

JOSE D. SANTOS, IN HIS OFFICIAL CAPACITY AS REGISTER OF DEEDS OF RIZAL, PETITIONER, VS. HON. BENJAMIN H. AQUINO, IN HIS OFFICIAL CAPACITY AS JUDGE OF THE COURT OF FIRST INSTANCE...

G.R. No. L-32949. November 28, 1980

Ponente: CONCEPCION, JR., J.

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CONCEPCION, JR., J.:

Petition for the review of the decision of the Court of First Instance of Rizal, Branch VIII, in LRC Case No. N-3514, Rec. No. N-21358, entitled: "In re: Petition for Clarification of Transfer Certificate of Title No. 209148 of the Register of Deeds of Rizal; Jose R. Baricua, petitioner," which directed the Register of Deeds of Rizal "to register the deed of sale or mortgage or any form of encumbrance presented by the petitioner in favor of any purchaser, encumbrancer, or mortgagor affecting the land covered by Transfer Certificate of Title No. 209148 and issue new title in lieu of the latter, upon payment of the corresponding fees."

To curb the pernicious practice of "land-grabbing", the Land Registration Commission issued LRC Circular No. 167 on February 13, 1968, instructing all Register of Deeds to withhold or suspend the registration of any instrument affecting property with expanded or increased areas. The circular^[1] reads, as follows:

"LRC CIRCULAR NO. 167

SUBJECT: Plans with increased areas.

TO ALL REGISTER OF DEEDS AND
BRANCH DEPUTY REGISTER OF DEEDS

In connection with subdivision (whether simple or complex), consolidation, consolidation subdivision, and resurvey or relocation plans approved by this Commission that may be presented, or are now pending registration, or have been already registered in the Register of Deeds and Branch Registries, it is directed that the Register of Deeds or the Branch Deputy Register of Deeds examine or re-examine the plans to find out if there are any that may have resulted in expanded or increased areas. If there be any of such cases, they are hereby instructed:

- To deny the registration on said plans 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.
- To withhold or suspend the registration of any instrument affecting or involving lands covered by these plans with expanded or increased areas.
- To submit a list of this plans, if any, to the Commission, together with a report of the corresponding action they have taken.

Immediate compliance with these directives is herewith enjoined."

In LRC Consulta No. 613, dated March 18, 1969, implementing Circular No. 167, the Commissioner of Land Registration ruled that "Register of Deeds are instructed to withhold or suspend the registration of every instrument affecting properties with expanded areas, shall have been fully resolved by competent court in an appropriate proceeding." [2]

Claiming that his property situated in Barrio Tambo, Parañaque, Rizal is affected by said Circular No. 167, the herein private respondent Jose R. Baricua, filed a petition, dated April 30, 1970, with the Court of First Instance of Rizal, Branch VIII, presided by the herein respondent judge, seeking the clarification of Transfer Certificate of Title No. 209148 of the Register of Deeds of Rizal. The petition was entered and docketed in the original land registration proceedings. [3]

On June 3, 1970, the respondent judge issued an order directing the Register of Deeds of Rizal to register any instrument of conveyance or encumbrance that may be presented by Jose R. Baricua for registration affecting or involving the land covered by Transfer Certificate of Title No. 209148, upon payment of the corresponding fees. [4] Consequently, on July 24, 1970, Jose R. Baricua presented for registration a deed of sale executed in his favor by Felipe Lazaro, the registered owner of the parcel of land covered by TCT No. 209148, and in view of the order of June 3, 1970, TCT No. 209148 was cancelled and TCT No. 296989 was issued in the name of the said Jose R. Baricua. [5] However, on July 28, 1970, the Register of Deeds of Rizal elevated, en consulta, the order of June 3, 1970 to the Land Registration Commission. [6] He also informed the Solicitor General of the questioned order, [7] and the latter filed a motion for the reconsideration of the order of June 3, 1970, upon the grounds that the Register of Deeds of Rizal was denied due process of law in that he was not given the opportunity to be heard since the copy of the petition which had been set for hearing on May 16, 1970, was received by him only on May 21, 1970 and he was not served with any other notice of hearing since then; that there was non-exhaustion of administrative remedies before resort to the court was made; and that the petition filed before the land registration court is not the proper remedy because the issues involved are questions of law which should be threshed out through administrative and judicial processes provided for by law. [8] In view thereof, the respondent judge issued an order on August 25, 1970, directing the Register of Deeds of Rizal "to hold in abeyance the registration of any deed of sale or mortgage or any form of encumbrance that may be presented by the petitioner relative to the land covered by Transfer Certificate of Title No. 209148 or in the event that due course has already been given to our aforesaid order of June 3, 1970 to withhold the release of any title that might have been issued pursuant thereto." [9]

Meanwhile, in a first indorsement dated August 13, 1970, the Assistant Commissioner of Land Registration Commission informed the Register of Deeds of Rizal that he sees "no legal impediment to the registration of the documents adverted to in the Court order dated June 3, 1970, issued by Honorable Benjamin H. Aquino, Judge of the Court of First Instance of Rizal, Branch VIII, provided that the document is drawn up in accordance with law," and that, in this particular case, LRC Circular No. 167, dated February 13, 1968, may be considered superseded by the aforementioned court order. [10] Not satisfied with the answer to his query, the Register of Deeds of Rizal requested clarification as to whether or not the opinion of the Assistant Commissioner may be treated as a ruling on the matter, [11] and the Assistant Commissioner reiterated his answer and directed the Register of Deeds of Rizal to comply with his directive. [12] However, in a first indorsement to the Solicitor General dated November 6, 1970, the Land Registration Commissioner stated that "the two cited communications of the Assistant Commissioner of Land Registration represent the latter's personal opinion regarding the matter." [13]

On September 19, 1970, the respondent judge denied the petitioner's motion for reconsideration and directed the

Register of Deeds of Rizal to comply with his order of June 3, 1970.[14]

Hence, the present recourse. The Court considered the petition as a special civil action and ordered the respondents to file an answer thereto,[15] but, the latter failed to do so,[16] although counsel for the respondent Jose R. Baricua asked for, and was granted, an additional period of time within which to file his answer to the petition.[17] Nor did the said respondents file a brief notwithstanding receipt of copies of the petitioner's brief.[18]

The order of the respondent court to cancel TCT No. 209148 and to issue another in lieu thereof was evidently made pursuant to Section 112 of Act 496 which confers authority upon the land registration court, after determination that the petition is supported by good and valid reasons, to order the cancellation, alteration or amendment of a certificate of title. Relief under Section 112 of Act 496, however, may be granted if there is unanimity amongst the parties; or, in case of opposition, no serious adverse claim or serious objection on the part of an interested party affecting the subject matter of the petition.[19] Otherwise, the proper recourse by the parties would be to bring up said questions in an ordinary civil action or in the proceeding where the incident properly belongs. Considered serious enough to warrant dismissal of a petition under Section 112 of Act 496 is the question involving ownership of or title to real property.[20]

In the present case, it is conceded that there are some defects in the formal requirements for the issuance of TCT No. 209148 and that the said title covers a parcel of land with an increased or expanded area and the Register of Deeds of Rizal has recommended the cancellation of the title pursuant to LRC Circular No. 167. There is, in substance, a controversy as to the ownership of the increased or expanded area, if not a serious objection to the rights of Jose R. Baricua over the parcel of land covered by TCT No. 209148, which has to be litigated in an appropriate proceeding before a court of general jurisdiction,[21] since the proceedings provided in the Land Registration Act are summary in nature and are inadequate for the litigation of issues properly pertaining to ordinary civil actions. Consequently, the respondent judge exceeded his jurisdiction in ordering the cancellation of TCT No. 209148 and the issuance of TCT No. 296989 in the name of Jose R. Baricua.

Besides, it appears that the petition for clarification filed by Jose R. Baricua amounts to an action for declaratory relief or quieting of title which is within the competence of an ordinary civil court so that the respondent court, acting as a land registration court with limited jurisdiction, had no authority to entertain the said petition for clarification. Thus, in his petition for clarification, Jose R. Baricua alleged that he is the owner in fee simple of certain parcel of land situated in the Barrio of Tambo, Parañaque, Rizal, covered by TCT No. 209148 of the Register of Deeds of Rizal; that the aforementioned parcel of land became the subject of an investigation by the Office of the Provincial Fiscal of Rizal and on the basis of such investigation it was found out that while there may be some defects in the formal requirements for the issuance of title, the fact remains that the land covered by said title really belong to him, as evidenced by a copy of a deed of sale executed in his favor; that likewise, the said parcel of land was the subject of LRC Circular No. 167 and LRC Resolution No. wherein transactions affecting the said parcel of land be held in abeyance unless the same have been resolved and clarified by a competent court; and that as owner of the land for which no less than the Office of the Provincial Fiscal concedes and recognizes it is a fundamental right of ownership that they may dispose or encumber said land in such manner as will be consistent with law, and until and unless said title are voided, it is still subsisting. Wherefore he prayed that the Register of Deeds of Rizal be directed to register any deed or deeds conveying or encumbering Transfer Certificate of Title No. 209148 which may be presented in the future.

As could be seen therefrom, Jose R. Baricua is asking for a judicial determination of his rights under TCT No. 209148 in view of LRC Circular No. 167. His object is to terminate uncertainty as to the effect of Circular No. 167 on TCT No. 209148. Perforce, it is within the scope and purpose of an action for declaratory relief as

contemplated in Rule 64 of the Revised Rules of Court, Section 1 of which reads, as follows:

"Section 1. Who may file petition. - Any person interested under a deed, will, contract or other written instrument, or whose rights are affected by a statute, executive order or regulation, or ordinance, may, before breach or violation thereof, bring an action to determine any question of construction or validity arising under the instrument or statute and for a declaration of his rights or duties thereunder.

An action for the reformation of an instrument, to quiet title to real property or remove clouds therefrom, or to consolidate ownership under Article 1607 of the Civil Code, may be brought under this rule."

WHEREFORE, the orders of the respondent judge dated June 3, 1970 and September 19, 1970 are hereby annulled and set aside. The petition for clarification of TCT No. 209148, filed by Jose R. Baricua, is dismissed and TCT No. 296989 of the Register of Deeds of Rizal is accordingly cancelled. With costs against the respondent Jose R. Baricua in both instances.

Barredo, (Chairman), Aquino, Abad Santos, and De Castro, JJ.[*], concur.

[*] Mr. Justice Pacifico P. de Castro, a member of the First Division, was designated to sit in the Second Division.

[1] Rollo, p. 35.

[2] Id., p. 36.

[3] Id., p. 30.

[4] Id., p. 33.

[5] Id., pp. 48-51.

[6] Id., p. 36.

[7] Id., p. 34.

[8] Id., p. 38.

[9] Id., p. 44.

[10] Id., p. 52.

[11] Id., p. 53.

[12] Id., p. 54.

[13] Id., p. 55.

[14] Id., p. 45.

[15] Id., p. 64.

[16] Id., p. 68.

[17] Id., pp. 65, 67, 68.

[18] Id., pp. 74, 76.

[19] Garcia vs. Belzunce, 84 Phil. 820; Nicolas Lizares & Co., Inc. vs. Tan, 85 Phil. 159; Cabangcala vs. Domingo, 96 Phil. 124; Government vs. Laperal, 108 Phil. 860; Almirañez vs. Devera, 121 Phil. 322.

[20] *Lagula vs. Casimiro*, 98 Phil. 102.

[21] *Bank of P.I. vs. Ty Camca*, 57 Phil. 89; *Castillo vs. Ramos*, 78 Phil. 809; *Henderson vs. Garrido*, 90 Phil. 624.

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