

DANAO COAL MINING SYNDICATE, LTD. APPLICANT, SOUTHWESTERN UNIVERSITY, PETITIONER-APPELLEE, VS. CENON LAURENTE, OPPOSITOR-APPELLANT.

G.R. No. L-20075. November 27, 1968

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Forwarded to us for review by the Court of Appeals[1] is this appeal from two orders issued by the Court of First Instance of Cebu in the latter's capacity as land registration court.[2] The first was a grant of a buyer's ex parte petition praying, inter alia, for cancellation of annotation of incumbrances on the transfer certificate of title covering a parcel of land it purchased from the heirs of the registered owner. The second was a denial of a motion for reconsideration of the first order which was filed by a third person whose interest, purportedly, might have been prejudiced by the cancellation.

The transfer certificate of title (TCT No. 7567) in question covered a parcel of land situated in Camansi, Danao, Cebu. The same was issued in 1928 by the Register of Deeds of Cebu in favor of H. M. H. Nemazee, the proprietor of the original applicant, Danao Coal Mining Syndicate, Ltd. On the face thereof were annotated the following incumbrances:

"(a) the condition that the applicant shall be required to produce from the mining claims referred to a minimum amount of coal equal to an average daily production of two hundred tons of twenty-two hundred and forty English pounds for each and every day exclusive of Sundays and holidays, and in the event of the failure of the said Coal Mining Syndicate to produce such amount of coal, to pay to the Government of the Philippine Islands a royalty at the rate of twenty centavos per ton upon each and every ton of the deficiency between the amount actually produced, and the minimum amount herein specified, (b) the use and occupancy of the surface of the said parcel of land in favor of Filomeno del Mar, as administrator of Roque del Mar, deceased; Lazaro Osmeña, as administrator of Tomas Osmeña, deceased; H. B. Walker, as administrator of Candelario Cuizon, deceased; Juan Medio, Eleno Hungug, Bernardo Cal, Faustino Batucan, Perfecto Lavador, Agustin Tito and Salvador Gonzales, in accordance with the agreement dated at Cebu, November 22, 1913."

In a quitclaim deed, dated 14 January 1960, the heirs of Nemazee transferred and quitclaimed in favor of Southwestern University their rights, title, interest and participation in, including their mining and leasehold rights over, said land.

Subsequently, Southwestern University petitioned the lower court to order (1) the cancellation of the afore-quoted annotation of incumbrances on the ground that the condition and agreement constituting the same were cancelled and rendered inoperative by the outbreak of World War II as well as by the death of all the listed beneficiaries thereof; (2) the registration of the quitclaim deed; and (3) the cancellation of TCT No. 7567 itself, and issuance of a new certificate of title in its name. The petition was immediately granted,[3] with the lower court dispensing with the usual notice to interested parties. A new certificate of title (TCT No. RT-2164) was thereafter issued in favor of Southwestern University.

On 12 September 1960, one Cenon Laurente moved the lower court to reconsider its order of cancellation, specifically, of the second portion of the annotation of incumbrances in question. He alleged that Southwestern University had filed an ejectment suit [4] before another branch of the same court against him and several other occupants of the land covered by TCT No. 7567, over which land, he claimed, he might possibly have an interest as a purchaser of a certain parcel of land situated also in Camansi, Danao, Cebu, from Filomeno del Mar, one of the persons in whose favor "the use and occupancy of the surface of the land" covered by said TCT No. 7567 was reserved. Laurente thus argued that the cancellation of the annotation of the incumbrance in favor of Filomeno del Mar and others should not have been ordered without giving notice, at least through publication, to the parties who, like him, being a successor-in-interest of said Filomeno del Mar, might thereby be adversely affected Laurente's alleged interest was, however, never registered.

The motion for reconsideration was denied, as previously intimated. Reasoned the lower court:

"The Court is in accord with this contention (that if there should be notice, it should be limited to the parties annotated in the certificate of title itself, and should not be extended to subsequent parties who, even granting that they acquired the interests of these persons annotated in the certificate of title, failed to have their rights annotated in said certificate of title) of petitioner Southwestern University, and maintains that inasmuch as the law specifically provides notice to parties in interest, such notice if any, should be limited to the parties listed or annotated on the certificate of title. Hence, if such parties are already dead, as had been alleged and substantiated by petitioner Southwestern University, then notice to said parties would not be necessary. The Court acting within its limited jurisdiction as a Court of Land Registration, can only act on what appears on the face of the certificate of title, and cannot go beyond what appears therein as movant Cenon Laurente would now want this Court to believe. Notice by Publication is not necessary in connection with this petition which has been duly filed in accordance with Section 112 of Act. 496.

"Granting that the use and occupancy which was annotated in the certificate of title is a real right which could be transferred or disposed of by the person named in the certificate of title to a third person (in this case Cenon Laurente), the latter should have taken the precaution of having his right annotated on said (certificate of title). His failure to do so is therefore fatal, in the sense that this Court cannot consider him as a party in interest who is entitled to notice before the petition for cancellation of incumbrance could be acted upon. "[5]

We find no error in the order appealed from.

Cancellation of registered interests that have terminated and ceased may be ordered by the land registration court under, and in conformity with, section 112 of Act No. 496, otherwise known as the Land Registration Act. The new owner, Southwestern University, of the land herein involved took the right step by petitioning the court under said section to have the registered interests -- the deceased persons' rights of use and occupancy of the surface of said land -- ordered cancelled on the ground that the same had terminated and ceased. Notice was no longer necessary for the court to acquire jurisdiction over the petition insofar as the second portion of the annotation of incumbrances was concerned. With the death of all the registered adverse claimants thereof, there were no more parties in interest to be notified.

Appellant Laurente was not and can not now be considered a party in interest entitled to notice. He was, as he is now, a stranger representing no adverse claim as to render the petition for cancellation controversial and, thereby, divest the lower court of its jurisdiction. For Laurent's claim avers that the cancellation of the right of the persons recorded as entitled to the use and occupancy of the surface of the land could affect him adversely because the interest acquired by him from Filomeno del Mar "might be included in that which is referred to in the aforementioned annotation" (Record on Appeal, page 43). This is too vague and unsubstantial to give him standing to claim right to notice or to contest the order of cancellation. Before a claimant can be considered as possessing a genuine adverse interest that would deprive the Registration Court of jurisdiction to proceed under

section 112 of Act 496 in the absence of notice to him, there must be a showing of the prima facie truth and validity of such adverse interest. Laurente has failed to make such a showing. His motion merely speaks of a possibility of being prejudiced. He has not produced any deed of conveyance from Filomeno del Mar, or secondary evidence thereof. A mere verbal agreement will not do here: there must be a public instrument in order to affect a stranger (such as the holder of the certificate of title or his successors in interest). For Article 1280, No. 1, of the Civil Code of 1889 (in force in 1920 when Laurente claims to have acquired title) prescribes:

"The following must be reduced to writing in a public instrument:

"1. Acts or contracts whose object is the creation, transmission modification or extinction of rights which affect immovable property." (Emphasis supplied)

And to affect registered land, such, as is covered by the Certificates of Titles of appellee Southwestern University and its predecessor in interest (TCT No. 7567 and RT-2164), the public document above referred to must be recorded and annotated in the certificate, as pointed out in the appealed order; and, admittedly, there is no record of any deed in favor of Laurente. It is elementary that, under the Torrens system, registration is the operative act that binds the land, and in the absence of record there is only a contract that binds the parties thereto, without affecting the rights of strangers to such contract (Act 496, section 51) unless they have actual knowledge thereof,[6] which is not alleged here.

What is worse is that Laurente allowed more than 20 years to elapse without asserting the alleged conveyance in his favor, when a period of 10 years sufficed under Act 190 (then in force) to bar any claim to or over real property. Nor has Laurente adequately explained such laches on his part.

He avers that he could not cause the recording of the conveyance in his favor because the registered owner resided in Hongkong. This is no excuse, for the claimant could have asked the proper court to have the owner summoned by publication. Laurente also pleads that the records of the Cebu Register of Deeds were destroyed in the last war. But the war only broke out in 1941, and the enemy occupied Cebu in 1942, while Laurente's vendor, Filomeno del Mar, ceased to be administrator of the Estate of Roque del Mar as far back as 1920, when the proceedings were closed (Record on Appeal, page 61). Thus, Laurente unaccountably permitted 21 years to elapse without attempting to record or enforce the alleged conveyance in his favor.

All the foregoing circumstances cast a dense pall of doubt over the genuineness and validity of Laurente's adverse claim, and fully justify its rejection by the lower Court.

WHEREFORE, the orders appealed from are sustained and affirmed. Costs against appellant Cenon Laurente in all instances.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Sanchez, Castro, Fernando and Capistrano, JJ., concur.

[1] Per resolution of the Court of Appeals in its CA-G.R. No. 29130-R, dated 9 May 1962.

[2] CIR. Case No. 7365 entitled "Danao Coal Mining Syndicate, Ltd., Applicant, Southwestern University, Petitioner".

[3] Order, dated 21 January 1960, "motion granted as prayed for" (Rec. on Appeal, page 40).

[4] Civil Case No. R-6688. Laurente claimed that he only came to know of the cancellation when he received the summons in said Civil Case No. R-6688.

[5] Order, dated 7 December 1960, emphasis supplied.

[6] Obras Pias vs. Devera Ignacio, 17 Phil. 45; Winkleman vs. Veluz, 43 Phil. 604; Gustilo vs. Maravilla, 48 Phil. 442; Quimson vs. Suarez, 45 Phil. 901.

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