

JOSE MA. LEDESMA, PETITIONER AND APPELLEE, VS. FELIX VILLASEÑOR, MOVANT AND APPELLANT.*G. R. No. L-18725. March 31, 1965*

Ponente: MAKALINTAL, J.

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Felix Villaseñor, in his capacity as special administrator of the estate of his deceased father, Eusebio Villaseñor, filed a petition in the Court of First Instance of Negros Occidental (Civil Case No. 5662) to enjoin the Register of Deeds of the same province from registering a deed of sale by which the deceased conveyed to Jose Ma. Ledesma two lots registered in his name, to wit, Lofs No& 2532-C and 2533-B of the Cadastral Survey of Bago, Negros Occidental. The reason given for seeking injunctive relief was that the deed of sale was fictitious and that the signature of the vendor was forged. The court issued a writ of preliminary injunction to maintain the status quo. The vendee, Ledesma, who had not been impleaded as a party-defendant, intervened in the case. On October 3, 1960 the court lifted the writ of preliminary injunction and dismissed the petition.

Two days later, on October 5, Ledesma filed his own petition in the cadastral record of said lots, asking that the Register of Deeds be ordered to register the aforementioned deed of sale. The ground alleged in the petition was that Civil Case No. 5662 had been dismissed and the preliminary injunction issued therein had been dissolved. On the same day the court, without notice either to the Register of Deeds or to appellant, and solely on the basis of the allegations in the petition, issued the corresponding order for registration. In compliance therewith the Register of Deeds cancelled the two certificates of title in the name of the deceased Eusebio Villaseñor and issued new ones in Ledesma's name. On October 8, 1960, again upon Ledesma's petition, the court ordered the cancellation of the certificates thus issued and the issuance of still new ones, also in his name.

Villaseñor moved for reconsideration of the two orders and then perfected this appeal upon their denial.

Appellant claims that the lower court erred in issuing the orders appealed from because: (1) appellee failed to give notice to appellant or to furnish him copy of the petition; (2) appellee should have filed the same in Civil Case No. 5662 and not in the cadastral proceeding; (3) the court had no power to order the Register of Deeds to register the deed of sale in question when the same was being contested as fictitious, nor to order the issuance of titles in the name of the supposed buyer; and (4) if, as appellee points out, the Register of Deeds had improperly refused to register the deed of sale, the proper remedy should have been a suit for mandamus.

We are of the opinion that the lower court did commit the error attributed to it. To be sure, when the writ of preliminary injunction in Civil Case No. 5662 was dissolved in the same order which dismissed appellant's petition the obstacle to the registration of the deed of sale was removed. The effect of the dissolution was immediate and would not be stayed even if an appeal had been perfected from the order of dismissal (*Watson vs. Enriquez*, 1 Phil. 480; *Sitia Teco vs. Ventura*, 1 Phil. 497). But that is only as far as the Register of Deeds was concerned, his duty under the circumstances—if the document was on its face registrable—being administrative and ministerial. The lifting of the injunction, however, or even the dismissal of the petition, was no authority for the

court in the cadastral proceeding to issue the orders complained of without notice to the Register of Deeds or to appellant, considering that the dismissal of Civil Case No. 3662 was not yet final. The court knew of the pendency of that case and of the fact that the relief sought therein by appellant was precisely to prevent registration. Irrespective of the propriety or impropriety of the remedy pursued, that is, whether or not mandamus should have been resorted to, the least that the court a quo should have done was to afford appellant proper notice and hearing, so that he could reiterate his objections to the registration and present evidence to substantiate them and/or call the court's attention to the fact that the question had not yet been definitely settled in the civil action since the order dismissing it was not yet final.

It is one thing for the Register of Deeds, in the exercise of his ministerial duties under the law, to register an instrument which in his opinion is registrable, and quite another thing for the court itself to order the registration. The former does not contemplate notice to and hearing of interested parties such as are required in a judicial proceeding nor carry with it the solemnity and legal consequences of a court judgment. The court a quo, in anticipating the action of the Register of Deeds, unnecessarily took the matter out of his hands and at the same time preempted the question of registration still pending in the civil action filed by appellant.

The orders appealed from are hereby set aside with cost against appellee.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J.B.L., Barrera, Paredes, Dizon, Regala, Bengzon and Zaldivar, JJ., concur.

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