

NATY BALIAZAR, ET AL., PLAINTIFF AND APPELLEES, VS. SILVINA CARIDAD, ET AL., DEFENDANT AND APPELLANTS.

G. R. No. L-23509. June 23, 1966

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Appeal against an order, issued by the Court of First Instance of Ilocos Norte, in its Cadastral Case No. 54, GLRO Cad. Case No. 1222, compelling respondents Silvina Caridad and Eduarda Caridad to remove their respective houses built on the southern portion of Lot No. 8864 within thirty days from receipt of said order, Respondents originally interposed the present appeal to the Court of Appeals, where it was docketed as its CA-G. R. No. 31289-R. The appellate court, however, certified the appeal to this Court for raising only questions of law.

The facts are not in dispute, and are as follows:

In the cadastral proceeding above stated, the trial court rendered decision, dated January 23, 1941, awarding said Lot No. 8864 of the Laoag (Ilocos Norte) cadastre to the spouses Julio Baltazar and Constancia Valencia as their conjugal partnership property. Said decision having become final, the corresponding decree was issued on July 12, 1941, and pursuant thereto, said lot was registered in the names of applicant spouses under Original Certificate of Title No. O-1445, which was later transcribed, on November 5, 1959, in the office of the Register of Deeds of Ilocos Norte.

In the meanwhile, Julio Baltazar, the registered owner of said Lot No. 8864, died. On December 6, 1961, his surviving wife and children, as petitioners, filed a motion, in the cadastral case, praying for writ of possession against respondents Silvina Caridad and her daughter, Eduarda Caridad, who had been in possession of the southern portion of said Lot No. 8864 since 1939, while the cadastral case involving said lot was pending before the trial court, and before the decision was rendered and the corresponding decree issued in 1941.

No writ having theretofore been issued in petitioners' favor, the trial court issued an order, on December 11, 1961, granting petitioners' motion, and overruled respondents' opposition but directed the sheriff not to remove or destroy the permanent improvements on the lot without an express command. On January 2, 1962, the order having become final, the sheriff enforced the writ and placed petitioners in possession of the southern portion of the lot.

On January 23, 1962, petitioners presented a motion to compel respondents Eduarda Caridad and her mother, Silvina Caridad, to remove their respective houses which they built in 1958 and 1959, respectively, In the southern portion of the disputed lot, and, in the event of their failure to do so, to order the sheriff to demolish the same. Respondents again opposed said motion.

On March 20, 1962, the trial court, after due hearing, granted petitioners' motion, ordering respondents to remove their respective houses from the southern portion of said lot No. 8864 within thirty days from receipt of said order. Not satisfied, respondents appealed.

Respondents-appellants question the power or jurisdiction of the trial court, sitting as a cadastral court, to order the removal of their respective houses which were built in the disputed lot long after the Issuance of the final decree of registration. They insist that they are builders in good faith of the houses in question, and, as such, they are accorded rights under Article 448 of the new Civil Code, which rights cause a conflict to arise between petitioners, as registered owners, on the one hand, and respondents, as builders In good faith, on the other; that this conflict Is a new matter which the cadastral court could not have possibly passed upon in 1941 when it rendered its decision awarding the disputed lot to Julio Baltazar, the predecessor-in-interest of petitioners. Respondents also insist that the determination or settlement of this controversy is cognizable only by a court exercising general jurisdiction, and that the only remedy available to petitioners is to file an ordinary action for ejectment or recovery of possession against them. Respondents further urged that this remedy is rendered unnecessary in view of the pendency of an action for reconveyance over the disputed portion of said Lot No. 8864, which respondents filed against petitioners in the same court and docketed (but after the writ of possession had been asked) as its Civil Case No. 3451, and wherein the respective rights, interests and title of the parties will ultimately be ventilated.

The above contentions of respondents are without merit. It is to be noted that respondents do not dispute that during the pendency of the cadastral proceeding, rendition of the judgment awarding said Lot No. 8864, and consequent issuance of the final decree of registration of the same in favor of Julio Baltazar, the late Andres Caridad, his surviving spouse, respondent Silvina Caridad, and their children, one of whom is respondent Eduarda Caridad, were in possession of the southern portion of the disputed lot; and that respondent Eduarda Caridad claims right and title thereto as a mere heir and successor-in-interest of said Andres Caridad. Neither do respondents dispute the propriety and validity of the order of the cadastral court, granting the writ of possession in favor of petitioners as well as its enforcement. Under these circumstances, we hold that the order, dated March 20, 1962, of the cadastral court, granting petitioners' motion to compel respondents to remove their respective houses from the disputed lot, is valid and enforceable against respondents. In the case of Marcelo vs. Mencias, etc., et al., L-15609, April 29, 1960, 58 Off. Gaz. 3349, this Court had already upheld the jurisdiction or authority of the court of first instance, sitting as a land registration court, to order, as a consequence of the writ of possession issued by it, the demolition of improvements introduced by the successor-in-interest of a defeated oppositor in the land registration case. Thus, in the foregoing cited case, Mr, Justice Jesus G. Barrera, speaking for the Court, opined:

"It is contended that respondent Judge erred in denying the petition for demolition. To this we agree. Section 13, Rule 39 of the Rules of Court, provides: 'SEC. 13. How execution for the delivery or restitution of property enforced.— The officer must enforce an execution for the delivery or restitution of property by placing the plaintiff in possession of such property, and by levying as hereinafter provided upon so much of the property of the judgment debtor as will satisfy the amount of costs, damages, rents, and profits included in the execution. However, the officer shall not destroy, demolish or remove the improvements made by the defendant or his agent on the property, except by special order of the court, which order may only issue upon petition of the plaintiff after due hearing and upon the defendant's failure to remove the improvements within a reasonable time to be fixed by the court.'

"Respondent Judge is of the view that the above quoted provision of the Rules of Court applies only to ordinary actions involving the delivery or restitution of property, and not to proceedings under the land registration law which, according to him, is silent on the point. The view is not correct, for the reason that the provisions of the Rules of Court are applicable to land registration cases in a suppletory character (Rule 132). Put differently, if the writ of possession issued in a land registration proceeding implies the delivery of possession of the land to the successful litigant therein (Demorar vs. Ibañez, 51 Off. Gaz. 2872, Fasay Estate Company vs. Del Rosario, et al., 11 Phil. 391; Manlapas vs. Llorente, 48 Phil. 298), a writ of demolition must, likewise, issue, especially considering that the latter writ is but a complement of the former which without said writ of demolition, would be

ineffective.

"Apparently, respondent Judge, in refusing to issue the writ of demolition to petitioner, was of the belief that the latter has another remedy, namely, by resorting to ordinary civil actions in the regular courts, such as that of forcible entry and detainer, or the recovery of possession, in which instances, said courts would then be competent to issue said writ. Such a situation, in our opinion, could not have been intended by the law. To require a successful litigant in a land registration case to institute another action for the purpose of obtaining possession of the land adjudged to him, would be a cumbersome process. It would foster unnecessary and expensive litigations and result in multiplicity of suits, which our judicial system abhors. In this connection, this Court on one occasion, said:

'But this construction of the law entirely defeats its purpose. It would compel a successful litigant in the Court of Land Registration to commence other actions in other courts for the purpose of securing fruits of his victory. The evident purpose of the law was to prevent that very thing; ****' (Pasay Estates Co. vs. Del Rosario, et al., supra)

"Furthermore, Section 6, Rule 124, of the Rules of Court states that -

'When by law jurisdiction is conferred on a court or judicial officer, all auxiliary writs, processes and other means necessary to carry it into effect may be employed by such court or officer; and if the procedure to be followed in the exercise of such jurisdiction is not specifically pointed out by these rules, any suitable process or mode of proceeding may be adopted which appears most conformable to the spirit of said rules.'

"As already stated, provisions of the Rules of Court are applicable to land registration cases in a suppletory character. Pursuant to the provision just quoted, respondent Judge has the power to issue all auxiliary writs, including the writ of demolition sought by petitioner, processes and other means necessary to carry into effect the jurisdiction conferred upon it by law in land registration cases to issue a writ of possession to the successful litigant, the petitioner herein.

"Lastly, in the case of *Shioji vs. Harvey*, 43 Phil. 333, we pointed out that 'Independent of any statutory provision,**** every court has inherent power to do all things reasonably necessary for the administration of justice within the scope of its jurisdiction.' In line with this doctrine, it may be stated that respondent Judge, in the instant case, has the inherent power to issue the writ of demolition demanded by petitioner. Needless to say, its issuance is reasonably necessary to do justice to petitioner who is being deprived of the possession of the lots in question, by reason of the continued refusal of respondent Clemente Fagsisihan to remove his house thereon and restore possession of the premises to petitioner."

We believe the above-quoted ruling aptly answers the arguments of respondents-appellants, the same having practically identical sets of facts obtaining in the case at bar.

Appellants can not be regarded as builders in good faith because they are bound by the 1941 decree of registration that obligated their parents and predecessors-in-interest. Good faith must rest on a colorable right in the builder, beyond a mere stubborn belief in one's title despite judicial adjudication. The fact that in 1959 appellants demolished and replaced their old house with new and bigger ones can not enervate the rights of the registered owners. Otherwise, the rights of the latter to enjoy full possession of their registered property could be indefinitely defeated by an unsuccessful opponent through the simple subterfuge of replacing his old house with a new one from time to time.

WHEREFORE, the appealed order should be, as it is hereby, affirmed. With costs against respondents-appellants.

Concepcion, C. J., Barrera, Dizon, Regala, Makalintal, Bengzon, J.P., Zaldivar and Sanchez, JJ., concur.

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