

**JOSE T. VALMONTE AND JOSE R. JACINTO, PETITIONERS, VS.
MARIANO NABLE, JUDGE OF THE COURT OF FIRST INSTANCE OF
NUEVA ECIJA, AND JULIO VALMONTE AND HIS COHEIRS,
RESPONDENTS.**

G.R. No. L-2842. December 29, 1949

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

By means of this original action for certiorari and mandamus the petitioners Jose T. Valmonte and Jose R. Jacinto seek to annul the order of respondent Judge Nable dated September 30, 1948 (Exhibit K of the petition), and to compel the said judge to issue a final decree over lot No. 1361 of the Gapan cadastre, Nueva Ecija. In order to readily understand the purpose of and reason for the present action and to serve as background the following facts gathered from the present petition and its annexes as well as from the answer thereto and the exhibits attached to it, may be stated as follows.

In August, 1931, the Director of Lands instituted cadastral case No. G.L.R.O. 1272, municipality of Gapan, Nueva Ecija. On September 15, 1939, a partial decision was rendered declaring lot No. 1361 which consists of 41 hectares and is assessed at P13,510 as the exclusive property of Teodora Navarro, "subject to an incumbrance of P13,159.27 in favor of the spouses Jose R. Jacinto and Tomasa Goduco, with a right of repurchase by Teodora Navarro within five (5) years beginning March 9, 1939." (Exhibit A of the petition.)

Previously, on March 9, 1939, as evidenced by Annex A of Exhibit 11 of the answer of the respondents, Ceodora Navarro had sold with right to repurchase 25 hectares of lot No. 1361 to Jose R. Jacinto. On April 27, 1939, Teodora sold an additional one hectare from the same lot No. 1361 to the same Jose R. Jacinto (Annex B of the answer of the respondents).

On November 3, 1939, one Felix Diego filed a motion in the cadastral court to lift the order of default against him and to allow him to present his claim to a portion of lot No. 1361. The motion was granted.

On March 14, 1940, Teodora Navarro executed another document (Annex C of Exhibit 11) consolidating the two previous sales of land to Jose R. Jacinto and increasing the total amount of land sold to 34 hectares, reserving to herself the right to repurchase within six years. Then on July 16, 1940, Teodora Navarro sold her right to repurchase the 34 hectares of lot No. 1361 to Jose T. Valmonte as evidenced by Exhibit 10 of the answer.

On June 18, 1941, Maxima and Eugenia Navarro through Atty. Mariano H. de Joya filed an urgent petition (Exhibit D of the present petition) asking the court to set aside the order of general default against them so that they could file their claim to lot No. 1361, alleging inadvertence, ignorance and unfamiliarity with court procedures as the reason for their failure to file their claim on time. By order of June 25, 1941, (Exhibit E of the petition), the motion was denied on the ground that the failure to present their claim on time was not excusable.

In the meantime, the issuance of the final decree for lot No. 1361 in favor of Teodora Navarro was suspended

because of the claim filed by Felix Diego over the same lot. It seems that a hearing was held on this claim and evidence was submitted as a result of which the lot was ordered subdivided, and parcels Nos. 1361-A-1 and 1361-A-2 were ordered segregated from lot No. 1361 and adjudicated to Felix Diego and Emilia Torres by order of the cadastral.

Then on January 26, 1946, Attorney De Joya entered his appearance in the cadastral case as counsel for Julio Valmonte and his coheirs (Exhibit H of the petition). On March 20, 1948, Atty. Juan S. Rustia, counsel for Jose T. Valmonte and Jose R. Jacinto, filed a motion (Exhibit G of the petition) for the issuance of the final decree over lot No. 1361.

In the meantime, on July 9, 1946, Attorney De Joya representing Julio, Victorino and Donata, all surnamed Valmonte and Eugenia, Benita and Jose, all surnamed Navarro had filed civil case No. 176 in the Court of First Instance of Nueva Ecija against Jose R. Jacinto, Joaquin Valmonte and Jose T. Valmonte. According to the complaint in said civil case No. 176, lot No. 1361 forms part of the estate left by the deceased Juan Navarro and Miguela Garcia who had four children, now all deceased, namely, Teodora, Maxima, Nicolas and Domingo; that Teodora (the same person already mentioned several times before in favor of whom lot No. 1361 had already been adjudicated by the cadastral court) left no children; that Maxima's children are Julio, Victorino, Donata and Joaquin, all surnamed Valmonte (the last being one of the defendants in civil case No. 176); that Nicolas' children are Eugenia Navarro and Benita Navarro; that Domingo's only surviving child is Jose. It is also claimed that way back in 1909, under Special Proceedings No. 308 of the Court of First Instance of Nueva Ecija, Teodora Navarro was appointed administratrix of the estate of Juan Navarro and Miguela Garcia and that said lot No. 1361 was entrusted to and held by her for the benefit of all the heirs in the said estate; that of the said lot No. 1361, Teodora is entitled to only 8 hectares; while the remainder belonged to the six plaintiffs and the defendant Joaquin Valmonte; that the deeds of sale in favor of Jose R. Jacinto as well as the sale of the right to repurchase in favor of Jose T. Valmonte are null and void because they were executed by Teodora Navarro when she was already over 90 years and was already mentally incapacitated, and that furthermore, she was fraudulently induced to do so by Joaquin Valmonte and Jose T. Valmonte.

On April 6, 1948, Attorney De Joya representing Julio Valmonte and his co-heirs, filed written opposition to the petition for the issuance of a final decree over lot No. 1361 (Exhibit H).

Acting upon the petition and the opposition thereto, respondent Judge Nable issued the order of September 30, 1948 (Exhibit K) subject of the present petition for certiorari and mandamus, holding in abeyance the issuance of the final decree over lot No. 1361 until after the termination of the civil case No. 176 and until the segregation of a part of said lot as ordered in the decision of August 15, 1941 (Exhibit C), was complied with.

The issue involved herein is the authority to a Court of First Instance acting as a cadastral court to suspend the issuance of a final decree over a lot already adjudicated to a party but, presumably, pending the segregation of a portion of said lot which portion was adjudicated to another party; and what is more important, pending the decision in a civil case wherein other parties question the ownership of the lot or a portion thereof by the party to whom it was originally adjudicated by the cadastral court. It should be borne in mind that the adjudication of land in a registration or cadastral case does not become final and incontrovertible until the expiration of one year after the entry of the final decree. Within this period of one year the decree may be reopened on the ground of fraud and the decree may be set aside and the land adjudicated to another party. As long as the final decree is not issued and the period of one year within which it may be reviewed has not elapsed, the decision remains under the control and sound discretion of the court rendering it. (*Afalla & Rivera vs. Rosauro*, 60 Phil., 622 and cases cited therein.)

Of course, there is in this case no petition for review of the decision on the ground of fraud. There is, however, a separate action, civil case No. 176 wherein the title to the land adjudicated in the cadastral case is attacked on the ground of fraud and breach of trust and it is to be expected that the result of said civil case would vitally and decisively affect the partial decision previously rendered over lot No. 1361 by the cadastral court. A decision in a civil case may constitute *res adjudicata* in a land, registration proceedings. (*Menor vs. Quintans*, 56 Phil, 657.)

Moreover, after the rendition of a decision by a registration or cadastral court, there remain many things to be done before the final decree can be issued, such as the preparation of amended plans and amended descriptions, especially where the decision orders a subdivision of a lot, the segregation therefrom of a portion being adjudicated to another party, to fit the said decision. As said by this Court in the case of *De los Reyes vs. De Villa*, 48 Phil., 227, 234:

"Examining section 40, we find that the decrees of registration must be stated in convenient form for transcription upon the certificate of title and must contain an accurate technical description of the land. This requires trained technical men. Moreover, it frequently occurs that only portions of a parcel of land included in an application are ordered registered and that the limits of such portions can only be roughly indicated in the decision of the court. In such cases amendments of the plans and sometimes additional surveys become necessary before the final decree can be entered. That can hardly be done by the court itself; the law very wisely charges the chief surveyor of the General Land Registration Office with such duties (Administrative Code, section 177)."

Furthermore, although the final decree is actually prepared by the Chief of the General Land Registration Office, an administrative officer, the issuance of the final decree can hardly be considered a ministerial act for the reason that said Chief of the General Land Registration Office acts not as an administrative officer but as an officer of the court and so the issuance of a final decree is a judicial function and not an administrative one (*De los Reyes vs. De Villa*, supra). Besides, it is to be remembered that not all of lot No. 1361 was adjudicated to Teodora Navarro. A certain portion of it was adjudicated to Felix Diego and the plan of said lot was ordered amended accordingly. It is not shown that the amendment of the plan and the corresponding technical description had already been finished so as to render in all readiness the preparation of the final decree.

In conclusion, we hold that the issuance of a final decree rests within the sound discretion of the registration or cadastral court and that the respondent judge did not commit error in issuing his order (Exhibit K) of September 30, 1948. The petition for *certiorari* and *mandamus* is hereby denied, with costs.

Ozaeta, Paras, Pablo, Bengzon, Padilla, Tuason, Reyes, and Torres, JJ., concur.
Moran, C.J., concurs in the result.

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