

ANSELMA LAMPA, DOMINGO LAMPA, BONIFACIO LAMPA AND CATALINA LAMPA, PETITIONERS AND APPELLEES, VS. RODRIGO RAMIREZ AND DONATO GUILA, OPPOSITORS AND APPELLANTS.

G.R. No. L-8688. October 31, 1956

Ponente: ENDENCIA, J.

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ENDENCIA, J.:

On June 8, 1954, the appellees, Anselma Lampa, Dominga Lampa, Bonifacio Lampa and Catalina Lampa, filed in Cadastral Case No. 15 of the Court of First Instance of Pangasinan a petition for a writ of possession alleging that "they are the registered owners of a certain parcel of land in San Manuel, Pangasinan, designated as lot No. 67-A and given final lot No. 40268 and covered by Transfer Certificate of Title No. 16253, having inherited the same from their deceased father Juan Lampa; that from the issuance of the decree over the lot, no writ of possession have ever been issued; and that said petitioners desire that a writ of possession be issued over said lot No. 45268 (final) placing the herein petitioners in possession of the property and excluding all other persons therein especially Rodrigo Ramirez and Donato Gulla.

On June 11, 1954, without proof of service to the aforementioned persons Rodrigo Ramirez and Donato Gulla the trial court, presided by Judge Rodolfo Baltazar, granted the petition and on June 14, 1954 issued a writ of possession.

On June 18, 1954, Rodrigo Ramirez and Donato Gulla filed the following verified motion for reconsideration:

"Come the oppositors Rodrigo Ramirez and Donato Guila in the above entitled case, assisted by their undersigned counsel, and to the Honorable Court respectfully allege:

"1. That petitioners filed herein a petition for a writ of possession dated June 8, 1954, praying for the exclusion 'especially of Rodrigo Ramirez and Liberate Gulla (a) Atong' from the parcel of land which is known as lot No. 67-A (final lot No. 40268) of the above Cadastre and described in Transfer Certificate of Title No 16253 (Pangasinan).

"2. That, per notice of hearing to these oppositors also dated June 8, 1954, said motion for a writ of possession was arbitrarily set by the petitioners for hearing on June 11, 1954, at 8:00 o'clock in the morning.

"3. That copies of the said petition and notice were sent to these oppositors by reg. sp. del mail¹ at the Barrio of Sto. Tomas, San Nicolas, Pangasinan, inspite of the fact that in San Nicolas and, for the matter, in all municipalities in the country, there is, no mail delivery service in the barrios.

"4. That actually Rodrigo Ramirez received his copies of the petition and notice on June 12, 1964; while Donato Guila received his on June 16, 1954.

"5. That this Honorable Court issued its order of June 11, 1954 granting the petition for a writ of possession, 'there being no objection to the verified petition under date of June 8, 1954.'

"6. That this Honorable Court has been unduly stampeded by the petitioners into issuing its said order of June

11, 1954, in spite of the provisions of section 4 and 6 of Rule 26 of the Rules of Court.

"7. That, showing a keen and special interest in the matter, the Deputy Provincial Sheriff of Pangasinan, lost no time indeed in going into the premises and, under false pretenses, got Rodrigo Ramirez into signing his name on the papers that he brought with him in the face of the fact that said Rodrigo Ramirez told the said Deputy Provincial Sheriff that he (Rodrigo Ramirez) was not delivering the possession of the land in question to anybody; and also, under the threat of sending him to jail, got Donato Guila into signing his name on said papers even if said Donato Guila told him (the Sheriff) that it was one Casiroiro Lampa who was in possession of a portion of the land in question.

"8. That these movant oppositors had been arbitrarily and unjustly deprived of their day in Court, in spite of the fact that they have a good and substantial defense which they will prove if they be given their day in Court.

"9. That Rodrigo Ramirez and his wife Marcelina Rodrigo are presently the lawful owners and possessors of the undivided southern one-half (1/2) portion of lot No. 67-A (final lot No. 40268), having bought the same in good faith and for value on March 7, 1930 from Bartolome Lampa who in turn bought it from Juan Lampa and Dalmacio Lampa and who, in and by virtue of which said purchase, was adjudged by final decision of this Honorable Court the true and lawful owner thereof in accordance with the 'Transaction' dated September 16, 1929 filed and submitted by parties in Civil Case No. 1654 of the Court of First Instance of Pangasinan, entitled Bartolome Lampa y Otra, demandantes, contra Juan Lampa, demandado.

"10. That, on the other hand, Victoria Suyat, the wife of the oppositor Donato Gulla, became the lawful owner and possessor of the undivided northern one-half (%) of the said lot No. 67-A {final Lot No. 40268} by inheritance from his deceased father Vicente Suyat who, in turn, bought the same in good faith and for value from Juan Lampa in or about the same year 1929.

"11. That the petitioners knew and had every reason to know that Rodrigo Ramirez and Victorina Suyat and her predecessor had been and now are the owners of lot No. 67-A, possessing the same adversely ever since their acquisition thereof up to the present time; although, for the present, the northern one-half portion thereof is now in the possession of one Casimiro Lampa to whom it was sold and transferred, with the right of repurchase reserved.

"12. That, in spite of this knowledge on their part, the petitioners had been able, in total bad faith and malice, to obtain in their favor Transfer Certificate of Title No. 16253 and/or its precursors; it being a matter of judicial record that the decision herein of this Honorable Court dated September 30, 1921 on lot No. 67-A had been modified and altered by the decision of the same Court, dated September 16, 1929, in Civil Case No. 1654.

"13. That it is only a simple matter of justice and equity that these oppositors be given their due day in court by allowing them the opportunity to prosecute their opposition to the petition of the petitioners and to take whatever lawful action there may be in the protection of their legal rights. As matters now stand, these oppositors are being deprived of their rights, and properties before they had been heard in their defense.

"Wherefore, in the light of the foregoing considerations it is respectfully prayed:

"(a) That the order of this Honorable Court of June 11, 1954 be reconsidered, lifted and made of no further force and effect;

"(b) That the writ of possession issued by the Clerk of Court be annulled and "declared of no further force and effect;

"(c) That the all too precocious acts and actuations of the Deputy Provincial Sheriff in connection with the execution of the said writ of possession be annulled and declared of no force and effect;

"(d) That the petitioner's petition for a writ of possession dated June 8, 1954 be re-opened for hearing;

"(e) That these oppositors be allowed to file their opposition to the said petition and that they be given the opportunity to be heard in their due day in court and;

"(f) That any and all such other reliefs and remedies as are meet and proper in the premises be granted to them;"

On October 27, 1954, the court below denied the afore-quoted motion for reconsideration; hence, this appeal on the ground that the court erred:

"1. In depriving the oppositors-appellants of their day in court and in depriving them of the use, benefit and possession of their property without due process of law, by means of issuing its order of June 11, 1954 in absolute contravention of the provisions of sections 4 and 6 of Rule 26 of the Rules of Court and of the issuance by its Clerk of the writ of possession dated June 14, 1954.

"II. In denying by its order of October 27, 1954 the oppositors-appellants' motion for reconsideration dated June 15, 1954.

As could be seen, the only question is whether the order of the lower court of June 11, 1954 granting the motion for a writ of possession and the writ of possession, dated June 14, 1954, issued thereunder, should be nullified as prayed for by the appellants.

It is an indisputable fact that the appellants had not been notified of said petition for writ of possession before the same was acted upon by the lower court; that appellant Rodrigo Ramirez received copy of said petition and the corresponding notice for hearing only on June 12, 1954, or one day after the said petition was heard and granted by the court below, while Donato Gulla received said copy and notice for hearing on June 15, 1954, or four days after the hearing of said petition. Thus, it clearly appears that at the time the petition for writ of possession was heard and granted by the trial court on June 11, 1954, the oppositors-appellants had not been properly notified thereof in accordance with section 4 of Rule 26 of the Rules of Court. Therefore, when the lower court heard the petition for a writ of possession on June 11, it acted in violation of sections 4 and 6 of Rule 26 of the Rules of Court, for, at that time, there was no service of said petition unto the appellants nor proof thereof.

It is well settled, under the Rules of Court, that any party should be heard and not be deprived unjustly of their day in court, and for this reason it has been provided in Section 2 of Rule 1 that the Rules of Court shall be liberally construed in order to promote their object and to assist the parties in obtaining just, speedy and unexpensive determination of every action and proceeding. On the other hand, it could be gathered from the motion for reconsideration that the oppositors Rodrigo Ramirez and his wife and Victorina Suyat, wife of the other oppositor Donato Gulla, seem to have valid claim of ownership over their respective shares in lot No. 67-A for which the writ of possession was granted, and that they have acquired it after the original certificate of title was issued in favor of Juan Lampa, the predecessor in interest of the appellees. Consequently, they should have been allowed to file opposition to the petition for a writ of possession and certainly the lower court, by denying the motion for reconsideration filed by them, had necessarily deprived them of their right to be heard and sustain their claim in open court.

Wherefore, the disputed order of the lower court dated June 11, 1954, and the writ of possession dated June 14, 1954 are hereby set aside and the lower court ordered to allow the appellants to file their opposition to the petition for writ of possession and, after the parties have joined issues, to conduct the corresponding hearing and enter the proper judgment in accordance with law. No pronouncement with regard to costs.

Paras, C. J., Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., and Felix, JJ., concur.

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