

**THE DIRECTOR OF LANDS, THE DIRECTOR OF FORESTRY, AND THE
ARMED FORCES OF THE PHILIPPINES, PETITIONERS, VS. HON.
SALVADOR C. REYES, AS JUDGE OF THE COURT OF FIRST INSTANCE
OF NUE...**

G.R. No. L-27594. February 27, 1976

Ponente: ANTONIO, J.

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ANTONIO, J.:

The infirmity of the grounds asserted by respondent-appellee, Parañaque Investment and Development Corporation, in its Second Motion for Reconsideration would have been easily discernible from a careful reading of the judgment of this Court. For the guidance of the members of the bar and the information of the parties, it may, however, be useful to explain further why the judgment, insofar as respondent Tamayo is concerned, has not become final during the pendency of the appeal and, therefore, the decree was issued arbitrarily and the Torrens Certificate of Title based thereon a nullity.

It seems obvious that the interest of respondents Alipio Alinsunurin (now succeeded by Parañaque Investment and Development Corporation) and Roman C. Tamayo over the land are so interwoven and dependent upon each other, that if the judgment were affirmed on appeal it would have benefited respondent Tamayo regardless of whether said respondent had joined the appeal or not. Both respondents based their claim of title as heirs of the deceased Maria Padilla, on the *informacion posesoria* of Maria's father, Melecio Padilla, and the alleged continuous, peaceful and adverse possession over the land under concept of ownership since time immemorial of their afore-mentioned predecessors-in-interest. Thus, in his answer in LRC N-675, respondent Tamayo did not assert a claim adverse to that of the appellant Alinsunurin, but on the contrary, alleged that he and the afore-mentioned appellant Alinsunurin and his wife, "have all been in actual, continuous, public and peaceful possession as co-owners of the land subject herein since time immemorial, by themselves or through their predecessors-in-interest, namely, Maria Padilla and before her, her late father Melecio Padilla, who obtained same from the Spanish government under possessory information title granted on February 5, 1895 * * *" and prayed that the title be registered in favor of the "testate estate of Maria Padilla", or in the alternative, "in favor of appellant Alipio Alinsunurin and his wife, Encarnacion Caballero Alinsunurin, together with respondent Roman C. Tamayo, with the first two to have 2/3 interest and the last 1/3 interest". This communality of interest was further shown during the hearing, when the counsel for respondent Tamayo did not present any evidence of his own but merely joined Parañaque Investment and Development Corporation, successor of Alinsunurin, in the presentation of its evidence. It is not disputed that the evidence in support of the claim of title of respondent Parañaque Investment and Development Corporation is the same as that and inseparable from that of respondent Roman C. Tamayo, and if such evidence of the former is considered untenable, it is inconceivable how the latter respondent's claim of title could stand by itself. It must be remembered that the appeal of the petitioners is from the entire judgment in LRC N-675 and not merely from separate and distinct portions thereof. Consequently, the reversal of the judgment insofar as Parañaque Investment and Development Corporation's alleged ownership of

2/3 of the property pro indiviso is concerned would necessarily result in the reversal of the judgment with regard to respondent Roman C. Tamayo's alleged title to 1/3 pro indiviso of the land. For whether or not an appeal by one or several parties in the case will affect the liability of those who did not appeal must depend upon the facts of each particular case. Ordinarily, a reversal of a judgment is binding only on the parties in the suit but does not control the interest of the parties who did not join or were not made parties to the appeal; but where the rights and liabilities of those who did not appeal and those of the parties appealing are so interwoven and dependent on each other as to be inseparable, a reversal of the judgment as to one would operate as a reversal as to all.[1] Moreover, no substantial right of respondent Tamayo appears to have been impaired by the non-service of the notice of appeal to said party. It must be noted that respondent Tamayo's formal entry as "oppositor" in LRC N-675 was apparently done without the knowledge of petitioners. The copy of the motion of said respondent to lift partially the Order of General Default and the copy of the order of the respondent court granting said motion were not served upon petitioners. Petitioners, however, upon their discovery of the existence of Roman C. Tamayo's pleading in the records of LRC N-675 on January 3, 1967, immediately furnished a copy of their second motion for extension of time to file the record on appeal, as well as the copies of the original and amended record on appeal, to said respondent. There is no question that the record on appeal and the amended record on appeal were filed within the period granted by the court. We have held that filing of the record on appeal on time necessarily implies the filing of a notice on appeal and is equivalent thereto, the reason being that the filing of a record on appeal is more expressive of the intention to appeal than the filing of notice to do so.[2] Besides, there being no showing that it had adversely affected any substantial right of said respondent, petitioners' failure to serve respondent Tamayo a copy of the notice of appeal within thirty (30) days after notice of judgment cannot be considered enough ground to dismiss the appeal with respect to said respondent, or to consider the judgment final as to said party.[3]

As to the claim of respondent Parañaque Investment and Development Corporation that Honofre Andrada, et al. were denied their day in court, it should be noted that such claim is not asserted by the party directly involved. In any case, it may be recalled that the notice of lis pendens was entered on the Day Book (Primary Entry Book) of the Register of Deeds of Nueva Ecija on April 12, 1967. On June 5, 1967, this Court issued a restraining order enjoining (a) the respondent judge from issuing a writ of possession in LRC No. N-675, LRC Rec. No. N-25545, of the Court of First Instance of Nueva Ecija; (b) the respondents Parañaque Investment and Development Corporation and Roman C. Tamayo, all their agents or representatives, from taking possession and/or exercising acts of ownership, occupancy or possession over the property in question subject matter of LRC No. N-675; and (c) restraining the Register of Deeds from accepting for registration documents referring to the subject land until petitioners shall have filed a notice of lis pendens as to the title certificates of Roman C. Tamayo and Parañaque Investment and Development Corporation. Accordingly, petitioners filed with the Register of Deeds of Nueva Ecija, a notice of lis pendens which is duly entered and annotated on June 23, 1967 in the memorandum of encumbrances on Original Certificate of Title No. 0-3151 under Entry No. 12032/0-3151, as follows:

"Entry 12032/0-3151; Lis Pendens; The property described in this title is the object of a pending petition for Certiorari and Mandamus with Preliminary Injunction filed by the Dir. of Lands, the Dir. of Forestry and AFP, with the Supreme Court involving the nullity of the Order of the Court dated March 11, 1967. Date of Inst. June 23, 1967, Date of Inscript. June 23, 1967 at 11:16 a.m..

(Sgd.) GAUDENCIO L. ATENDIDO

Register of Deeds".

It is, therefore, manifest from the foregoing that the order of Judge Florendo Aquino in Civil Case No. 4696 on September 23, 1968 for the issuance of "clean transfer certificate of title to Honofre Andrada, et al." was made subsequent to said entry. It is well-settled that "in involuntary registration, such as an attachment, levy on execution and lis pendens, entry thereof on the Day Book is a sufficient notice to all persons of such adverse claim. It is not necessary that the notice of lis pendens be annotated on the back of the corresponding original certificate of title. The notice should, of course, be annotated on the back of the corresponding original certificate of title, but this is an official duty of the Register of Deeds, which may be presumed to have been regularly performed." [4] Being transferees pendente lite, said parties are bound by the judgment against the transferor.

Accordingly, the Second Motion for Reconsideration is denied.

Castro, C.J., Fernando, Teehankee, Esguerra, Muñoz Palma, Aquino, Concepcion, Jr., and Martin, JJ., concur.

Barredo and Makasiar, JJ., took no part.

[1] Municipality of Orion vs. Concha, 50 Phil. 679; 5 C.J.S., 1479-1480.

[2] Peralta vs. Solon, 77 Phil. 661.

[3] Arcega vs. Dizon, 76 Phil. 164.

[4] Rivera vs. Tirona, et al., 109 Phil. 505.

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