

**JULIO LUCERO, MOVANT-APPELLEE, VS. JAIME L. LOOT, ET AL.,
OPPOSITORS-APPELLANTS.***G.R. No. L-16995. October 28, 1968*

Ponente: FERNANDO, J.

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The order of the Court of First Instance of Iloilo, the former Judge Wenceslao L. Fernan presiding, dated September 21, 1959, now on appeal before this Court, speaks to this effect: "Regarding the writ of possession, once the final decree has been issued the issuance of a writ of possession is only a matter of course if nothing in the past has been issued in favor of the registered owner. There is no period of prescription as to the issuance of a writ of possession, and inasmuch as the final decree has already been entered, it follows that a writ of possession should be issued in favor of the registered owner." [1]

Accordingly, it granted a writ of possession in favor of movant, now appellee, Julio Lucero. There was an opposition on the part of oppositors, all surnamed Loot, now appellants. The lower court failed to see merit in the opposition interposed. It explained why: "The opposition interposed by the oppositors to the effect that there are defects in the reconstitution of the records and that the motion is not under oath is trivial in its nature and consequently untenable." [2] Accordingly, the writ of possession, as prayed for, was issued.

There was an urgent motion to quash the writ of possession filed by the oppositors on September 25, 1959, [3] followed by a motion for reconsideration on October 10, 1959, [4] which was denied in an order of October 23, 1959. [5] As set forth in such order of denial: "After weighing the arguments adduced by the movant represented by Atty. Gonzales and the oppositor represented by Atty. Loot, this Court adheres to the previous ruling that inasmuch as no writ of possession has been issued in this case, it is the ministerial duty of this Court to issue one in compliance of the provisions of Act 496 as amended." There was a second motion for reconsideration filed by oppositors on November 3, 1959, [6] which was denied in an order of December 10, 1959. [7] Not satisfied, there was still another motion for reconsideration of the above order filed by oppositors on December 28, 1959, [8] which similarly met the same fate, an order of denial being issued on February 20, 1960. [9] The appeal was taken direct to us.

The sole issue, therefore, is whether on the above facts, the order granting the writ of possession was in accordance with law. The answer must be in the affirmative. This appeal cannot prosper.

No other view would be compatible with the pertinent provision of the Land Registration Act, [10] as uniformly interpreted by this Court. As was noted in the order Of September 21, 1959, there was a final decree in a land registration case which arose from a decision promulgated in 1938, the filial decree being issued on October 29, 1941. It was not incorrect for the lower court to state, therefore, that "the issuance of a writ of possession is only a matter of course if nothing in the past has been issued in favor of the registered owner." [11] It is equally true, as likewise mentioned therein, that there is "no period of prescription as to the issuance of a writ of possession, * * *." [12] In *Pasay Estate Co. v. Del Rosario*, [13] it has been made clear that the purpose of the statutory provision

empowering the then Court of Land Registration, now the ordinary courts of first instance to enforce its orders, judgments or decrees in the same way that the judiciary does so that the winning party could be placed in possession of the property covered by such decree. Thereby, there would be an avoidance of the inconvenience and the further delay to which a successful litigant would be subjected if he were compelled "to commence other actions in other courts for the purpose of securing the fruits of his victory."

There was a restatement of the above principle in *Demorar v. Ibañez*,^[14] the closest in period of time to the challenged order of the lower court. Thus: "We have heretofore held that a writ of possession may be issued not only against the person who has been defeated in a registration case but also against anyone adversely occupying the land or any portion thereof during the land registration proceedings * * *. The issuance of the decree of registration is part of the registration proceedings. In fact, it is supposed to end the said proceedings. Consequently, any person unlawfully and adversely occupying said lot at any time up to the issuance of the final decree, may be subject to judicial ejectment by means of a writ of possession and it is the duty of the registration court to issue said writ when asked for by the successful claimant." As a matter of fact, in a 1948 decision,^[15] it was held by us that "the fact that the petitioners have instituted, more than one year after the decree of registration had been issued, an ordinary action with the Court of First Instance attacking the validity of the decree on the ground of fraud, is not a bar to the issuance of the writ of possession applied for by the registered owners."

A few months after the issuance of such a challenged order of September 21, 1959, *Marcelo v. Mencias* was decided,^[16] where this Court went so far as to hold that "if the writ of possession issued in a land registration proceeding implies the delivery of possession of the land to the successful litigant therein, * * * a writ of demolition must, likewise, issue, especially considering that the latter writ is but a complement of the former which, without said writ of demolition, would be ineffective."

It is clear, therefore, to repeat, that on the facts as found, the validity of the challenged order cannot be impugned. It is equally clear that this being a direct appeal to us, no questions of fact may be raised. As was held recently in *Perez v. Araneta*:^[17] "Nothing is better settled than that where the correctness of the findings of fact of the lower court is assailed, the Court of Appeals is the proper forum. If resort be had directly to us, then appellant must be deemed to have waived the opportunity otherwise his to inquire into such findings and to limit himself to disputing the correctness of the law applied."

The problem thus confronting oppositors-appellants in bringing the matter direct to us was to show that the above two-page order on the meager but sufficient facts as found, was vitiated by error or errors in law. It was far from easy, therefore, considering as above shown, that on the authority of applicable decisions, the lower court was left with no choice but to issue the writ of possession sought.

Resolute and undaunted, oppositors did their best to accomplish a task formidable in its complexity. It seemed they overdid it. They assigned twenty-one errors, a great many of them factual, and, therefore, not for us to consider, and the remaining, except the last, far from decisive in view of the rather settled state of the law concerning the issuance of a writ of possession. Nor did the twenty-first error assigned suffice to call for a reversal, as will be more fully explained. That is why, as earlier stated, the appeal was doomed to futility.

It would not be amiss, though, to discuss even briefly one of them, the fourteenth. Invoking three of our previous decisions,^[18] they would impugn the issuance of the writ of possession on the ground that they were not oppositors and defeated parties in the land registration proceeding. They would ignore the fact, however, that in the above decisions relied upon, the basis for the impropriety of issuing a writ of possession was that the parties adversely affected entered the property in question after the issuance of the decree. There is nothing in the challenged order that such is the case here. Thus, they would raise a factual issue - a matter not properly

cognizable by us.

A reminder may not be out of place. The apparent ease with which oppositors-appellants could conjure up so many alleged errors, while it may be a tribute to their ingenuity in making a two-page order yield so many instances of the rankest violation of legal precepts, hardly contributes to the persuasiveness of their brief. As a matter of fact, the suspicion could be legitimately entertained that in thus attempting to paint the highly unrealistic picture of a terse and brief order being so sadly riddled with errors, oppositors-appellants were trying in vain to bolster what inherently was a weak case.

That is all that needs be said about this appeal except for the disposition of the twenty-first error assigned, referring to the existence of a pending case between the parties for reconveyance.[19] There was no denial in the brief for movant-appellee that such a case was then pending at the time the respective briefs were filed. What is decided here cannot affect whatever final decision might possibly have been rendered by this time in the aforesaid reconveyance action. Nonetheless, the mere fact that such a suit was then pending did not oust the lower court of its jurisdiction to issue the writ of possession. As stated by our present Chief Justice in *Agreda v. Rodriguez*: [20] "Besides, it is clear that respondent Judge had jurisdiction to pass upon the motion of Santiago Agreda for the issuance of a writ of possession. Whether or not the motion should have been denied, in view of institution of said Civil Case No. 6267, is a matter that does not affect said jurisdiction."

WHEREFORE, the order of September 21, 1959, granting the writ of possession in favor of movant-appellee, and the orders of October 23, 1959, December 10, 1959 and February 20, 1960, deny-ing the reconsideration thereof, are affirmed. With costs against oppositors-appellants.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Sanchez, Castro, Angeles, and Capistrano, JJ., concur.
Zaldivar, J., on official leave.

[1] Order of September 21, 1959, Record on Appeal, pp. 75-76.

[2] Ibid, p. 76.

[3] Ibid, pp. 82-85.

[4] Ibid, pp. 88-119.

[5] Ibid, pp. 126-127.

[6] Ibid, pp. 128-135.

[7] Ibid, pp. 165-166.

[8] Ibid, pp. 167-177.

[9] Ibid, p. 178.

[10] Section 17. Act No. 496.

[11] Record on Appeal, p. 76.

[12] Ibid.

[13] 11 Phil. 391 (1908). See also: *Manlapas v. Llorente*, 48 Phil. 298 (1925).

[14] 97 Phil. 72, 74-75 (1955).

[15] Soroñgon v. Makalintal, 80 Phil. 259 (1948).

[16] L-15609, April 29, 1960.

[17] L-18414, July 15, 1968.

[18] Manuel v. Rosauo, 56 Phil. 364 (1931); Rodriguez v. Tirona, 68 Phil. 264 (1939) and Maglasang v. Maceren, 83 Phil. 637 (1949).

[19] Civil Case No. 5019, Court of First Instance of Iloilo, Branch V.

[20] L-21695, April 29, 1966.

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