicates of certificates of title.

While we agree with the court a quo that the disputed lots are subjects in litigation in Civil Case No. 3659, it appearing that respondent, as defendant therein, had presented a counterclaim for partition of the lots covered by the titles, we see no valid and plausible reason to justify, on this ground, the withholding from the registered owners, such as the petitioners-appellants herein, the custody and possession of the owners' duplicates of certificates of title. In a decided case, this Court has already held that the owner of the land in whose favor and in whose name said land is registered and inscribed in the certificate of title has a more preferential right to the possession of the owner's duplicate than one whose name does not appear in the certificate and has yet to establish his right to the possession thereto. Thus, this Court said:

"Como acertadamente dijo el Juzgado, lo único que se suscita es si Ana Umbao de Carpio tiene derecho a la posesión del duplicado para el dueño del Certificado de Título Original No. 698, con preferencia a la opositora-apelante. A nuestro juicio, la solución es clara e ineludible. Hallándose admitido que el decreto final que se dictó en el expediente catastral en 28 de mayo de 1936, en relación con el lote No. 778, fué a favor de

Ana Umbao y que el duplicado para el dueño del Certificado de Título Original No. 698 se expidió por el Registrador de Títulos a favor de la misma, es obvio que quién tiene derecho a poseer el certificado de título es ella y no la apelante (art. 41 de la Ley No. 496, tal como ha sido reformado).

"Alega la apelante que ella tiene tanto derecho como la apelada a poseer el título porque el terreno a que se refiere es de la propiedad de las tres hermanas. La pretensión no es meritoria. Según el artículo 41 de la Ley No. 496, conforme ha sido enmendado, el duplicado para el dueño debe expedirse por el Registrador a nombre de la persona a cuyo favor se ha decretado el terreno y dispone, además, que dicho duplicado debe entregársele al dueño inscrito. Si la apelante cree que tiene derecho a participar en el lote No. 778, como coheredera, debe ejercitar una acción independiente, encaminada a obtener su participación." (El Director de Terrenos contra Abacahin, 72 Phil. 326).

It being undisputed that respondent had already availed of an independent civil action to recover his alleged co-owner's share in the disputed lots by filing a counterclaim for partition in said Civil Case No. 3659, his rights appear to be amply protected; and considering that he may also avail of, to better protect his rights thereto, the provision on notice of lis pendens under Section 24, Rule 14, of the Revised Rules of Court, for the purpose of recording the fact that the lots covered by the titles in question are litigated in said Civil Case No. 3659, we again see no justifiable reason for respondent to retain the custody of the owners' duplicates of certificates of title.

In view of the above considerations, we deem it unnecessary to pass on the merits of the second contention of petitioners-appellants.

WHEREFORE, the orders appealed from should be, as they are hereby, reversed; and, in accordance with this opinion, respondent Mateo Raval Reyes is hereby ordered to deliver to petitioners the owners' duplicates of Original Certificates of Title No. 22161 and 8066. With costs against respondent-appellee, Mateo Raval Reyes.

Concepcion, C.J., Barrera, Dizon, Makalintal, Bengzon, Zaldivar, Sanchez, and Castro, JJ., concur.
Regala, J., no part.

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