

ROMEO MARTINEZ AND LEONOR SUAREZ, SPOUSES, PETITIONERS AND APPELLANTS, VS. HON. COURT OF APPEALS, SECRETARY AND UNDERSECRETARY OF PUBLIC WORKS & #038; COMMUNICATIONS, RESPONDENTS AND ...

G.R. No. L-31271. April 29, 1974

Ponente: ESGUERRA, J.

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ESGUERRA, J.:

Petition for review by certiorari of the judgment of the Court of Appeals dated November 17, 1969 in its CA-G.R. 27655-R which reverses the judgment of the Court of First Instance of Pampanga in favor of petitioners-appellants against the Secretary and Undersecretary of Public Works & Communications in the case instituted to annul the order of November 25, 1958 of respondent Secretary of Public Works & Communications directing the removal by the petitioners of the dikes they had constructed on Lot No. 2 embraced in their Transfer Certificate of Title No. 15856 of the Register of Deeds of Pampanga, which order was issued pursuant to the provisions of Republic Act No. 2056. The dispositive portion of the judgment of reversal of the Court of Appeals reads as follows:

"IN VIEW OF THE FOREGOING CONSIDERATIONS, the judgment appealed from is hereby reversed, and another entered: [1] upholding the validity of the decision reached by the respondent officials in the administrative case; [2] dissolving the injunction issued by the Court below; and [3] cancelling the registration of Lot No. 2, the disputed area, and ordering its reconveyance to the public domain. No costs in this instance."

The background facts are stated by the Court of Appeals as follows:

"The spouses Romeo Martinez and Leonor Suarez, now petitioners-appellees, are the registered owners of two (2) parcels of land located in Lubao, Pampanga, covered by transfer certificate of title No. 15856 of the Register of Deeds of the said province. Both parcels of land are fishponds. The property involved in the instant case is the second parcel mentioned in the above-named transfer certificate of title.

"The disputed property was originally owned by one Paulino Montemayor, who secured a 'titulo real' over it way back in 1883. After the death of Paulino Montemayor the said property passed to his successors-in-interest, Maria Montemayor and Donata Montemayor, who in turn, sold it, as well as the first parcel, to a certain Potenciano Garcia.

"Because Potenciano Garcia was prevented by the then municipal president of Lubao, Pedro Beltran, from restoring the dikes constructed on the contested property, the former, on June 22, 1914, filed Civil Case No. 1407 with the Court of First Instance against the said Pedro Beltran to restrain the latter in his official capacity from molesting him in the possession of said second parcel, and on even date, applied for a writ of preliminary injunction, which was issued against said municipal president. The Court, by decision promulgated June 12, 1916, declared permanent the preliminary injunction, which, decision, on appeal, was affirmed by the Supreme Court on August 21, 1918. From June 22, 1914, the dikes around the property in question remained closed until a portion thereof was again opened just before the outbreak of the Pacific War.

"On April 17, 1925, Potenciano Garcia applied for the registration of both parcels of land in his name, and the Court of First Instance of Pampanga, sitting as land registration court, granted the registration over and against the opposition of the Attorney-General and the Director of Forestry. Pursuant to the Court's decision, original certificate of title 14318, covering said parcels 1 and 2 was issued to the spouses Potenciano Garcia and Lorenza Sioson.

"These parcels of land were subsequently bought by Emilio Cruz de Dios in whose name transfer certificate of title No. 1421 was first issued on November 9, 1925.

"Thereafter, the ownership of these properties changed hands until eventually they were acquired by the herein appellee spouses who hold them by virtue of transfer certificate of title No. 15856.

"In 1953, appellee spouses undertook to repair the dikes in parcel No. 2, but they were prevented from so doing by the municipal officials of Lubao, Pampanga

"To avoid any untoward incident, the disputants agreed to refer the matter to the Committee on Rivers and Streams, by then composed of the Honorable Pedro Tuason, at that time Secretary of Justice, as chairman, and the Honorable Salvador Araneta and Vicente Orosa, Secretary of Agriculture and National Resources and Secretary of Public Works and Communications, respectively, as members. This committee thereafter appointed a Sub-Committee to investigate the case and to conduct an ocular inspection of the contested property, and on March 11, 1954, said Sub-Committee submitted its report to the Committee on Rivers and Streams to the effect that Parcel No. 2 of transfer certificate of title No. 15856 was not a public river but a private fishpond owned by the herein appellee spouses.

"On July 7, 1954, the Committee on Rivers and Streams rendered its decision the dispositive part of which reads:

'In view of the foregoing considerations, the spouses Romeo Martinez and Leonor Suarez should be restored to the exclusive possession, use and enjoyment of the creek in question which forms part of their registered property and the decision of the courts on the matter be given full force and effect.'

"The municipal officials of Lubao, led by Acting Mayor Mariano Zagad, apparently refused to recognize the above decision, because on September 1, 1954, the spouses Romeo Martinez and Leonor Suarez instituted Civil Case No. 751 before the Court of First Instance of Pampanga against said Mayor Zagad, praying that the latter be enjoined from molesting them in their possession of their property and in the construction of the dikes therein. The writ of preliminary injunction applied for was issued against the respondent municipal Mayor, who immediately elevated the injunction suit for review to the Supreme Court, which dismissed Mayor Zagad's petition on September 7, 1953. With this dismissal order herein appellee spouses proceeded to construct the dikes in the disputed parcel of land.

"Some four (4) years later, and while Civil Case No. 751 was still pending, the Honorable Florencio Moreno, then Secretary of Public Works and Communications, ordered another investigation of the said parcel of land, directing the appellees herein to remove the dikes they had constructed, on the strength of the authority vested in him by Republic Act No. 2056, approved on June 13, 1958, entitled 'An Act to Prohibit. Remove and/or Demolish the Construction of Dams, Dikes, Or Any Other Walls in Public Navigable Waters, Or Waterways and In Communal Fishing Grounds, To Regulate Works in Such Waters or Waterways And In Communal Fishing Grounds, And To Provide Penalties For Its Violation, And For Other Purposes.' The said order which gave rise to the instant proceedings, embodied a threat that the dikes would be demolished should the herein appellees fail to comply therewith within thirty (30) days.

"The spouses Martinez replied to the order by commencing on January 2, 1959 the present case, which was decided in their favor by the lower Court in a decision dated August 10, 1959, the dispositive part of which reads:

'WHEREFORE, in view of the foregoing considerations, the Court hereby declares the decision, Exhibit S, rendered by the Undersecretary of Public Works and Communications null and void; declares the preliminary injunction, heretofor issued, permanent, and forever enjoining both respondents from molesting the spouses Romeo Martinez and Leonor Suarez in their possession, use and enjoyment of their property described in Plan Psu-9992 and referred to in their petition.

'Without pronouncement as to costs.

'SO ORDERED.'

"As against this judgment respondent officials of the Department of Public Works and Communications took the instant appeal, contending that the lower Court erred:

"1. In holding that then Senator Rogelio de la Rosa, complainant in the administrative case, is not an interested party and his letter-complaint dated August 15, 1958 did not confer jurisdiction upon the respondent Undersecretary of Public Works and Communications to investigate the said administrative case;

"2. In holding that the duty to investigate encroachments upon public rivers conferred upon the respondent Secretary under Republic Act No. 2056 cannot be lawfully delegated by him to his subordinates;

"3. In holding that the investigation ordered by the respondent Secretary in this case is illegal on the ground that the said respondent Secretary has arrogated unto himself the power, which he does not possess, of reversing, making nugatory, and setting aside the two lawful decisions of the Court. Exhibits K and I, and even annulling thereby, the one rendered by the highest Tribunal of the land;

"4. In not sustaining respondent's claim that petitioners have no cause of action because the property in dispute is a public river and in holding that the said claim has no basis in fact and in law;

"5. In not passing upon and disposing of respondent's counterclaim;

"6. In not sustaining respondent's claim that the petition should not have been entertained on the ground that the petitioners have not exhausted administrative remedies; and

"7. In holding that the decision of the respondents is illegal on the ground that it violates the principles that laws shall have no retroactive effect unless the contrary is provided and in holding that the said Republic Act No. 2056 is unconstitutional on the ground that respondents' threat of prosecuting petitioners under Section 3 thereof for acts done four years before its enactment renders the said law ex post facto."

The Court of Appeals sustained the above-mentioned assignment of errors committed by the Court of First Instance of Pampanga and, as previously reversed stated, the judgment of the latter court. From this reversal this appeal by certiorari was taken, and before this Court, petitioners-appellants assigned the following errors allegedly committed by the Court Appeals:

1. THE COURT OF APPEALS ERRED IN DECLARING IN INSTANT CASE THAT PARCEL NO. 2 OF TRANSFER CERTIFICATE OF TITLE NO. 15856 IS A PUBLIC RIVER AND ORDERING THE CANCELLATION OF ITS REGISTRATION BECAUSE THIS CONSTITUTES A COLLATERAL ATTACK ON A TORRENS TITLE IN VIOLATION OF THE LAW AND THE WELL-SETTLED JURISPRUDENCE ON THE MATTER.

2. THE COURT OF APPEALS ERRED IN REOPENING AND RE-LITIGATING TEE ISSUE AS TO WHETHER OR NOT LOT NO. 2 OF TRANSFER CERTIFICATE OF TITLE NO. 15856 REGISTER OF DEEDS OF PAMPANGA, IS A PUBLIC RIVER NOTWITHSTANDING THE FACT THAT THIS ISSUE HAS BEEN LONG RESOLVED AND SETTLED BY THE LAND REGISTRATION COURT OF

PAMPANGA IN LAND REGISTRATION PROCEEDING NO. 692 AND IS NOW RES JUDICATA.

3. THE COURT OF APPEALS ERRED IN ORDERING THE CANCELLATION OF THE REGISTRATION OF LOT NO. 2 OF TRANSFER CERTIFICATE OF TITLE NO. 15856 NOTWITHSTANDING THE FACT THAT THE TORRENS TITLE COVERING IT HAS BEEN VESTED IN THE PETITIONERS WHO ARE THE SEVENTH OF THE SUCCESSIVE INNOCENT PURCHASERS THEREOF AND WHO IN PURCHASING THE SAME RELIED ON THE PRINCIPLE THAT THE PERSONS DEALING WITH REGISTERED LAND NEED NOT GO BEHIND THE REGISTER TO DETERMINE THE CONDITION OF THE PROPERTY.

The 1st and 2nd assignment of errors, being closely related, will be taken up together.

I.

The ruling of the Court of Appeals that Lot No. 2 covered by Transfer Certificate of Title No. 15856 of the petitioners-appellants is a public stream and that said title should be cancelled and the river covered reverted to public domain, is assailed by the petitioners-appellants as being a collateral attack on the indefeasibility of the torrens title originally issued in 1925 in favor of the petitioners-appellants' predecessor-in-interest, Potenciano Garcia, which is violative of the rule of res judicata. It is argued that as the decree or registration issued by the Land Registration Court was not re-opened through a petition for review filed within one (1) year from the entry of the decree of title, the certificate of title issued pursuant thereto in favor of the appellants for the land covered thereby is no longer open to attack under Section 38 of the Land Registration Act (Act 496) and the jurisprudence on the matter established by this Tribunal. Section 38 of the Land Registration Act cited by appellants expressly makes a decree of registration, which ordinarily makes the title absolute and indefeasible, subject to the exemption stated in Section 39 of the said Act among which are: "liens, claims or rights arising or existing under the laws or Constitution of the United States or of the Philippine Islands which the statute of the Philippine Islands cannot require to appear of record in the registry."

At the time of the enactment of Act. 496, one right recognized or existing under the law is that provided for in Article 339 of the old Civil Code which reads as follows:

"Property of public ownership is:

"1. That destined to the public use, such as roads, canals, rivers, torrents, ports, and bridges constructed by the State, and banks shores, roadsteads, and that of a similar character." (Par.1)

The above-mentioned properties are parts of the public domain intended for public use, are outside the commerce of men and, therefore, not subject to private appropriation. (3 Manresa, 6th ed. 101-104.)

In *Ledesma vs. Municipality of Iloilo*, 49 Phil. 769, this Court held:

"A simple possession of a certificate of title under the Torrens system does not necessarily make the possessor a true owner of all the property described therein. If a person obtains title under the Torrens system which includes by mistake or oversight, lands which cannot be registered under the Torrens system, he does not by virtue of said certificate alone become the owner of the land illegally included."

In *Mercado vs. Municipal President of Macabebe*, 59 Phil. 592, it was also said:

"It is useless for the appellant now to allege that she has obtained certificate of title No. 329 in her favor because the said certificate does not confer upon her any right to the creek in question, inasmuch as the said creek, being of the public domain, is included among the various exceptions enumerated in Section 39 of Act 496 to which the said certificate is subject by express provision of the law."

The same ruling was laid down in *Director of Lands vs. Roman Catholic Bishop of Zamboanga*, 61 Phil. 644. as

regards public plaza.

In *Dizon, et al. vs. Rodriguez, et al.*, G. R. No. L--20300-01 and G. R. No. L-20355-56, April 30, 1965, 20 SCRA 704, it was held that the incontestable and indefeasible character of a Torrens certificate of title does not operate when the land covered thereby is not capable of registration.

It is, therefore, clear that the authorities cited by the appellants as to the conclusiveness and incontestability of a Torrens certificate of title do not apply here. The Land Registration Court has no jurisdiction over non--registerable properties, such as public navigable rivers which are parts of the public domain, and cannot validly adjudge the registration of title in favor of a private applicant. Hence, the judgment of the Court of First Instance of Pampanga as regards the Lot No. 2 of Certificate of Title No. 15856 in the name of petitioners-appellants may be attacked at any time, either directly or collaterally, by the State which is not bound by any prescriptive period provided for by the Statute of Limitations (Article 1108, par. 4, new Civil Code). The right of reversion or reconveyance to the State of the public properties fraudulently registered and which are not capable of private appropriation or private acquisition does not prescribe. (*Republic vs. Ramona Ruiz, et al.*, G. R. No. L-23712, April 29, 1968, 23 SCRA 348; *Republic vs. Ramos*, G. R. No. L-15484, January 31, 1963, 7 SCRA 47.)

When it comes to registered properties, the jurisdiction of the Secretary of Public Works & Communications under Republic Act 2056 to order the removal or obstruction to navigation along a public and navigable creek or river included therein, has been definitely settled and is no longer open to question (*Lovina vs. Moreno*, G. R. No. L-17821, November 29, 1963, 9 SCRA 557; *Taleon vs. Secretary of Public Works & Communications*, G. R. No. L-24281, May 16, 1967, 20 SCRA 69, 74).

The evidence submitted before the trial court which was passed upon by the respondent Court of Appeals shows that Lot No. 2 (Plan Psu 992) of Transfer Certificate of Title No. 15856, is a river of the public domain. The technical description of both Lots Nos. 1 and 2 appearing in Original Certificate of Title No. 14318 of the Register of Deeds of Pampanga, from which the present Transfer Certificate of Title No. 15856 was derived, confirms the fact that Lot No. 2 embraced in said title is bounded practical on all sides by rivers. As held by the Court of First instance of Pampanga in Civil Case No. 1247 for injunction filed by the petitioners predecessors-in-interest against the Municipal Mayor of Lubao and decided in 1916 (Exh. "L"), Lot No. 2 is a branch of the main river that has been covered with water since time immemorial and, therefore, part of the public domain. This finding having been affirmed by the Supreme Court, there is no longer any doubt that Lot No. 2 of Transfer Certificate of Title No. 15856 of petitioners is a river which is not capable of private appropriation or acquisition by prescription. (*Palanca vs. Com. of the Philippines*, 69 Phil. 449; *Meneses vs. Com. of the Philippines* 69 Phil. 647). Consequently, appellants' title does not include said river.

II.

As regards the 3rd assignment of error, there is no weight in the appellants' argument that, being a purchaser for value and in good faith of Lot No. 2, the nullification of its registration would be contrary to the law and to the applicable decisions of the Supreme Court as it would destroy the stability of the title which is the he core of the system of registration. Appellants cannot be deemed purchasers for value and in good faith as in the deed of absolute conveyance executed in their favor, following appears:

"6. Que la segunda parcela arriba descrita y mencionada esta actualmente abierta, sin malecones y excluida de la primera parcela virtud de la Orden Administrative No. 103, tal como fue enmendada, del pasado regimen o Gobierno.

"7. Que los citados compradores Romeo Martinez y Leonor Suarez se encargan de la gestionar delas

autoridades correspondientes para que la citada segunda parcela pueda ser convertida de nuevo en pesqueria, corriendo cuenta y cargo de los mismos todos los gastos.

"8. Que en el caso de que dichos compradores no pudiesen conseguir sus propositos de convertir de nuevo en pesquera la citada segunda parcela, los aqui vendedores no devolveran ninguna cantidad de dinero a los referidos compradores; este es, no se disminuira el precio de esta venta." (Exh. 13-a, p. 52, respondents record of exhibits)

These stipulations were accepted by the petitioners-appellants in the same conveyance in the following terms:

"Romeo Martinez y Leonor Suarez, mayores de edad, filipinos y residentes en el Barrio de Julo, Municipio de Malabon. Provincia de Rizal, por la presente, declaran que estan enterados del contenido de este documento y lo aceptan en los precisos terminos en que arriba quedan consignados." (Exh. 13-, *ibid*)

Before purchasing a parcel of land, it cannot be contended that the appellants who were the vendees did not know exactly the condition of the land that they were buying and the obstacles or restrictions thereon that may be put up by the government in connection with their project of converting Lot No. 2 in question into fishpond. Nevertheless, they willfully and voluntarily assumed the risks attendant to the sale of said lot. One who buys something with knowledge of defect or lack of title in his vendor cannot claim that he acquired it in good Faith (*Leung Lee vs. Strong Machinery Co., et al.*, Phil. 664).

The ruling that a purchaser of a registered property cannot go beyond the record to make inquiries as to the legality of the title of the registered owner, but may rely on the registry to determine if there is no lien or encumbrances over the same, cannot be availed of as against the law and the accepted principle that rivers are parts of the public domain for public use and not capable of private appropriation or acquisition by prescription.

FOR ALL THE FOREOING, the judgment of the Court of Appeals appealed from is in accordance with law, and the same is hereby affirmed with costs against the petitioners-appellants.

Makalintal, C.J., Castro, Teehankee, and Muñoz Palma, JJ., concur.

Makasiar, J., on leave.

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