

REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE DIRECTOR OF LANDS, PLAINTIFF-APPELLEE, VS. HEIRS OF LUISA VILLA ABRILLE, DEFENDANT-APPELLANT, LAND REGISTRATION COMMISSIONER AND ...

G.R. No. L-39248. May 07, 1976

Ponente: ESGUERRA, J.

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ESGUERRA, J.:

This case was originally appealed to the Court of Appeals where it was docketed as CA-G.R. No. 47438-R. The Court of Appeals certified it to this Court for final consideration and resolution of the pure question of law involved.

The factual background of the case is as follows:

On May 9, 1969, a Complaint for Annulment of Certificate of Title was filed by the Republic of the Philippines (represented by the Director of Lands), with the Court of First Instance of Davao, Branch I, alleging, among others, the following:

"3. That defendant Commissioner of Land Registration and defendant Register of Deeds of Davao City whose Offices are at España Extension, Quezon City and Davao City, respectively, are included in this complaint, the first being the public Official charged under the law with the approval of subdivision surveys of private lands while the second is the Official vested with the authority to issue certificates of titles, pursuant to the provisions of Act 496, as amended, otherwise known as the Land Registration Law;

"4. That defendant Estate of Luisa Villa Abrille (now Heirs of Luisa Villa Abrille) is the owner of a parcel of land in the City of Davao containing an area of FIVE HUNDRED TWENTY FIVE THOUSAND SIX HUNDRED FIFTY-TWO SQUARE METERS (525,652), more or less, under Transfer Certificate of Title No. T-1439 of the Registry of Deeds of Davao City, issued in her name;

"5. That deceased Luisa Villa Abrille during her lifetime caused the subdivision of the aforesaid parcel of land into two lots designated as Lots Nos. 379-B-2-B-1 and 379-B-2-B-2 under subdivision plan (LRC) Psd-69322 which was approved by the Land Registration Commissioner on March 17, 1967;

"6. That under Subdivision Plan (LRC) Psd-69322, Lot No. 379-B-2-B-1 contains an area of 30,100 Square Meters while Lot No. 379-B-2-B-2 contains an area of 577,679 Square Meters or a total area of 607,779 Square Meters, which is 82,127 Square Meters more than the original area covered in Transfer Certificate of Title No. T-1439 in the name of said defendant Luisa Villa Abrille;

"7. That on March 27, 1967 or ten days after the approval by the Land Registration Commissioner, said Luisa Villa Abrille was able to secure an order from the Court of First Instance of Davao in LRC (GLRO) Doc. No. 9969, directing the Register of Deeds for the City of Davao and Province of Davao, to correct the area of Certificate of Title No. T-1439 and thereafter to cancel the same and issue in lieu thereof TCT Nos. T-18886 and T-18887;

"8. That on March 30, 1967, the Register of Deeds concerned registered Lot 379-B-2-B-1 and issued TCT No. 18886 therefor, in the name of Luisa Villa-Abrille and on the same date registered Lot No. 379-B-2-B-2 and issued TCT No. 18887 in the name of Luisa Villa-Abrille;

"9. That the registration of Lot No. 379-B-2-B-2, which includes the aforementioned excess area of 82,127 Square Meters, was not in accordance with law for lack of the required notice and publication as prescribed in Act 496, as amended, otherwise known as the Land Registration Law;

"10. That the excess or enlarged area of 82,127 Square Meters as a result of the approval of the subdivision survey (LRC) Psd-69322 was formerly a portion of the Davao River which dried up by reason of the change of course of the said Davao River; hence a land belonging to the public domain; and

"11. That as a consequence thereof, Transfer Certificate of Title No. 18887 which covers Lot No. 379-B-2-B-2 of Subdivision Survey (LRC) Psd-69322, wherein the excess area of land belong to the public domain (not private land) is null and void ab initio."

On June 10, 1969, defendant Register of Deeds of Davao City filed her answer averring that she, "in the performance of her ministerial duty, honestly and in good faith effected the registration of Subdivision Lot No. 379-B-2-B-1 and Lot No. 379-B-2-B-2 and the issuance of corresponding TCT No. 18886 and TCT No. 18887 therefor, respectively, in view of the approval of the Land Registration Commissioner of Subdivision Plan (LRC) Psd-69322, and in view of the Order of the Court of First Instance of Davao in LRC (GLRO) Doc. No. 1969, directing the Register of Deeds to correct the area in Certificate of Title No. T-1439, to cancel the same and to issue in lieu thereof TCT Nos. T-18886 and T-18887".

On July 2, 1969, herein defendant-appellants filed their answer admitting the allegations contained in paragraphs 1, 3, 4, 5 and 7 of the complaint that they admit the increase in area of the land of their predecessor but that the increase in area of the land was acceded to and concurred in by the defendant, Land Registration Commissioner, and the same was duly noted and approved by the Court of First Instance of Davao; that they admit the issuance of TCT Nos. T-18886 and T-18887 out of Certificate of Title No. T-1439 in the name of their predecessor-in-interest Luisa Villa Abrille but that TCT No. T-18886 had been cancelled and in lieu thereof, TCT No. T-19077 was issued in favor of Gaudencio Consunji, and, TCT No. T-18887 had likewise been cancelled and several Transfer Certificates of Title were issued thereunder; that the subject increase of area was made in accordance with law and existing jurisprudence; and that Luisa Villa Abrille, predecessor-in-interest of herein defendant-appellant, as riparian owner was entitled under the law to claim, as she did, the increase or excess in area of her original land as her own.

On August 12, 1969, defendant Commissioner of Land Registration prays for a judgment on the pleadings and avers in his answer that he has no knowledge of the subject matter of the complaint since the subdivision plan involved therein was approved by the then Commissioner of Land Registration, Antonio Noblejas; and that on February 19, 1968, the then Commissioner of Land Registration, Antonio Noblejas, issued LRC Circular No. 167 directing the Register of Deeds throughout the Philippines to, among others, deny the registration of subdivision plans with increased or expanded areas and to withhold the issuance of the corresponding titles, or if the plans have already been registered and the titles issued, to recall the titles and to take appropriate steps for their cancellation.

Some private persons, as actual possessors and occupants, tried to intervene in the case as movant-intervenors but they were denied standing in court by the trial court in its order of August 16, 1969.

On January 6, 1970, the parties litigants submitted in court their "Agreed Stipulation of Facts" and pray that judgment be rendered by the trial court on their case based on their stipulation of facts. The "Agreed Stipulation

of Facts" of the parties reads as follows:

"COME NOW the parties assisted by their respective attorneys, and unto the Honorable Court, most respectfully submit the following stipulation of facts and allege:

"1. That Lot 379-B-2-B was originally registered on June 28, 1916 in the Registry Book of the Register of Deeds of Zamboanga as Vol. A-27, Page 40 under Original Certificate of Title No. 5609, Case No. 1, G.L.R.O. Rec. No. 317, in the name of Francisco Villa Abrille Lim Juna, father of Luisa Villa Abrille;

"2. That upon the death of the original owner, the said property was inherited by Luisa Villa Abrille and Transfer Certificate of Title No. T-1439 was issued in the name of said Luisa Villa Abrille;

"3. That subsequently, by virtue of an approved subdivision plan Psd-69322 by the defendant, Land Registration Commissioner, Transfer Certificate of Title Nos. T-18886 and 18887 were issued by the defendant, Register of Deeds of Davao, copy of which subdivision plan is hereto attached as Annex "A", and made integral part hereof;

"4. That Transfer Certificate of Title No. T-18886 was subsequently cancelled by virtue of deed of sale, and Transfer Certificate of Title No. T-19077 was issued in the name of Gaudencio Consunji, a purchaser in good faith and for value;

"5. That the said subdivision plan Annex "A" was also approved by the Court of First Instance of Davao, Branch IV, through an Order dated March 27, 1967, copy of which order is hereto attached as Annex "B" and made part hereof;

"6. That the said Order Annex "B" was issued by the Court of First Instance of Davao, Branch IV, on the strength of the Report of the defendant, Land Registration Commissioner, copy of which report is hereto attached as Annex "C" and made integral part hereof;

"7. That much later on, Transfer Certificate of Title No. T-18887 was, by virtue of an Order of the Court of First Instance, Branch I, in Special Proceedings No. 1357, entitled: In the Matter of the Testate Estate of Luisa Villa Abrille, approving a project of partition cancelled, and in lieu thereof, the following Transfer Certificates of Title were issued to the following named persons, to wit:

- (a) T-20690 - Huang Siu Sin;
- (b) T-20692 - Huang Siu Sin;
- (c) T-20701 - Josefino Huang;
- (d) T-20702 - Josefino Huang;
- (e) T-20703 - Josefino Huang;
- (f) T-20732 - Huang Siu Sin, et al.;
- (g) T-20733 - Huang Siu Sin, et al.;
- (h) T-20713 - Miguel Huang;
- (i) T-20715 - Miguel Huang;
- (j) T-20725 - Milagros Huang;
- (k) T-20726 - Milagros Huang;

which certificates of title were issued on the basis of a subdivision plan LRC Psd-71236 duly approved by the

defendant, Land Registration Commissioner, copy of which subdivision plan (LRC) Psd-71236 is hereto attached as Annex "D" and made integral part hereof;

"8. That the parties admit that there was an increase in the area of Lot 379-B-2-B, but the same was with the knowledge of the defendant, Land Registration Commissioner and the Court of First Instance of Davao, Branch IV;

"9. That the parties admit that no registered owner has been affected or prejudiced in the increase in area as only Luisa Villa Abrille as the registered owner holds property adjacent to the parcel of land in question;

"10. That the portion of land subject of the increase adjoins Lot 379-B-2-B and abuts the Davao River;

"11. That the parcel of land subject of the increase is fully planted with coconuts, bananas and other seasonal crops by the defendants, through their predecessor-in-interest;

"12. That the increase in area could have taken place very long time ago as the coconuts planted thereon had long been fruit bearing;

"13. That Transfer Certificate of Title No. 18886 does not contain any portion of the increase in area;

"14. That of the certificates of title issued based under subdivision plan (LRC) Psd-71236, only Transfer Certificates of Title Nos. T-20725; T-20701; T-20713; and T-20690 contain the increase in area; while all the other certificates of title issued under subdivision plan (LRC) Psd-71236 do not contain any increase in area;

"15. That the parties agree that the issuance of the Order Annex "B" was without notice to the Director of Lands."

The trial court thereafter rendered its decision dated January 27, 1970, which reads as follows:

"This is an ordinary civil action for annulment of certificate of title instituted by the Republic of the Philippines, represented by the Director of Lands, against the Estate of Luisa Abrille, represented by Huang Siu Sin, Administrator, the Land Registration Commissioner and the Register of Deeds of the City of Davao. Because the residue of the intestate estate of Luisa Villa Abrille had been divided among Huang Siu Sin, Josefino Huang, Milagros Huang, Miguel Huang and Iap Tong Ha, heirs, they were directed to appear and to substitute for the intestate estate and they did.

"The parties submitted the following stipulation of facts:

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"The increase in area of the land covered by Original Certificate of Title No. 5609 of the Register of Deeds of Davao in the name of Francisco Villa Abrille Lim Juna and subsequently by Transfer Certificate of Title No. T-1439 in the name of Luisa Villa Abrille and finally, based on subdivision plan (LRC) Psd-71236, by Transfer Certificates of Title Nos. T-20725 in the name of Milagros Huang, T-20701 in the name of Josefino Huang, T-20713 in the name of Miguel Huang and T-20690 in the name of Huang Siu Sin, is from 525,652 square meters to 607,779 square meters, or 82,127 square meters.

"The remedy sought by defendant heirs of Luisa Villa Abrille in order to include the increase in area was a petition for approval of Subdivision Plan (LRC) Psd-79322 recommended by the Commissioner of Land Registration in his Report, and for issuance of new titles under Section 44, Act 496, as amended, filed with this Court, which was assigned to Branch IV.

"Even pursuant to Section 44 of Act 496 under which the aforesaid remedy was sought, notice before the hearing is required. The parties admit that there was no notice to the persons interested, including the Director

of Lands, before the petition was heard.

"Worse, the increase in area could not have been included in Transfer Certificates of Title Nos. T-20725, T-20701, T-20713 and T-20690 even assuming *arguendo* that the same belonged to the owner of the land to which it is adjacent by the simple expediency of a petition for approval of subdivision plan and issuance of new titles, because a subdivision of a registered land under Section 44 of Act 496 does not authorize the inclusion of land or area not embraced in the titled or in excess of what is stated in the title. And the approval of the Court of such subdivision plan does not lend validity to it. The subdivision must be limited to the area stated in the title. Neither amendment of the title under Section 112 of Act 496 would be a valid remedy.

"The heirs of Luisa Villa Abrille, owners of the adjacent estate, might have acquired a registrable title to the land in question but to bring it under the operation of the Land Registration Act, a petition for registration under Act 496 should have been filed. More so when the title acquired is by continuous possession for at least 30 years under a claim of ownership. And even assuming that the land is an accretion, the fact that the riparian estate is registered does not bring *ipso facto* effect its accretion thereto under the operation of the Land Registration Act. No decree of registration of the land based upon final judgment promulgated by a court of competent jurisdiction after due publication, notice and hearing, has been issued by the Commissioner of Land Registration and transcribed by the Register of Deeds of Davao in the registry, for the reason that no initial or original registration proceedings have been instituted by the owner. And the only way by which a title to the land in question can be issued for the first time is for the Land Registration Commissioner to issue a decree of registration based upon final judgment rendered by a court of competent jurisdiction after trial.

"WHEREFORE, judgment is hereby rendered cancelling Transfer Certificates of Title Nos. T-20725, T-20701, T-20713 and T-20690 and directing the Register of Deeds of Davao to issue new certificates of title in lieu thereof after the portions consisting of 82,127 square meters, the land involved, shall have been segregated therefrom in accordance with law."

Not satisfied with the judgment of the trial court, defendant Heirs of Luisa Villa Abrille brought the case on appeal to the Court of Appeals. The Court of Appeals, however, in its Resolution dated July 22, 1974, certified the case (CA-G.R. No. 47438-R) to this Court for consideration and final disposition.

Defendant-appellant maintains that the lower court erred in holding the approval of Subdivision Plan (LRC) Psd-69322 of no legal effect merely on ground of lack of notice to interested persons, and in ordering the cancellation of Certificates of Title Nos. T-20725, T-20701, T-20713, and T-20690. It is the contention of the defendant-appellant that since the government agencies having to do with lands know all the time the increase in area in subdivision plan Psd-69322, and the government agencies concerned tolerated if not abetted the ultimate inclusion of the involved increase in area, defendant-appellant should not be made to suffer the effect of the allegedly wrong procedure or step taken in the approval of the aforementioned subdivision plan. Besides, defendant-appellant claims that it is their honest belief that the legal remedy taken by them in seeking the approval of their subdivision plan concerned was well within the law, particularly the provision of Section 44 of Act 496, as amended.

Plaintiff-appellee, on the other hand, maintains that the approval of the subdivision plan, with the increase in area, by the defendant-appellant Land Registration Commission does not lend validity to the said subdivision plan; and that the issuance of the four transfer certificates of title (Nos. T-20725, T-20701, T-20713 and T-20690) over the increased area in question is improper and invalid notwithstanding the conformity of the Land Registration Commissioner and the subsequent order of the Court of First Instance of Davao, Branch IV, approving the subdivision plan concerned, as the required giving of notice to all parties interested in defendant-appellant's petition for approval of subdivision plan was not at all followed.

Before Us, therefore, for consideration and final resolution, in order to arrive at a judicious disposition of the case

at bar, is whether or not the lower court erred in ordering the cancellation of Transfer Certificates of Title Nos. T-20725, T-20701, T-20713 and T-20690 which cover the increased area in question totalling 82,127 square meters.

After a careful and thorough deliberation of the matter in controversy, We are of the opinion and so hold that the lower court acted correctly in ordering the cancellation of Transfer Certificates of Title Nos. T-20725, T-20701, T-20713 and T-20690 which admittedly covered the increased area of 82,127 square meters under Subdivision Plan (LRC) Psd-71236 (and formerly under Psd-69322) for the City of Davao.

Certainly, the step taken by defendant-appellant in petitioning the court for the approval of their Subdivision Plan (LRC) Psd-69322 and then Psd-71236 to include the questioned increased area of 82,127 square meters is, to say the least, unwarranted and irregular. This is so, for the increased area in question, which is not a registered land but formerly a river bed, is so big as to give allowance for a mere mistake in area of the original registration of the tracts of land of the defendant-appellant formerly belonging to and registered in the name of their grandfather, Francisco Villa Abrille Lim Juna. In order to bring this increase in area, which the parties admitted to have been a former river bed of the Davao River, under the operation and coverage of the Land Registration Law, Act 496, proceedings in registrations of land title should have been filed instead of an ordinary approval of subdivision plan.

It should be remembered that recourse under Section 44 of Act 496, which the predecessor-in-interest (Luisa Villa Abrille) of the herein defendant-appellant took, is good only insofar as it covers previously registered lands. In the instant case, part of the tracts of land, particularly the area of 82,127 square meters, has not yet been brought under the operation of the Torrens System. Worse still, the approval of Subdivision Plans (LRC) Psd-69322 and Psd-71236 was without notice to all parties in interest, more particularly the Director of Lands. For an applicant to have his imperfect or incomplete title or claim to a land to be originally registered under Act 496, the following requisites should all be satisfied:

1. Survey of land by the Bureau of Lands or a duly licensed private surveyor;
2. Filing of application for registration by the applicant;
3. Setting of the date for the initial hearing of the application by the Court;
4. Transmittal of the application and the date of initial hearing together with all the documents or other evidences attached thereto by the Clerk of Court to the Land Registration Commission;
5. Publication of a notice of the filing of the application and date and place of the hearing in the Official Gazette;
6. Service of notice upon contiguous owners, occupants and those known to have interests in the property by the sheriff;
7. Filing of answer to the application by any person whether named in the notice or not;
8. Hearing of the case by the Court;
9. Promulgation of judgment by the Court;
10. Issuance of the decree by the Court declaring the decision final and instructing the Land Registration Commission to issue a decree of confirmation and registration;
11. Entry of the decree of registration in the Land Registration Commission;
12. Sending of copy of the decree of registration to the corresponding Register of Deeds; and

13. Transcription of the decree of registration in the registration book and the issuance of the owner's duplicate original certificate of title to the applicant by the Register of Deeds, upon payment of the prescribed fees.

Hence, with the foregoing requisites not having been complied with, the lower court committed no error in its appealed decision dated January 27, 1970.

Wherefore, the judgment appealed from is hereby affirmed in toto.

No special pronouncement as to costs.

So ordered.

Teehankee, (Chairman), Makasiar, Muñoz Palma, and Martin, JJ., concur.

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