

MUNICIPALITY (NOW CITY) OF LEGASPI, PETITIONER, VS. A. L. AMMEN TRANSPORTATION CO., INC., RESPONDENT.*G.R. No. L-22377. November 29, 1968*

Ponente: FERNANDO, J.

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There is a need for an inquiry into the jural consequences attaching to the reconstitution of a title in this petition for the review of a decision of the Court of Appeals. The case had its origin in an action before the Court of First Instance of Albay, a complaint being filed by now respondent A. L. Ammen Transportation Co., Inc. for the recovery of the possession of a piece of land against the Province of Albay the Municipality of Legaspi and twenty-four private individuals occupying portions thereof. Earlier, it was shown that said respondent, as plaintiff, filed a petition for the reconstitution of its Transfer Certificate of Title covering said lot on the ground that it lost its previous title. It was successful, the Court of First Instance of Albay issuing an order authorizing such reconstitution. The reconstitution notwithstanding, one of the defendants, and now sole appellant, petitioner City of Legaspi, did not surrender possession. Hence the filing of such complaint. Respondent A. L. Ammen Transportation Co., Inc. as plaintiff, was un-successful, its complaint for the recovery having been dismissed.

It elevated the matter on appeal to the Court of Appeals, which reversed the judgment of the lower court, declaring that the reconstituted certificate of title "is valid and that [re-spondent A. L. Ammen Transportation Co., Inc.] is the registered owner of Lot No. 1114 of the Legaspi Cadastre." [1] The City of Legaspi in turn instituted a petition for certiorari to review such decision of the Court of Appeals. On the facts as found by it, which we are not at liberty to alter, we sustain the Court of Appeals.

What were the facts as found by the Court of Appeals? According to its decision now under review: "We note that the - issues raised and the evidence adduced on behalf of appellee city and even the findings of the trial court relate to the acquisition or ownership of the lot, its alleged registration as a result of a cadastral survey and hearing, and the reconstitution of the title to the land. Since, however, the fact of reconstitution is not in dispute, there is no need in this action to go into the question of acquisition or ownership of the property or to determine whether the reconstituted title thereof was obtained in bad faith or in a fraudulent manner. In fact, as far as the reconstitution is concerned, it is unsafe for this Court at this instance to make any finding as to whether it was procured in bad faith or fraudulently since the record of the reconstitution proceeding is not before us; besides there is the presumption of regularity in the granting of the reconstituted title." [2]

To show why the appeal of respondent A. L. Ammen Transportation Co., Inc. from the decision of the lower court was meritorious, the Court of Appeals referred to the applicable statutory provision which leaves no doubt that the reconstituted certificate of title has the same validity and legal effect as the original thereof. [3] The force to which such statutory language is entitled was clearly set forth in the leading case of *Philippine National Bank v. de la Viña*, [4] where this Court, speaking through justice J. B. L. Reyes, stated: "it appears that prior to the institution of these proceedings with the court below, there had already been a judicial reconstitution of the original certificates of title upon petition of the registered owner. Unlike in the extrajudicial reconstitution of

titles, wherein there is the statutory reservation that the new title 'shall be without prejudice to any party whose right or interest in the property was duly noted in the original, at the same time it was lost or destroyed' (Sec. 7, Republic Act No. 26), a judicially reconstituted title, by express provisions of the statute (Sec. 10, *ibid*), 'shall not be subject to the encumbrance referred to in section 7' of the Act. Evidently, the statute would not ordinarily allow the reconstitution of liens and other encumbrances not noted in the judicially reconstituted owner's certificate of title."

Even the objection based on procedure on due process grounds could not prosper for as clearly set forth in the above decision: "While it may be true that no notice was sent by registered mail to the petitioner bank when the judicial reconstitution of title was sought, such failure, however, did not amount to a jurisdictional defect. The proceedings therein being in rem, the cadastral court acquired jurisdiction to hear and decide the petition for the reconstitution of the owner's title upon compliance with the required posting of notices and publication in the Official Gazette." [5]

With the above conclusive pronouncement of this Court to which, as was to be expected, the Court of Appeals paid deference, the first three assigned errors of the City of Legaspi, the sole appellant, could thus be disposed of. The Court of Appeals did not err in holding that the fact of reconstitution of title to the land in question is not in dispute, in concluding that the proceedings before the lower court was not in the nature of a direct attack on the legality of the issuance of the reconstituted title, and in declaring respondent A. L. Ammen Transportation Co., Inc. as the owner of Lot No. 1114 on the basis of the reconstituted title. As the fourth error deals with the alleged "overwhelming evidence" to rebut the presumption of legality in the issuance of the re-constituted title is factual, it cannot be inquired into in this petition for review.

Necessarily, likewise, the fifth alleged error to the effect that petitioner should vacate the premises within a period of one year and to pay damages would be unavailing. It may require further reservation though. The ably written brief of petitioner, represented by City Fiscal Aquilino P. Bonto, "emphasized that the land in dispute is now a public road (Quezon Avenue) making up one of the vital arteries of commerce and trade in Legaspi City. It is the principal outlet to and from the Pier Area where vessels both coastwise and unload their cargoes; from the Pier Area it leads to the market and the commercial sector of the City; and from various points it is the most convenient road to the Post Office, the frontage of which abuts the land in litigation. Ordering the petitioner to vacate the property would in effect cut off access to the areas of trade and commerce, thereby adversely affecting the economic potential of petitioner and its inhabitants. Generally the closing of the road would otherwise create serious inconvenience to vehicular pedestrian traffic to which Quezon Avenue has been devoted since 1947, or a period of seventeen years." [6]

Such a problem thus gives rise to a matter of public interest. Fortunately, it is not a new one in this jurisdiction. The appropriate solution, was indicated in the leading case of *Alfonso v. Pasay City* where this Court, through Justice Montemayor, held: "In the present, Alfonso remains up to now the owner of the land in question, Lot No. 4368 of the Cadastral Survey of Pasay, because being registered land, the City of Pasay or its predecessor, Municipality of Pasay, did not and could not acquire it thru prescription. As registered owner, he could bring an action to recover possession at any time because possession is one of the attributes of ownership of land. However, said restoration of possession by the City of Pasay is neither convenient nor feasible because it is now and has been used for road purposes. So, the only relief available is for the City of Pasay to make due compensation, which it could and should have done years ago since 1925." [7]

That respondent A. L. Ammen Transportation Co., Inc. with an equally well-written brief prepared by its counsel, Atty. Ramon C. Fernandez, is not insensible to such a solution is indicated therein, where the following is set forth: "In the instant case, the Court of Appeals has given the petitioner a period of one year within which to

expropriate the portion occupied by the road if it does not want to return the portion in question to the respondent, ALATCO." [8]

It is thus obvious why the last assignment of error is equally not persuasive.

WHEREFORE, the appealed decision of the Court of Appeals of November 18, 1963, as modified by its resolution of January 22, 1964, is affirmed. Without costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, and Castro, JJ., concur.
Capistrano, J., did not take part.

[1] Decision of the Court of Appeals, Annex A, Brief for the Petitioner, p. 22. In a resolution dated January 22, 1964, acting on a motion for reconsideration of respondent A. L. Ammen Transportation Co., Inc., the Court of Appeals modified this decision by ordering now petitioner City of Legaspi to pay plaintiff P200.00 a year as rental beginning January, 1948.

[2] Ibid, p. 20.

[3] Section 7, Republic Act 26, provides: "Reconstituted certificates of title shall have the same validity and legal effect as the originals thereof: Provided, however, That certificates of title reconstituted extrajudicially, in the manner stated in sections five and six hereof, shall be without prejudice to any party whose right or interest in the property was duly noted in the original, at the time it was lost or destroyed, but entry or notation of which has not been made on the reconstituted certificate of title. This reservation shall be noted as an encumbrance on the reconstituted certificate of title."

[4] L-14601, August 31, 1960.

[5] Ibid. Cf. Wright, Jr. v. Lepanto Consolidated Mining Co., L-18904, July 11, 1964; Arches v. Billanes, L-20452, April 30, 1965.

[6] Brief for the Petitioner, p. 13.

[7] 106 Phil. 1017, 1022 (1960).

[8] Refutation of the Fifth Error Assigned, Brief for the Respondent, p. 12.

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