

**MANUEL P. SANTOS AND RUBEN P. BERNARDO, PETITIONERS, VS.
THE HONORABLE JUDGE PEDRO JL. BAUTISTA, IN HIS CAPACITY AS
THE PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE OF
RIZAL, ...**

G.R. No. L-33445. December 28, 1972

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

On April 23, 1971, petitioners Manuel P. Santos and Ruben P. Bernardo thru their counsels, Atty. Jesus C. Concepcion and Edsel E. Ocson, filed this petition for certiorari prohibition and mandamus with a prayer for the issuance of a writ of preliminary injunction, seeking to nullify the order of respondent Judge dated February 15, 1971 denying their motion for reconsideration and sustaining his jurisdiction to hear the petition for the review of the decision of February 3, 1968 and the decree of registration dated March 28, 1968 issued in favor of herein petitioners in Land Registration Case No. PN-101 (filed on June 6, 1966 and OCT No. 6612 issued on April 2, 1968) by the municipal judge of Parañaque, who heard and tried said land registration case upon delegation by the respondent Judge pursuant to paragraph 2 of Section 88 of the Judiciary Act, as amended, and Administrative Order No. 114, series of 1966, of the Department of Justice, it appearing from the tax declaration that the assessed value of the land of about 22 hectares does not exceed P10,000.00.

In their answer filed on June 8, 1971, respondents alleged among others that private respondents as oppositors in LRC No. PN-101, called the attention of the municipal judge of Parañaque to the pendency of two other cases filed earlier involving the same parcel of land to wit, Civil Case No. 617-R (filed on April 27, 1965 for recovery of possession) pending before Judge Francisco de la Rosa and LRC No. PN-96 (filed in May, 1966) pending before herein respondent Judge Pedro JL. Bautista, both of the Court of First Instance of Pasay City; that in LRC No. PN-96, private respondents as applicants therein had already rested their case, but the decision was held in abeyance pending the outcome of Case No. 617-R for recovery of possession filed by herein petitioner Manuel P. Santos against herein private respondent Perfecto Cruz and his brother Cornelio Cruz, who upon his death was succeeded by his widow, herein private respondent Maria Pascual vda. de Cruz, and his children, the rest of herein private respondents; that herein petitioner Manuel Santos was present in the initial hearing of LRC No. PN-96 but failed to file any opposition; that on July 5, 1967, when the oppositors were almost through presenting their evidence in LRC No. PN-96, herein petitioner Manuel P. Santos filed a petition to lift the order of general default issued therein, to which herein private respondents filed their opposition; that the value of the land in 1966, situated as it is in Parañaque apparently in the vicinity of the south Superhighway, could not be less than P750,000; that therefore the municipal judge of Parañaque had no jurisdiction over LRC No. PN-101; that these facts were brought to the attention of herein respondent Judge, so that LRC No. PN-101 would not be assigned to the municipal judge of Parañaque, Rizal; that herein private respondents filed on September 2, 1967 an urgent motion for the postponement of the hearing in LRC No. PN-101 on the ground that counsel of herein private respondents had an agreement with counsel of applicant to hold in abeyance the said case and LRC No. PN-96

pending before the sala of Judge Pedro Bautista until after Civil Case No. 617-R shall have been finally resolved; and that herein private respondents were not notified of the hearing of December 23, 1967 in LRC No. PN-101.

While herein private respondents filed their memorandum on August 25, 1971 (pp. 181-293, rec.); herein petitioners filed their memorandum on September 18, 1971 (pp. 313-317, rec.), and their reply memorandum on November 11, 1971 (pp. 341-350, rec.).

On October 23, 1972, herein petitioner Manuel P. Santos, this time assisted by Atty. Angel S. Alvir (not by Attys. Jesus C. Concepcion and Edsel E. Ocson, counsels of petitioners who filed the instant petition) and all the private respondents assisted by their counsel Atty. Lorenzo Sumulong filed the following joint petition to dismiss dated October 20, 1972:

"1. Petitioners and private respondents have sold, assigned, transferred and conveyed all their rights, interests and participations in the parcel of land, subject-matter of the instant case to one and the same person, MARIANO Z. VELARDE with office address at 5th Floor, PPL Building, United Nations Avenue, Manila.

"2. Private respondents Perfecto Cruz, et. al. have agreed to sell their rights, interests and participations in the parcel of land, subject-matter of this case to one Mariano Z. Velarde and in accordance with which they have filed in the Court of First Instance of Rizal, Pasay City, a Motion to Withdraw and/or Dismiss Their Petition for Review entitled 'Perfecto Cruz, et. al. vs. Manuel Santos and Ruben Bernardo,' LRC No. PN-101. A copy of the said Motion to Withdraw and/or Dismiss Petition for Review is hereto attached as Annex 'A'.

"3. On February 22, 1972, petitioner Ruben P. Bernardo executed a document entitled 'DEED OF ABSOLUTE SALE with Mortgage' in favor of Mariano Z. Velarde for P483,132.24, receiving as down payment P50,000.00 Doc. No. 435, Page 88, Book No. XIII, Series of 1972, of Notary Public Dominador Monjardin of Manila.

"4. On the basis of said Deed of Absolute Sale with Mortgage, Transfer Certificate of Title No. 357709 was issued in the name of Mariano Z. Velarde on March 20, 1972. A xerox copy of said title is hereto attached as Annex 'B'.

"5. On October 12, 1972, petitioner Manuel P. Santos transferred, assigned and conveyed to said Mariano Z. Velarde all his rights, interests and participation, in and to the said land subject-matter of the instant Petition for Certiorari, as may be seen from the decision of the Court of First Instance of Rizal, Branch XXIV, Pasig, Rizal, Civil Case No. 16035 entitled 'Manuel P. Santos vs. Ruben P. Bernardo and Mariano Z. Velarde,' approving the 'amicable settlement' entered into by and between plaintiff therein Manuel Santos, one of the petitioners in the instant case and defendant Mariano Z. Velarde, the registered owner of the land, subject-matter of the petition for review and of the instant petition for certiorari. A xerox copy of the aforesaid decision is hereto attached and made a part hereof as Annex 'C'.

"6. It will also be seen from the aforesaid decision in Civil Case No. 16035, hereto attached as Annex 'C' that:

"a) the complaint was instituted by Manuel P. Santos against Ruben P. Bernardo for the purpose of subrogating himself in the place and stead of Ruben P. Bernardo and thus to receive the balance of the purchase price direct from the buyer, now the registered owner, Mariano Z. Velarde;

"b) therein defendant Ruben P. Bernardo, one of the petitioners in this case was declared in default in the Order of the Court of First Instance of Rizal dated July 25, 1972, copy of which Older is hereto attached as Annex 'D'.

"7. By virtue of the aforementioned transfer of all rights, interest and participation by all the parties in this case over the subject parcel of land to one and the same person, MARIANO Z. VELARDE, we submit that the issues of both fact and law have become moot and academic.

"WHEREFORE, it is respectfully prayed that an Order be issued:

"1) Declaring that the Petition for Review filed by private respondents in the Court of First Instance of Rizal, Branch III in LRC PN-101 as withdrawn or dismissed;

"2) Dismissing the Petition for Certiorari." (pp. 360-362, rec.).

Surprised at the foregoing joint petition to dismiss signed only by one petitioner, Manuel P. Santos, jointly with the private respondents and filed by Atty. Angel S. Alvir who is not the counsel on record for the petitioners, Attys. Jesus C. Concepcion and Edsel E. Ocson, filed on August 26, 1972 an urgent motion praying for ten (10) days within which to file their comment and/or pleading on the said joint petition to dismiss as they need some time to confer with the other petitioner, Ruben P. Bernardo, who did not sign the said joint petition to dismiss (pp. 375-76, rec.), which motion was granted (p. 379, rec.).

On November 22, 1972, Attys. Jesus C. Concepcion and Edsel E. Ocson, still denominating themselves as counsel for petitioners, filed the following manifestation:

"I-PRELIMINARY STATEMENT

"This manifestation is being respectfully submitted to this Honorable Court by the undersigned counsel for the petitioners, not only heir capacity as such counsel, but also as officers of the Court, to provide this august Tribunal with such information as may enable the latter, in the context of the peculiar circumstances obtaining in the present and related proceedings, to issue such orders and/or decision as it may deem proper and just.

"The undersigned counsel likewise respectfully seek the kind indulgence of the Court for not having filed this manifestation at once. The unavoidable delay was due to certain unusual ramifications involved in other proceedings related hereto, which became known to us only recently.

"In thus submitting this manifestation, the undersigned counsel wish to make it clear that they never had the slightest wish to be placed in the rather awkward position in which they now find themselves. They had no real choice though, but to take the same, if they were to be true to the dictates of professional ethics.

"II-RELATED PROCEEDINGS

"For a better perspective of the present petition for the dismissal of the petition for certiorari, we offer the Honorable Court the following facts:

"A. ALANO CASE -

"1) A complaint for reconveyance dated August 2, 1969 was filed against the petitioners concerning the same parcel of land subject of the present certiorari proceedings, in the Court of First Instance of Rizal, Seventh Judicial District, Branch XIII, docketed as Civil Case No. 12113, entitled 'Gonzalo Alano, plaintiff, vs. Manuel P. Santos, Felisa Priolo, and Ruben P. Bernardo, defendants.' A certified true copy of said complaint is attached hereto as Annex 'A' and made an integral part hereof;

"2) A decision dated October 5, 1972 was rendered by the Court based on a compromise agreement executed between the plaintiff and defendant Manuel P. Santos, a certified true copy of said decision is attached hereto as Annex 'B' and made an integral part hereof.

"B. SANTOS VS. BERNARDO CASE-

"1) An Amended Complaint dated April 7, 1972, was filed in the Court of First Instance of Rizal, Seventh Judicial District, Pasig, Rizal, Branch XXIV, as Civil Case No. 16035, entitled 'Manuel P. Santos, plaintiff, vs. Ruben P. Bernardo and Mariano Z. Velarde, defendants.' A certified true copy thereof is attached hereto as Annex 'C' and made an integral part hereof;

"2) A decision dated October 14, 1972, was rendered by the Court based on a Compromise Agreement executed between the plaintiff Manuel P. Santos and defendant Mariano Z. Velarde. A copy of said decision was attached as Annex 'C' to the 'Joint Petition to Dismiss Petition for Certiorari';

"3) On November 16, 1972, a 'Motion for Reconsideration and/or New Trial', was filed by defendant Ruben P. Bernardo through his counsel Alfredo L. Fernando. A true copy of such motion is attached hereto as Annex 'D' and made an integral part hereof.

"We understand that a motion for reconsideration in behalf of defendant Ruben P. Bernardo was also filed in the Alano case, and that both motions in the said two cases are now pending resolution.

"The undersigned counsel, however, hasten to add that they had no participation whatsoever in the filing of the foregoing pleadings in said cases.

"In fact, they had no knowledge at all of the Alano case at the time the present petition for certiorari was filed before this Honorable Court on April 23, 1971. Their legal services were retained by the petitioners only in connection with the petition for certiorari to question the jurisdiction of the respondent Court of First Instance of Pasay City.

"Under these circumstances, the undersigned counsel may not even discuss the merits of the cases mentioned in A and B above, because:

"a) 'Delicadeza' and the rules of professional ethics prevent them from so doing, especially considering the fact that the opposing parties therein are both clients of the undersigned counsel in the present proceedings before this Honorable Court;

"b) They have no sufficient knowledge, much less participation, therein;

"c) This Honorable Court is not the proper forum for the purpose.

"III- SALE OF PRIVATE RESPONDENTS' RIGHTS

"The undersigned counsel have no sufficient firsthand knowledge or information regarding the alleged sale by the herein private respondents of their rights over the property in question to Mariano Z. Velarde.

"IV- POSITION IN THE PROCEEDINGS OF ATTY. ANGEL S. ALVIR

"The undersigned counsel are at a complete loss as to the real position of Atty. Alvir in the case.

"As mentioned in our 'Urgent Manifestation and Motion' dated October 26, 1972, the petitioner Manuel P. Santos was assisted by the said attorney in the joint petition to dismiss the petition for certiorari, although the latter is not a counsel of record in the present proceedings.

"Verification, however, made in the records of the respondent Court of First Instance of Pasay City showed that Atty. Alvir appeared for and in behalf of both Manuel P. Santos and Ruben P. Bernardo in Land Reg. Case No. PN-101. A certified true copy of his 'Motion to Dismiss on the Ground of Lack of Jurisdiction' is attached hereto as Annex 'E' and made an integral part hereof.

"What causes confusion in the minds of the undersigned counsel is the fact that in the Alano case (Annexes 'A' and 'B' hereof), Atty. Alvir filed the complaint as counsel for the plaintiff and against both Manuel P. Santos and Ruben P. Bernardo, and that he, in the words of the decision therein '*** prepared the complaint and paid the docketing fees and all expenses incident to the filing of the case, and handled the case from its filing in August, 1969 to August 2, 1971' *** (p. 1, Annex 'B').

"In addition, it will be noticed that in the case of Manuel P. Santos vs. Ruben P. Bernardo, et. al., (Annexes 'C' and 'D') he appeared as counsel for Manuel P. Santos.

"The undersigned counsel is thus kept in the dark as to whose side Atty. Alvir is really on.

"V- CONCLUSION

"In view of all the foregoing factors and circumstances, the undersigned counsel respectfully submit to whatever opinion or view that this august Tribunal may take, as to the question of whether or not the petition for certiorari has really become moot and academic, and whether or not the rights of each party in the present, as well as related proceedings, will be properly adjudicated and protected with the dismissal of the petition for certiorari." (Pp. 385-89, rec.).

It appears from the joint petition to dismiss (a) that on February 22, 1972, herein petitioner Ruben P. Bernardo sold all his rights and interest with mortgage in the land in favor of Mariano Z. Velarde for P483,132.24; (b) that on October 12, 1972, herein petitioner Manuel P. Santos likewise conveyed all his rights in the same land to the same Mariano Z. Velarde; and (c) that herein private respondents agreed to sell their rights in the disputed parcel of land also to Mariano Z. Velarde, for which reason they filed a motion to withdraw their petition for review in LRC No. PN-101, the exercise by respondent Judge of jurisdiction over which petition for review is the main issue raised by the present petition before US. The fact that herein petitioner Manuel P. Santos sued herein petitioner Ruben P. Bernardo and Mariano Z. Velarde in Civil Case No. 16035 for the purpose of subrogating himself in place of Ruben P. Bernardo and thus to receive the balance of the purchase price direct from the buyer Mariano Z. Velarde, has no bearing on the petition for review filed by herein private respondents in LRC No. PN-101 nor on LRC No. PN-101 itself. As stated by the movants, by virtue of the transfer of all the rights and interests of all the parties in this case to Mariano Z. Velarde, the issues raised by the petition and the answer have become moot and academic as the resolution of which would serve no useful purpose.

WHEREFORE , THIS PETITION IS HEREBY DISMISSED AS MOOT AND ACADEMIC WITHOUT PREJUDICE TO THE RIGHT OF ATTYS. JESUS C. CONCEPCION AND EDSSEL E. OCSON TO INSTITUTE THE APPROPRIATE ACTION TO PROTECT THEIR INTEREST AS COUNSEL OF HEREIN PETITIONERS. WITHOUT COSTS.

Makalintal, Zaldivar, Castro, Fernando, Teehankee, Barredo, Antonio, and Esguerra, JJ., concur.

Concepcion, C.J., took no part.

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