

**THE DIRECTOR OF LANDS, FOR AND IN REPRESENTATION OF THE
INSULAR GOVERNMENT OF THE PHILIPPINE ISLANDS, NOW THE
REPUBLIC OF THE PHILIPPINES, PETITIONER AND APPELLEE, VS.
THE REGIS...**

G. R. No. L-4463. March 24, 1953

Ponente: TUASON, J.

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TUASON, J.:

This is an appeal from an order of Honorable Gavino Abaya, Judge of the Court of First Instance of Rizal, Caloocan Branch, ordering the issuance of a new certificate of title to the Republic of the Philippines in lieu of one held by the municipality of Malabon, Province of Rizal, upon the facts and petition to be presently set forth.

It appears that Judge Norberto Romualdez, then of the now defunct Court of Land Registration, on March 9, 1912, handed down a decision confirming the title of the Government of the Philippine Islands to a parcel of land identified in the corresponding plan as NOQP and having an area of 81,870 square meters, more or less. That decision on appeal was affirmed by the Supreme Court on August 25, 1917. But the decree, issued on May 19, 1922, was put not in the name of the Philippine Government but in that of the municipality of Malabon in whose territory the land is located, and so was the certificate of title.

Alleging that the substitution of the municipality of Malabon for the Government of the Philippines was due to a clerical error, the Director of Lands, by a petition dated September 12, 1949, and filed in Land Registration Case No. 4975 the original case for registration prayed, and the prayer was granted, that the municipality of Malabon be ordered to surrender the above mentioned certificate of title to the Register of Deeds, and the Register of Deeds to issue in its stead to the Republic of the Philippines a new one in pursuance of the terms of the decision theretofore rendered.

It is this order from which the present appeal is being prosecuted.

Several assignments of error are made but they boil down to two questions, namely: was error really committed in the entry of the decree and certificate of title in favor of the municipality of Malabon? Granting, arguendo, that there was error, does relief lie by petition under section 112 of Act No. 496, known as Land Registration Law?

The Chief of the General Land Registration Office, who was made a party respondent in the Director of Lands' petition, submitted by way of an answer a report, addressed to the court, of the chief surveyor and chief of the land titles division of that office. The so called report states that the record of the case in question was originally composed of two piezas; that the greater part of this record, including the plan, was destroyed or lost in consequence of the late war operations in the City of Manila; that from the papers which have been salvaged it is the chief surveyor's firm belief that the registration in the name of the municipality of Malabon was neither irregular nor inadvertent. The report states further that the personnel assigned to this kind of work were competent and careful, making the commission of such error as is alleged unlikely.

One of the salvaged papers referred to by Mr. Alzua, the chief surveyor, is a motion, dated October 8, 1918, of Fiscal L. Garduño of Rizal, below whose signature is written the words, "Con autorizacion del Fiscal General," who was the chief law officer of the Government. The Provincial Fiscal in that motion asked for a writ of possession and alleged that the Insular Government had ceded the parcel which was the subject of the expediente to the municipality of Malabon, for school purposes, and that the school authorities wanted to use it; and at the bottom of the motion is written this court order: "Como se pide. P. M. Moir, Judge, 11th Judicial District."

The truth of Fiscal Garduño's statement that he was authorized by the Attorney General to apply for a writ of possession upon the grounds mentioned can hardly be disputed. On no account can it be imagined that the Fiscal could have committed a brazen falsehood which was certain to leak out and cost him his position if not lead to his prosecution with no apparent benefit to himself.

Assuming, then, that there was a donation, or at least a proposed donation, it is not wrong to presume, though not conclusively, that the proper deed was executed and filed with the court, and the registration of the property donated in the name of the donee as though it was itself the applicant followed. Section 29 of Act No. 496 authorizes the conveyance of the subject matter of an application for registration after trial and before the decree has been issued, "in the same manner as if no application has been made," and the court, in such case, to order the entry of the decree in the name of the donee or buyer.

All of this however is a mere speculation, not a finding intended to bind the Republic of the Philippines. The point which is the only point that should interest us now is that the registration of land in the name of a party other than the registration applicant is by no means necessarily strange or anomalous but may be quite in order. In other words, without losing sight of the possibility that the grant spoken of by Fiscal Garduño was only in the tentative stage and was not consummated, the court below was confronted with serious, fundamental contentious matters which under the prevailing statute and practice and procedure can only be adjudicated after a regular trial in a regular court at law.

Under the circumstances of the case, Judge Abaya as Judge of the Court of Land Registration, in which capacity he acted, obviously lacked jurisdiction to compel the surrender of the municipality of Malabon's certificate of title and the issuance of a new certificate to the Republic of the Philippines. We believe with counsel for the municipality that section 112 of the Land Registration Act has been misinterpreted and misapplied.

Roughly, section 112, on which the Director of Lands relies and the order is planted, authorizes, in our opinion, only alterations which do not impair rights recorded in the decree, or alterations which, if they do prejudice such rights, are consented to by all the parties concerned, or alterations to correct obvious mistakes. By the very fact of its indefeasibility, the Court of Land Registration after one year loses its competence to revoke or modify in a substantial manner a decree against the objection of any of the parties adversely affected. Section 112 itself gives notice that it "shall not be construed to give the court authority to open the original decree of registration," and section 38, which sanctions the opening of a decree within one year from the date of its entry, for fraud, provides that after that period "every decree or certificate of title issued in accordance with this section shall be incontrovertible."

Under the guise of correcting clerical errors, the procedure here followed and the appealed order were virtual revision and nullification of generation old decree and certificate of title. Such procedure and such order strike at the very foundation of the Torrens System of land recording laid and consecrated by the emphatic provisions of section 38 and 112 of the Land Registration Act, *supra*. In consonance with the universally recognized principles which underlie Act No. 496, the court may not, even if it is convinced that a clerical mistake was made, recall a certificate of title after the lapse of nearly 30 years from the date of its issuance, against the vigorous objection of

its holder. As was said in a similar but much weaker case than this (Government vs. Judge, etc., 57 Phil., 500):

"To hold that the substitution of the name of a person, by subsequent decree, for the name of another person to whom a certificate of title was issued (five years before) in pursuance of a decree, effects only a correction of a clerical error and that the court had jurisdiction to do it, requires a greater stretch of the imagination than is permissible in a court of justice." (Syllabus.)

It should be noticed that in that case, as in this case, the later decree "was based on the hypothesis that the decree of May 14, 1925, contained a clerical error and that the court had jurisdiction to correct such error in the manner aforesaid."

The sole remedy of the land owner whose property has been wrongfully or erroneously registered in another's name is, after one year from the date of the decree, not to set aside the decree, as was done in the instant case, but, respecting the decree as incontrovertible and no longer open to review, to bring an ordinary action in the ordinary court of justice for reconveyance or, if the property has passed into the hands of an innocent purchaser for value, for damages.

The appealed order is therefore reversed, without prejudice, it is, needless to say, to whatever action the Director of Lands may wish to pursue along the course indicated, subject to such legal defenses and such proofs as the adverse party may adduce. Without costs.

Paras, C. J., Feria, Pablo, Bengzon, Padilla, Reyes, Jugo and Labrador, JJ., concur.

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