

MANUEL FIRMALO, ROSITA FIRMALO FRADEJAS, EMILIA FIRMALO LANZONA, NENITA FIRMALO MORTEL, THELMA FIRMALO, GUIA FIRMALO AND EMILIO FIRMALO, PETITIONERS, VS. HON. EDUARDO C. TUTAAN,...

G.R. No. L-35408. October 27, 1973

Ponente: RUIZ CASTRO, J.

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RUIZ CASTRO, J.:

The petitioners Manuel Firmalo, Rosita Firmalo Fradejas, Emilia Firmalo Lanzona, Nenita Firmalo Mortel, Thelma Firmalo, Guia Firmalo and Emilio Firmalo (hereinafter simply referred to as the Fimalos) were grantees of a free patent title covering more than 13 hectares of land situated in Barrio Demologan, Municipality of Bacolod, Province of Lanao del Norte. On November 5, 1969, the said petitioners brought an action in the Court of First Instance of Lanao del Norte (Branch II) docketed as Civil Case 1528, against the respondents Wenceslao Taruc, Faustino Taruc, Aniceta Taruc Malolot, Artemio Taruc, Rodolfo Taruc and Epifania Paculba Vda. de Taruc (hereinafter simply referred to as the Tarucs) for "ownership, possession and damages with preliminary mandatory injunction," affecting about 9 hectares of the aforementioned property. A writ of preliminary mandatory injunction was issued by the trial court on November 24, 1969, upon a bond of P20,000, and the possession of the property was effectively transferred to the Fimalos. Relying, however, on a final judgment in their favor in Civil Case 1218 of the same court adjudging them as the "equitable owners" of the said property, the Tarucs succeeded in securing a writ of execution and placing themselves in possession once more of the disputed land.

The Fimalos immediately sought the intervention of this Court in L-32651-52. On August 31, 1971 we rendered a decision the dispositive portion of which recites as follows:

"ACCORDINGLY, the decision of the court a quo in civil case 1218 dated October 28, 1968 is hereby set aside as being null and void, together with the writ of execution and the order of September 12, 1970 deriving therefrom. The same court is hereby ordered to reinstate the writ of preliminary mandatory injunction dated December 16, 1969 issued in civil case 1528 and, thereafter, proceed with the hearing and determination of the latter case. Costs against the private respondents."

On October 15, 1971, this Court's judgment having become final, the trial court issued an order rescinding its writ of execution in Civil Case 1218 and reinstating, in Civil Case 1528, the writ of preliminary mandatory injunction of December 16, 1969, thus placing the Fimalos in possession of the property in question pending decision on the merits.

On February 22, 1972 the Fimalos' bondsman, the Workmen's Insurance Co., Inc., filed, with the conformity of the counsel for the Tarucs, an urgent motion to withdraw and have its bond cancelled on the ground of the non-payment of the premiums due on the said bond. On February 24, 1972 the trial court issued an order requiring the Fimalos to pay the overdue amortizations within 15 days of their receipt of the order at the pain of having the

bond cancelled.

At this juncture, Civil Case 1528 was, for some reason not stated in the record, transferred from the sala of the respondent Judge Teodulo Tandayag (Branch II) to the sala of the respondent Judge Eduardo C. Tutaan and there given a new docket number: Civil Case IV-146. The Fimalos moved, to no avail, for the return of the said case to the sala of Judge Tandayag.

On July 11, 1972 the Tarucs filed an unverified urgent motion to lift and/or to reconsider the preliminary mandatory injunction then in force or to place the property in dispute under receivership pending adjudication on the merits of now Civil Case IV-146 (formerly Civil Case 1528 of Branch II), upon the ground that the said preliminary mandatory injunction "was improvidently issued and not only contravenes justice and equity but, more specifically, contravenes the law and jurisprudence on the matter . . ." The Fimalos opposed this motion and submitted a lengthy memorandum to bolster their position.

In a reasoned order of August 1, 1972, the trial court, presided by the respondent Judge Tutaan, placed the property in dispute under receivership (appointing the respondent deputy sheriff Elias Anacleto as receiver) and, in effect, removed the possession thereof from the Fimalos.

The Fimalos immediately filed the present petition. On August 31, 1972 we granted the petitioners' prayer for a temporary restraining order, and enjoined the respondents from enforcing the questioned order of August 1, 1972 and "from gathering the coconuts on the land subject of the litigation and from selling the already produced copras in favor of any person or persons."

The central issue posed for resolution by the present petition is whether the respondent Judge Tutaan may alter the mandate of this Court in L-32651-52 directing the reinstatement of the writ of preliminary mandatory injunction dated December 16, 1969 issued in Civil Case 1528 and, in its place, institute the provisional remedy of receivership over the property disputed by the parties.

In the case of *Ysasi vs. Fernandez*,^[1] we held that the preliminary mandatory injunction issued by the trial court, upon a mandate of this Court, cannot be dissolved on a mere counter-bond so long as the facts upon which we had acted still prevail. Applying the same principle to the case at bar, we find that neither the Tarucs' motion to lift and/or reconsider the preliminary mandatory injunction nor the disputed order of August 1, 1972 placing the property in the possession and administration of a receiver, attests to any new fact overtaking the case after the same was remanded by this Court for trial on the merits.

Indeed, the disputed order itself admits that the court a quo was ruling upon the following issues: "First, whether or not the writ (of preliminary mandatory injunction) was improvidently issued and contravenes justice and equity. . . Second, whether or not the lifting or reconsideration of the order for the allowance of the writ will result in irreparable injury," all of which we have disposed of, by clear and unmistakable implication, in the earlier case (L-32651-52). In that case, the decision and various orders of the trial court which we annulled tended to override the writ of preliminary mandatory injunction which we upheld and ordered reinstated.

It will be recalled that the same preliminary mandatory injunction which was issued by the trial court was later ordered reinstated by us after it had been quashed, for the principal reason that whereas the Fimalos have in their favor a decree of registration issued by the Director of Lands covering the property in dispute, the Tarucs do not have even a semblance of title in their name, the judgment in Civil Case 1218 upon which they desperately relied having been annulled by this Court.

This brings us to the erroneous notion entertained by the court a quo, presided by the respondent Judge Tutaan, that the remand of the case for trial on the merits warrants an inquiry into the validity of the decree of registration

issued by the Director of Lands over the property in dispute. The decision of the Director of Lands may be annulled or reviewed only in a direct proceeding and not collaterally as the respondent judge would have it in the case at bar.[2] Moreover, the patent title issued in favor of the Fimalos by the Director of Lands is by now already indefeasible due to the lapse of one year following the entry of the decree of registration (March 28, 1969 at the latest when the title to the property was issued) in the records of the register of deeds.[3]

A reading of the complaint and the answer filed in Civil Case IV-146 (formerly Civil Case 1528 of Branch II) shows that only two basic issues stand out between the litigants. One is with respect to the title of ownership over the property; this was resolved by this Court in L-32651-52 when we annulled the judgment in Civil Case 1218 relied upon by the Tarucs and recognized the decision of the Director of Lands in favor of the Fimalos. Importantly, the Fimalos' title is to be respected, given effect, and accorded due recognition unless and until a superior title, if any there be, overtakes the same.[4] The other remaining issue relates to the right of possession, i.e., whether, notwithstanding the title of the Fimalos, the Tarucs have any right of possession over the property, and, if they have none, what liability, if any, they have for holding the property illegally. This latter, to our minds, is the only and remaining basic issue that could properly be heard when we remanded the original case for trial on the merits.

As for the failure of the Fimalos to pay the premiums due to their bondsman, the record shows that on March 7, 1972, within the time then prescribed by the respondent Judge Tandayag, the Fimalos duly renewed the surety bond of P20,000 in their favor and paid the corresponding premiums.

Subsequent to the submission of the present case for decision, that is, on September 5, 1973, the Fimalos, thru counsel, manifested that before our restraining order of August 31, 1972 was actually served upon the parties, the respondent Anacleto, acting as receiver for the court, had caused coconuts to be gathered from the disputed property and converted into copra which was sold for P1,184.27. With the result arrived at by us in this decision, it behooves the trial court to hold a hearing with respect to the proceeds of the sale and adjudge disposition thereof in a manner consistent with our pronouncements herein.

In sum, the trial court has no power to alter the effect of our final decision in L-32651-52 by lifting the writ of preliminary mandatory injunction ordered reinstated by us and substituting in its place a receivership which would take away the possession of the property in dispute from the Fimalos, pending the trial on the merits in Civil Case IV-146.

ACCORDINGLY, the order of the trial court dated August 1, 1972 is hereby annulled and set aside, and Civil Case IV-146 (formerly Civil Case 1528 of Branch II) is hereby again remanded to the court a quo for further hearing and determination, consistent with the views herein expressed. Costs against the respondents Wenceslao Taruc, Faustino Taruc, Aniceta Taruc Malolot, Artemio Taruc, Rodolfo Taruc and Epifania Paculba Vda. de Taruc.

Makalintal, C.J., Zaldivar, Fernando, Teehankee, Barredo, Makasiar, Antonio, and Esguerra, JJ., concur.

[1] (per resolution) L-28593, December 16, 1968, 26 SCRA 393, 400-401.

[2] Ramirez vs. Court of Appeals, L-28591, October 31, 1969, and the cases cited under footnotes 4 and 5 thereof.

[3] Sections 38 and 122, Act No. 496; Ramirez vs. Court of Appeals, *supra*, pp. 301-303.

[4] Nieto vs. Quines, L-14643, September 29, 1962, 6 SCRA 74; Director of Lands vs. Court of Appeals, L-17696, May 19, 1966, 17 SCRA 71.

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