

IN RE: PETITION FOR CANCELLATION OF ADVERSE CLAIMS ON TRANSFER CERTIFICATES OF TITLE NOS. 4631, 4630 AND 3649 OVER LOTS NOS. 166-B, 167-A AND 1691, RESPECTIVELY, ORMOC CADASTRE...

G.R. No. L-21887. July 30, 1969

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

Appeal from the order of the Court of First Instance of Leyte, sitting as a land registration court, directing the Register of Deeds of Ormoc City to cancel the adverse claim- of respondent-appellant annotated on Transfer Certificates of Title Nos. 4631, 4630 and 3649.

On June 18, 1963 the spouses Teotimo T. Tomada and Rosalie Tan filed a petition with the court a quo alleging: that they were the registered owners of two parcels of land known as Lot No. 166-B and Lot No. 167-A, both of the Ormoc Cadastre, with Transfer Certificates of Title Nos. 4631 and 4630, respectively, and one-seventh (1/7) of Lot No. 1691, also of the Ormoc Cadastre, with Transfer Certificate of Title No. 3649; that they acquired the said properties from Felisa T. Tomada (Tan) Hilton, a resident of 1903 Wendover Drive, Fayetteville, North Carolina, U.S.A., under a deed of sale executed on April 5, 1963 by her attorney-in-fact, Atty. Bruno A. Villamor; that the deed of sale was not registered by the Register of Deeds of Ormoc City because the special power-of-attorney, which was executed in the United States, was not authenticated by a Philippine consul in said country; that on April 6, 1963, Vicente Tomada, by virtue of a general power-of-attorney granted to him by Felisa Tomada (Tan) Hilton, executed in favor of the respondent a deed of sale over several parcels of land, including the aforementioned properties; that on April 10, 1963 the respondent executed an affidavit of adverse claim over the properties sold to him and registered the claim on the corresponding certificates of title on April 16, 1963; that on May 8, 1963 the petitioners remitted to Felisa T. Tomada (Tan) Hilton the sum of \$1,775.00 representing the purchase price of the properties sold to them; that on May 22, 1963 a new special-power-of attorney in favor of Atty. Bruno A. Villamor, with the same terms as the first one, was executed by Felisa T. Tomada (Tan) Hilton, and this time duly authenticated by the Philippine Consul-General in Washington D.C., U.S.A.; that by virtue of the new special power-of-attorney, Atty. Bruno A. Villamor executed another deed of sale, dated June 5, 1963, confirming the sale made to the petitioners on April 5, 1963; that on June 7, 1963 the petitioners registered this confirmatory deed of sale in the Office of the Register of Deeds of Ormoc City; that the corresponding certificates of title Nos. 4631 and 4630 over Lots Nos. 166-B and 167-A, respectively, were issued in their favor while their rights and interests over the one-seventh (1/7) share in Lot No. 1691 were duly annotated on TCT No. 3649. The adverse claim of the respondent was also annotated on the aforementioned transfer certificates of title.

On the foregoing allegations the petitioners asked the court to: (1) declare them as the true and lawful purchasers of Lots Nos. 166-B, 167-A and 1/7 of Lot No. 1691, all of the Ormoc Cadastre; (2) declare the adverse claim of the respondent as frivolous and vexatious; (3) order the Register of Deeds of Ormoc City to cancel the annotation of the said adverse claim on TCT Nos. 4631, 4630, and 3649; (4) order the respondent to pay the petitioners the

sum of P200.00 as attorney's fees; and (5) order the respondent to pay treble costs in accordance with Section 110 of Act 496.

In his opposition to the petition, the respondent alleged that he was the absolute owner in fee simple of Lots Nos. 166-B, 167-A, and 1691, having bought them from Felisa Tomada (Tan) Hilton, through her attorney-in-fact, Vicente T. Tomada, who had a general power-of-attorney with an express of grant of power to sell and encumber real properties; and that he was in actual, open and public possession of the aforementioned lots by virtue of said sale. The respondent likewise contended that the court, sitting as a land registration court, could not try the conflicting claims of the petitioners and the respondent over the lots in question, since the petition was in effect one to recover ownership and possession thereof, for which purpose an ordinary civil action was the proper remedy. Accordingly, he prayed that the petition be dismissed.

When the case was heard on July 25, 1963, the respondent did not personally appear, but was represented by his counsel who submitted PNB receipt No. 968458, dated May 17, 1963, for P3,934.26, to prove the remittance of \$1,000.00 to Felisa T. Tomada (Tan) Hilton in payment of the price of the sale to the said respondent. No other evidence, oral or documentary, was presented by either of the parties. After a brief argument of counsel, the trial judge promulgated the order appealed from in open court, holding "that on April 15, 1963 when the notice of adverse claim was presented no payment has been made to the principal and for all legal purposes the Deed of Sale executed by the General Agent then lacked consideration and was therefore null and void and had conferred no right whatsoever upon the alleged vendee when the notice of adverse claim was presented." The court further held that the general power-of-attorney granted to Vicente T. Tomada did not include an authority to sell the property of his principal. On the foregoing premises, the cancellation of the adverse claim was ordered.

Unable to secure a reconsideration of the order, the respondent interposed this appeal, alleging that the trial court erred: (1) in declaring that the sale executed in favor of the respondent was null and void for lack of consideration; (2) in declaring that the attorney-in-fact who executed the said deed of sale had no authority to do so; (3) in ruling against the respondent simply because he was not personally present when the motion was called for hearing, in spite of the fact that he was duly represented by counsel, and (4) in ordering the cancellation of the respondent's adverse claim after nullifying the deed of sale in his favor, notwithstanding his claim of ownership over the property.

The issue of jurisdiction, raised in the last assignment of error, is decisive of this case. The appellant contends that the court below, acting as a land registration court, erred in ruling on the nullity of the deed of sale in his favor and thereby deciding the question of ownership of the lots subject thereof, a question which was cognizable only by the Court of First Instance in an ordinary civil action. On the other hand, the appellees maintain that the said court acted in accordance with the provision of Section 110[1] of Act 496.

It is to be noted that in their petition the appellees not only asked the lower court to cancel the adverse claim of the appellant but also asked that they be declared the lawful purchasers of Lots Nos. 166-B, 167-A, and 1/7 of Lot No. 1691 by virtue of the deed of sale which was executed in their favor on April 5, 1963 by the attorney-in-fact of the former owner, and registered on June 7, 1963. In opposition, the appellant claimed ownership of the same lots by virtue of the sale effected in his favor on April 6, 1963 by another attorney-in-fact of the former owner, which sale was registered as adverse claim on April 16, 1963. It is, therefore, evident that the real issue in this case is not only the validity of the adverse claim for purposes of determining whether it should be cancelled or allowed to remain as an annotation on the titles, but in reality one of ownership, and involves other corollary issues, namely, the validity of a sale under a supposed general power-of-attorney with authority to sell, as well as the conflict of rights between two different vendees of the same properties. These issues are beyond the jurisdiction of a land registration court acting on a petition filed under Section 110 of the Land Registration Act.

"Questions which involve the ownership of the litigated lands are not within the province of a court of land registration. These properly pertain to the court acting under their ordinary civil jurisdiction." [2] The reason is obvious: the proceedings provided in the Land Registration Act being summary in nature, they are inadequate for the litigation of issues properly pertaining to civil actions. [3]

With the foregoing resolution on the issue of jurisdiction, we deem it no longer necessary to discuss the other assigned errors.

WHEREFORE, the order appealed from is hereby set aside, and the petition below is dismissed, with costs against the petitioners-appellees.

Concepcion, C.J., Reyes, J.B.L., Dizon, Sanchez, Castro, Fernando, Capistrano, Teehankee and Barredo, JJ., concur.

Zaldivar, J., is on leave.

[1] Section 110. x x x xxx xxx xxx

x x x and the court, upon petition of any party in interest, shall grant a speedy hearing upon the question of the validity of such adverse claim and shall enter such decree therein as justice and equity may require. If the claim is adjudged to be invalid, the registration shall be cancelled. If in any case the court after notice and hearing shall find that a claim thus registered was frivolous or vexatious it may tax the adverse claimant of treble the cost in its discretion.

[2] Bank of the Phil. Islands vs. Ty Camca, 57 Phil. 89; Castillo vs. Ramos, 78 Phil. 809; Henderson vs. Garrido, 90 Phil. 624, 629.

[3] R.F.C. vs. Alto Surety & Insurance Co., 107 Phil. 386, 388.

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