

DOMINGO NICOLAS, PLAINTIFF AND APPELLANT, VS. ULYSES PRE, ET AL., DEFENDANTS AND APPELLEES.*G.R. No. L-7402. October 27, 1955*

Ponente: BAUTISTA ANGELO, J.

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On October 8, 1952, Domingo Nicolas filed in the Court of First Instance of Tarlac a complaint praying that the judgment rendered in Registration Case No. 15 (G. L. R. O. Record No. 199) declaring Ulyses Pre, et al., oppositors therein, owners of a parcel of land containing an area of 5 hectares and ordering its registration in their name, be declared null and void for having been rendered in excess of its jurisdiction and in violation of the Constitution.

The defendants filed a motion to dismiss on the grounds (1) that the action is barred by a prior judgment, and (2) that the complaint states no cause of action. This motion was sustained and the court dismissed the case without pronouncement as to costs. Plaintiff brought this case on appeal directly before this Court on the plea that the questions involved are purely legal.

On November 30, 1946, Domingo Nicolas, appellant, filed an application for the registration of a parcel of land containing an area of 31 hectares, 21 ares and 18 centares located in Sta. Ignacia, Tarlac. Ulyses Pre, et al., appellees, opposed the application with regard to a portion of the land containing an area of 5 hectares, 17 ares and 70 centares claiming to be the owners thereof. The case was set for hearing on August 6, 1948. On this date, appellant submitted his evidence. In the course of the presentation of appellees' evidence, the parties agreed to have the hearing suspended to give them an opportunity to come to an amicable settlement, to which the court acceded giving them 5 days within which to submit the settlement. Six days thereafter, far from submitting the proposed settlement, appellant, through counsel, moved to dismiss the registration proceeding, which was favorably acted upon. Taken by surprise by the order of dismissal which was acted upon ex-parte, appellees moved to reconsider the order in order that they may be given an opportunity to present their evidence to prove their claim of ownership with regard to the 5 hectares covered by their opposition. The motion was granted and the case was set for the reception of appellees' evidence with due notice to appellant's attorney, but on the date set neither appellant nor his counsel appeared. In view of such non-appearance, the court designated its clerk of court to receive the evidence. This was done, and after the clerk of court had received the evidence, the court, on January 27, 1950, rendered judgment declaring appellees owners in fee simple of the portion of land claimed by them in their opposition. No appeal has been taken from this decision within the reglamentary period. The same became final on April 7, 1950.

On April 21, 1950, appellant, through counsel, filed a petition to set aside the decision under Rule 38 of the Rules of Court alleging, among others, that said decision was null and void because it was rendered without jurisdiction and in violation of sections 31, 36 and 37 of Act No. 496. Appellees vigorously objected to this petition and the court sustained the objection in an order entered on May 25, 1950. From this order appellant took the case on appeal to the Court of Appeals and on May 12, 1952, the latter court affirmed the order of the trial court. The

present case is but an outgrowth of this adverse decision of the Court of Appeals.

The issues raised by appellant in this appeal are:

"1. Did the Court of First Instance of Tarlac in the exercise of its jurisdiction as Court of Land Registration have the power or jurisdiction to enter the order of December 28, 1949 upon ex-parte application of the appellant, to dismiss Registration Case No. 15, G. L. R. O. Rec. No. 199, and that once the case had been dismissed, to amend, upon motion for reconsideration of the appellees, the order of dismissal by allowing appellees to continue with the presentation of their evidence as oppositors without at the same time reinstating the application of the appellant or without first ordering the appellees to publish the subject matter of the opposition as provided in section 31 of the Land Registration Law?

"2. As such Court of Land Registration, did the Court of First Instance of Tarlac have jurisdiction to render the decision in said Registration Case No. 15, G. L. R. O. Rec. No. 199 on the basis of the evidence of the appellant and part of the evidence of the appellees which was presented to the Court previous to the order of dismissal of December 28, 1949, together with such evidence which was taken before the Clerk of Court on January 11, 1950, as delegate of the Court without said Clerk of Court giving previous notice to the appellant of the hearing and without making his report on the evidence taken before him as required by section 36 of the Land Registration Law?"

1. It should be recalled that in the course of the presentation of the evidence of appellees in the registration case and after the parties had failed to settle the case amicably as they had proposed, appellant moved for the dismissal of his application and the same was granted, but, on a motion for reconsideration, the court decided to continue the hearing to give appellees an opportunity to present evidence to substantiate their claim of ownership with regard to the 5 hectares they claimed in their opposition and, taking advantage of this opportunity, they presented their evidence and on the basis thereof, the court decreed the registration of said 5 hectares in the name of appellees. It is now the contention of appellant that this action of the trial court was in violation of section 37 of Act No. 496 because, after having dismissed the registration proceeding upon motion of appellant, the court could no longer continue the hearing without reinstating the case or at least without requiring the appellees to file a new application for registration so that they may comply with the law as regards publication as if it were an original application. And the court having failed to follow this procedure, its ulterior proceeding is null and void, upon the theory that the court acted without jurisdiction or in violation of the law.

We do not find merit in this contention as it ignores the amendment wrought in the registration law by Act No. 3621. Before such amendment the purpose of an answer to a registration case was simply to disclose the oppositor's objections to the application, or his reasons showing why the applicant should be denied the relief applied for. The oppositor could not ask for any affirmative relief or that the land be registered in his name in the same proceeding it being the sole purpose of the answer to prevent the registration of the land in the name of the applicant. The power of the court was limited to determining whether the applicant had a title proper for registration (*City of Manila vs. Lack*, 19 Phil., 324). However, when the law was amended in 1929, with the enactment of Act No. 3621, the procedure was changed in the sense of allowing the oppositor not only to allege in his answer his objections to the application but to ask for any affirmative relief he may desire. Under the amendment, an oppositor who claims ownership over the property covered by the application, or a part thereof, may now claim in his answer that the land be registered in his name in the same proceeding. This is clearly reflected in section 37 of Act No. 496, as amended by section 2 of Act No. 3621, wherein it is provided that "in case where there is an adverse claim, the court shall determine the conflicting interests of the applicant and the adverse claimant, and after taking evidence shall dismiss the application if neither of them succeeds in showing that he has proper title for registration, or shall enter a decree awarding the land applied for, or any part thereof, to the person entitled thereto." The only condition prescribed for this variation is that the court "shall order the

adverse claimant to whom a portion of the land applied for has been awarded to pay to the applicant such part of said expenses as may be in proportion to the area awarded to said adverse claimant." This is what the trial court has done. It ordered the oppositors to pay to the applicant his proportionate share in the expenses. It is, therefore, evident that the claim of appellant that the trial court acted contrary to law in acting on the adverse claim of the oppositors has no legal basis.

2. With regard to the second issue, we find that the same has already been passed upon by the Court of Appeals in the appeal taken by appellant from the order of the trial court denying his petition for relief (CA—G. R. No. 7329-R). Appellant is therefore prevented from asserting now the same question under the principle of estoppel by judgment. Thus, on this point, the Court of Appeals said:

"And when the applicant failed to appear at the hearing on January 11, 1950, despite their notice thereof, had the lower court that authorized its Clerk to receive the evidence of the oppositors, violated section 36 of the Land Registration Law, as supplemented by sections 9, 10 and 11 of the Rule 35 of the Rules of Court? We believe not, because said section refers to a case where the contesting parties or some of them appeared and an order of default is entered against those who did not appear and answer. The situation obtaining in the present case is markedly different from the situation contemplated in section 36 of Act No. 496, inasmuch as the applicant having asked for the dismissal of his application, the oppositors ipso facto acquired the role of applicants on the portion they claim without any opposition whatsoever. In the legal contemplation and strictly, speaking, the applicant, as far as his application for registration was concerned, had already lost his standing in court when the oppositors presented their evidence before the Clerk of Court, and for his reason, his assault against the legality of the action of the court in authorizing its Clerk to receive the evidence of the oppositors cannot now be sustained, especially if we take into consideration that in spite of the fact that said applicant was notified thru his counsel of the hearing, both abstained themselves from appearing thereat."

The foregoing considerations show that the lower court did not err in sustaining the motion to dismiss filed by appellees and, hence, the error assigned by appellant in this respect is without merit.

Wherefore, the order appealed from is affirmed, with costs against appellant.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Labrador, Concepcion, and Reyes, J. B. L., JJ., concur.

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