

SILVERIO ALMIRÁÑEZ AND ISIDRA VILLABONA, MOVANTS AND APPELLEES, VS. GASPARA DEVERA, OPPOSITOR AND APPELLANT. DECISION

G. R. No. L-19496. February 27, 1965

Ponente: ZALDIVAR. J.

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ZALDIVAR. J.:

This is an appeal taken directly to this Court on questions of law.

The facts as found in the records may be summarized as follows:

On August 10, 1931, the appellant Gaspara Devera sold to Julian Villabona, under a contract of sale with right to repurchase, a parcel of land situated at Barrio Polo, Municipality of Mauban, Province of Tayabas (now Quezon), which lot later became known as lot No. 1563 of the Cadastral Survey of Mauban. The consideration for the sale was the sum of P800.00, and the period for redemption was to commence at the expiration of two years from August 10, 1931. Immediately upon the execution of that contract of sale with right of repurchase, Julian Villabona took possession of property and since then enjoyed the fruits therefrom until he died. Julian Villabona died during the Japanese occupation, and the land in question was inherited by his son Primitivo Villabona. Upon the death of Primitivo Villabona, this land was inherited by his daughter Nimfa Villabona. On December 10, 1956, Nimfa Villabona sold the said land to the appellees, the spouses Silverio Almirañez and Isidra Villabona, for a consideration of P2,000.00. Silverio Almiranez and his wife took possession of the land upon their purchase from Nimfa Villabona who was in possession of the same at the time of the sale. The possession of Nimfa Villabona dated back from the death of her father Primitivo Villabona, who had been in possession of the land from the death of his father Julian Villabona from whom he (Primitivo) inherited the same. The land taxes on the land in question had been paid by Julian Villabona and successively by his successors in interest. As a matter of fact, the tax declaration on the land was transferred to the name of Julian Villabona way back in 1937.

This lot No. 1563 of the Mauban cadastre, now in question, was among the lots that were the subject of registration in the cadastral proceedings of the Court of First Instance of Tayabas (Cadastral Case No. 83, L. R. C. Record No. 1499); and in a decision rendered on July 16 1941, the Court of First Instance of Tayabas adjudicated this lot to Gaspara Devera, subject to the lien that s mentioned in the decision, as follows:

"Este lote No. 1563 esta sujeto al gravamen de venta con pacto de retro a favor de Julian Villabona, por la suma de P800.00 por el termino de retracto de dos años, a contar desde Agosto 10, 1931 fecha un que se otorgo el documento de venta con pacto de ma retro, marcado Exhibito 'B'.

Later, on December 7, 1954, Decree of Registration No. N-14538 was issued by the Commissioner of Land Registration decreeing the registration of lot No. 1563 in the name of Gaspara Devera, subject to the lien that was dated in the decision, which We have quoted in the preceding paragraph. Subsequently, or on February 18, 1955, Original Certificate of Title No. O-1738, covering said lot No. 1563, was issued in the name of Gaspara Devera and on the said original certificate of title the above-mentioned lien regarding the sale with right of repurchase in

favor of Julian Villabona was mentioned.

Gaspara Devera had not repurchased the lot in question from Julian Villabona, nor from the successors in interest of Julian Villabona. The statement in Original Certificate of Title No. O-1738 about the lien consisting of the sale with right of repurchase in favor of Julian Villabona remained uncanceled. On June 15, 1960, Silverio Almiranez and Isidra Villabona, thru counsel, filed with the Court of First Instance of Quezon in the cadastral case, a motion praying that the ownership of lot No. 1563 be consolidated in their favor pursuant to the contract of sale with right of repurchase executed by Gaspara Devera on August 10, 1931, and which was noted in Original Certificate of Title No. O-1738, said Gaspara Devera not having repurchased the land. It was further prayed that Gaspara Devera be ordered to deposit with the Clerk of Court the owner's copy of Original Certificate of Title No. O-1738; that the said original certificate of title in the name of Gaspara Devera be ordered canceled and the Register of Deeds of Quezon be authorized to issue a transfer certificate of title in the names of Silverio Almiranez and Isidra Villabona.

Gaspara Devera, thru counsel, filed an opposition to the motion for consolidation of ownership in favor of Silverio Almiranez and Isidra Villabona. The grounds for the opposition boil down to one principal point, namely, that the Court of First Instance of Quezon, acting as a cadastral court, has no jurisdiction to order the consolidation of ownership in favor of the movants and to order the cancellation of Original Certificate of Title No. O-1738 in the name of the oppositor and replace it with a new transfer certificate of title in the name of the movants.

After hearing, on December 20, 1960, the Court of First Instance of Quezon issued an order overruling the opposition to the motion for consolidation, and the dispositive portion of the order reads as follows:

"(a) declares the dominion and ownership of Lot No. 1563 of Mauban Cadastre, covered by Original Certificate of Title No. O-1738, of the Land Record of Quezon Province, together with the improvements thereon, consolidated in favor of the spouses Silverio Almiranez and Isidra Villabona . . .; and

"(b) orders the oppositor Gaspara Devera to surrender the owner's duplicate of Original Certificate of Title No. O-1738 to the Clerk of Court, Court of First Instance of Quezon, Lucena, within thirty (30) days from receipt of a copy of the order.

"When this order becomes final, the Register of Deeds of this province is ordered to cancel said Original Certificate of Title No. O-1738 and, in lieu thereof, issue a transfer certificate of title in the name of the spouses Silverio Almiranez and Isidra Villabona upon payment of the fees required by law."

Unable to obtain a reconsideration of the order of December 20, 1960, Gaspara Devera appealed directly to this Court.

Counsel for the appellant Gaspara Devera, in this appeal contends: (1) that the cause of action involved ownership of Lot No. 1563 and is barred by the prior judgment of the cadastral court registering lot No. 1563 in the name of the appellant, and that said judgment operates as res judicata against the motion for consolidation of ownership; (2) that the trial court in directing the cancellation of Original Certificate of Title No. O-1738 and the issuance of another title in favor of the appellees had in effect revoked the decree of registration of Lot No. 1563 in favor of appellant Gaspara Devera; (3) that the motion of June 15, 1960 for consolidation of ownership, based as it was on a deed of pacto de retro sale with right to repurchase that was executed on August 10, 1931 was already barred by the statute of limitations and the motion constitutes a collateral attack upon the decree of registration of Lot No. 1563; (4) that the motion for consolidation is essentially a claim for recovery of land, and that the lower court exceeded its authority when it granted the said motion; and (5) that the appellees have no legal capacity or personality to ask the lower court to order the consolidation of ownership over Lot No. 1563 in their favor and to

ask for the issuance of a certificate of title in their names.

The counsel for the appellant made a lengthy discussion in his appeal brief of the alleged errors committed by the lower court, but it is noteworthy that he had evaded discussion on the point regarding the legal effect or implication of the statement in the decision of the cadastral court that the registration of Lot No. 1563 in the name of Gaspara Devera was subject to the lien consisting of the sale with right of repurchase in favor of Julian Villabona, and the notation of said lien in the decree of registration and on Original Certificate of Title No. O-1738. The principal issue in the present case, precisely, is: what effect must be given to that lien?

The appellant never questioned the propriety of the inclusion of a statement in the decision, in the decree of registration, and in the certificate of title, regarding the lien consisting of the sale with right of repurchase in favor of Julian Villabona. It is presumed that when the Court of First Instance of Tayabas, acting as a cadastral court, its decision on July 16, 1941 adjudicating lot 1563 to Gaspara Devera with the statement that the registration of said lot was subject to the above-mentioned lien the contract of sale with right of repurchase that executed by Gaspara Devera on August 10, 1931 in favor of Julian Villabona was properly brought before the court. We do not agree with the contention of the appellant that the judgment in the cadastral proceedings constitutes a bar, or operates as *res judicata*, against the motion for consolidation presented by the appellees in the present case, because precisely that sale with right of repurchase was duly recognized and embodied in the decision of the cadastral court. We hold that what the appellee had done, in filing the motion for consolidation on June 15, 1960 was not a collateral attack against the decree of registration, as claimed by the appellant. The appellees simply asked the court to give effect to the lien which was clearly mentioned, in the decision, in the decree of registration, and in Original Certificate of Title No. O-1738. When the Court of First Instance of Quezon granted said motion for consolidation and ordered the cancellation of Original Certificate of Title No. O-1738, it did not thereby revoke the Decree of Registration No. N-14538, and reopen the registration case. The lower court simply made effective the very terms of the certificate of title which was issued pursuant to the decree of registration.

The lien that We have adverted to refer to the contract of sale of Lot No. 1563 executed by Gaspara Devera in favor of Julian Villabona for a consideration of P800.00 with right of repurchase after the expiration of two years. This contract was executed on August 10, 1931. The statement in the decision of the cadastral court, in the decree of registration No. N-14538, and in Original Certificate of Title No. O-1738, that the period of redemption was two years from the date of the execution of the contract must be corrected, because what the contract really recites is that the repurchase must be made after expiration of two years from the date of the execution of the contract (Exhibit A). This discrepancy, however, in no way affects the determination of the legal questions involved in the present case.

The contract of sale with right of repurchase was executed on August 10, 1931, so that the law that governs this transaction are the provisions of Article 1507, 1508, 1509 and 1518 of the Old Civil Code. Under the Old Civil Code, upon the execution of the contract of sale with right of repurchase the ownership over the property sold is transferred to the vendee subject only to the condition that the vendor exercises his right of repurchase within the period agreed upon. Under Article 1509, upon the failure of the vendor to repurchase the vendee irrevocably acquires ownership of the property sold that is, ownership is consolidated in the vendee by operation of law (*Benito Manalansan vs. Luis Manalang, et al.*, 108 Phil., 1041).

In the case now before Us, the contract of sale with right of repurchase was executed on August 10, 1931, and it provides that the right of the vendor to repurchase would commence to run after the expiration of two years from the date of the execution of the contract. The period for repurchase, therefore, commenced to run on August 11, 1933. Inasmuch as no definite period was stipulated within which the redemption would be made after the expiration of two years from the date of the execution of the instrument, the provisions of Article 1508 of the Old

Civil Code governs; that is, the period for repurchase should be within four years from the expiration of two years (Rosales vs. Reyes and Ordoveza, 25 Phil. 495). The period for redemption, therefore, had expired on August 10, 1937. By operation of law, upon failure of Gaspara Devera to re-purchase Lot No. 1563 from Julian Villabona on August 10, 1937, the ownership of the lot became consolidated in favor of Julian Villabona, and the latter had irrevocably acquired ownership of the property. Even if the period for repurchase is fixed at ten years from August 10, 1931, the legal situation is not changed because Gaspara Devera had never repurchased the land in question. The evidence that in 1937 the tax declaration covering the lot in question was transferred to the name of Julian Villabona.

The evidence also shows that Julian Villabona was in possession of the land in question from the time he bought the same on August 10, 1931 up to the time when he died during the Japanese occupation. After the death of Julian Villabona his son Primitivo Villabona inherited the land and took possession of the same until he died. Upon the death of Primitivo Villabona his daughter, Nimfa Villabona inherited the property and took possession of the same. On December 10, 1956 Nimfa Villabona sold the land to the appellees Silverio Almiranez and Isidra Villabona, who thereby took possession of the same. The evidence further shows that while the decision in the cadastral proceedings was rendered on July 16, 1941, the decree of registration was issued by the Land Registration Commissioner only on December 7, 1954 and Original Certificate of Title No. O-1738 in the name of Gaspara Devera was issued on February 18, 1955. It was on June 15, 1960, or barely five years after the issuance of Original Certificate of Title No. O-1738, when Silverio Almiranez and Isidra Villabona filed a motion in the lower court to consolidate their ownership of the land in question, as the successors in interest of the original vendee, Julian Villabona. The rights of Julian Villabona as vendee had been transmitted to his son Primitivo Villabona by operation of law; likewise the right of Primitivo Villabona was transmitted upon his death to his daughter, Nimfa Villabona by operation of law; and it was this right which she inherited from her father that Nimfa Villabona had sold to the spouses Silverio Almiranez and Isidra Villabona. The contention of the appellant, therefore, that the appellees have no legal capacity or personality to file the motion of June 15, 1960 before the Court of First Instance of Quezon has no merit (Government vs. Serafica, 61 Phil. 93).

The undisputed fact is that Gaspara Devera had not purchased lot No. 1563 from Julian Villabona nor from any of the successors in interest of Julian Villabona. There is no evidence that any extension of time had been given to Gaspara Devera for the repurchase of the land in question. It is clear, therefore, that by her own act of selling the land in question to Julian Villabona under a contract of sale with right of repurchase, and by her failure to repurchase the property pursuant to the terms of that contract of sale, Gaspara Devera had divested "herself of whatever right or title she had over lot No. 1563 covered by Original Certificate of Title No. O-1738 in her name. The fact that the property was registered in her name did not preclude the recognition of the better right over the property in favor of another person, or in favor of the successors in interest of said person. (Cabanos vs. Register of Deeds of Laguna et al., 40 Phil. 620). This is more so in the present case because the right of the other person is precisely recognized in the very same certificate of title that is in the name of Gaspara Devera.

When the Court of First Instance of Quezon declared the ownership of lot No. 1563 consolidated in favor of the appellees and ordered the cancellation of Original Certificate of Title No. O-1738 in the name of the appellant and its replacement with a transfer certificate of title in the name the appellees said court acted properly in accordance with provisions of Section 112 of Act 496. Said section Provides as follows:

"SEC. 112. No erasure, alteration, or amendment shall be made upon the registration book after the entry of a certificate of title or a memorandum thereon and the attestation of the same by the clerk or any register of deeds, except by order of the court. Any registered owner or other person in interest may at any time apply by petition to the court, upon the ground that registered interests of any description, whether vested, contingent, expectant, or inchoate, have terminated and ceased: or that new interests have arisen or created which do not

appear upon the certificate, or that any omission, or mistake was made in entering a certificate or memorandum, thereon, or on any duplicate certificate; or that name of any person on the certificate has been changed; or that the registered owner has been married; or, if registered as married, that the marriage has been terminated; or that a corporation which owned registered land and has been dissolved has not conveyed the same within three years after its dissolution; or upon any other reasonable ground, and the court shall have jurisdiction to hear and determine the petition after notice to all parties in interest, and may order the entry of a new certificate, the entry or cancellation of a memorandum upon a certificate, or grant any other relief upon such terms and conditions, requiring security if necessary, as it may deem proper: Provided, however, That this section shall not be construed to give the court authority to open the original decree of registration, and that nothing shall be done or ordered by the court which shall impair the title or other interest of a purchaser holding a certificate for value and in good faith, of his heirs or assigns, without his or their written consent.

Any petition filed under this section and all petitions and motions filed under the provisions of this Act after original registration shall be filed and entitled in the original case in which the decree of registration was entered." (Italics is supplied)

In the case now before Us, the appellees are certainly persons in interest who had come to court at any time to petition upon the ground that the interest of the appellant as registered owner, appearing in Original Certificate of Title No. O-1738, had terminated and ceased, and that they (appellees) have an interest that had been created which do not appear in the certificate, and they thereby prayed the court to grant them relief as it may deem proper. In other words, the appellees, Silverio Almiranez and Isidra Villabona, on June 15, 1960, had petitioned the Court of First Instance of Quezon, as a cadastral court, in the cadastral case involving Lot No. 1563, and showed to the court that registered interest of the appellant Gaspara Devera as owner of Lot No. 1563 had terminated and ceased because said land had been sold by Gaspara Devera to Julian Villabona way back in 1931 under a contract of sale with right of repurchase and that Gaspara Devera had not repurchased the land in accordance with the contract of sale, so that the ownership of the land had been consolidated in favor of Julian Villabona and/or his successors in interest, and, therefore, Gaspara Devera was no longer longer the owner of the lot, and because of that the Original Certificate of Title No. O-1738 in the name of Gaspara Devera should be cancelled and a new transfer certificate of title should be issued in their (appellees') names. The Court of First Instance of Quezon acting as a registration court took cognizance of the motion of the appellees in the cadastral case, and, after due notice to the appellants, the motion was heard. The court found that indeed Gaspara Devera had sold Lot No. 1563 of the Mauban cadastre to Julian Villabona on August 10, 1931 under a contract of sale with right of repurchase and that she had not repurchase the land as provided in the contract of sale. The court likewise found that Julian Villabona and his successors in interest had been in possession of the land since August 10, 1931 and had been paying the taxes on the land. In view of these findings of the court, and considering that the sale with right of repurchase in favor of Julian Villabona was recorded on the Original Certificate of Title No. O-1738, the court declared that the ownership of Lot No. 1563 was consolidated in favor of the appellees, Silverio Almirañez and Isidra Villabona, and ordered that Original Certificate of Title No. O-1738 be surrendered by the appellant Gaspara Devera and that said original certificate of title be replaced by a new transfer certificate of title in the names of said appellees. Certainly the facts and circumstances as found by the lower court also constitute a "reasonable ground" for the action taken by said court, as contemplated in the provisions of Section 112 of Act 496 (Jose A. Caoibes et al. vs. Maria C. Sison de Martinez, et al., 54 Off. Gaz., 366).

Counsel for the appellant contends that Section 112 of Act 496 would not apply in the present case because relief under said section "can only be granted if there is unanimity among the parties, or there is no adverse claim or serious Ejections on the part of any party in interest. . ." This contention has no application in the present case. In the case of Felipa Enriquez et al. vs. Vicenta E. de Atienza et al., 100 Phil. 1072; this Court, referring to the phrase "unanimity among the parties" held:

"A review of all the decisions dealing with

the application of Section 112 reveals that by "unanimity among the parties" is meant the absence of serious controversy between the parties in interest as to the title of the party seeking relief under said section . . ." (Italics supplied).

This Court in the same case, further held:

"The unanimity contemplated refers to the subject matter over which the jurisdiction of the court can not be waived by agreement of the parties. Such jurisdiction is determined by law and cannot be acquired by the court by consent or submission of the parties * * *"

In the case now before Us, the title, or right of ownership of the appellees, Silverio Almiranez and Isidra Villabona, over Lot No. 1563 can not be seriously controverted. The existence of the contract of sale with right of repurchase executed by the appellant in favor of Julian Villabona (predecessor in interest of the appellees) has not been denied by the appellant. The appellant had not questioned the notation in the decision of the cadastral court, in the decree of registration, and in Original Certificate of Title No. O-1738, of the lien consisting of the sale with right of repurchase in favor of the original vendee Julian Villabona. As We have adverted to, the appellant had evaded discussion in his brief about the legal effect of the notation of that lien in the decision, in the decree of registration and in the original certificate of title issued to her. The appellant filed an opposition to the motion of the appellees in the court below, but the appellant did not present any evidence in support of her opposition. The appellant had not disproved the evidence of the appellees that she (appellant) had not repurchased Lot No. 1563 from Julian Villabona or from the successors in interest of Julian Villabona and that the appellees and their successors in interest had been in possession of said lot. We have pointed out that by operation of law the ownership of Lot No. 1563 was consolidated in favor of Julian Villabona by the failure of the appellant to repurchase the same.

The title of the appellees who are seeking relief under Section 112 of Act 496, therefore, is not seriously controverted. What the appellant is controverting in the present case is the jurisdiction of the Court of First Instance of Quezon to grant the relief that was prayed for by the appellees. But, as ruled by this Court in the case of Felipa Enriquez et al vs. Vicenta E. de Atienza, supra the jurisdiction of the Court can not be the subject of agreement or waiver of the parties. Under the facts and circumstances of the present case We hold that there is no serious controversy between the parties as to the title of the appellees over Lot 1563 so that the requirement of "unanimity among the parties", as defined by this Court in the case of Felipa Enriquez et al vs. Vicenta E. de Atienza, supra, has been satisfied. We also hold that the lower court has jurisdiction to take cognizance of the motion for consolidation and for the cancellation of the original certificate of title in the name of the appellant and for the replacement of said original certificate of title with a transfer certificate of title in the name of the appellees and to grant the relief prayed for, because what was asked of the lower court was to give effect to what appears on the certificate of title, and We believe that this is perfectly within the jurisdiction of the court to do under Section 112 of Act 496.

We hold that the proceedings contemplated in Section 112 of Act 496 are intended to grant relief to parties whose title to the property that is covered by a certificate of title is clearly established, as in the case of the appellees in the present case. It is not enough that the petition of a party for relief under said Section 112 is opposed for one reason or another. The opposition must be serious enough as to place in grave doubt the title over the registered property of the person who seeks relief under that section. Otherwise, the efficacy of the remedy contemplated in this Section 112 would be frustrated by the filing of any protest or claim, more or less baseless, which is intended merely to harass or prejudice the movant. What should matter is not the allegations in the opposition to the motion filed in court under Section 112 but the real nature of the title of the movant over the registered property as found

by the court after hearing, of which the parties had been duly notified.

This Court has ruled that in proceedings under Section 112 of Act 496 the Court of First Instance, acting as a registration court, may hear evidence and decide controversial matters with a view to determining whether the person seeking relief under this section is entitled to the relief or not. Thus in the case of Concepcion H. Luna, et al. vs. Pedro P. Santos, et al., 102 Phil. 588, this Court held:

"In trying to assail the jurisdiction of the lower court, appellants stand on the premise that the petition for the cancellation of T. C. T. No. 657 issued in the name of Mons. Ariola was pursuant to the provisions of Section 112 of the Land Registration Act and filed with the Court of First Instance of Sorsogon in its capacity as a Land Registration Court. Thus they argued, it being a court of limited jurisdiction, it can not take cognizance of the question of the validity or invalidity of a document for it has to be resolved by a court exercising general jurisdiction. Appellants, however, forget that they were the ones who raised the legality of the transfers of the certificates on the basis of paid instrument (Exh. 1) and even if said question had to be resolved by the lower court as a Land Registration Court, under the principle laid down by Us in the case of Government of the P. I. vs. Serafica, 61 Phil. 93, and reiterated in the case of Caoibes vs. Sison, 102 Phil., 19 promulgated September 27, 1957, We find no reason to declare the Land Registration Courts, that are at the same time of First Instance and of general jurisdiction could not have, at for the take of expediency, entertained and disposed of the question of the validity or invalidity of the instrument referred to (Exh. 1)" (Italics is supplied).

In the case now at bar, what the lower court did was not to decide on any question affecting the ownership of Lot No. 1563 that was covered by Original Certificate of Title No. O-1738. We said that the ownership of lot No. 1563 had been consolidated in favor of Julian Villabona pursuant to the contract of sale with right of repurchase that was recorded in said original certificate of title, by operation of law. What the lower court did was simply to give effect to the lien that was recorded in the certificate of title which, by operation of law, had vested title on the appellees.

The contention of the appellant, that the right of action of the appellees based on the contract of sale with right of repurchase executed on August 10, 1931 was barred by the statute of limitations, has no merit. As We have said, that sale with right of repurchase was recorded in Original Certificate of Title No. O-1738 and under Section 112 of Act 496 appellees herein, who are persons in interest, may at any time petition the court to grant relief based on the right that is recorded in the certificate of title.

WHEREFORE, the orders of the lower court of December 20, 1960, and July 25, 1961, appealed from, are affirmed, with costs against the appellant.

Bengzon, C. J., Bautista Angelo, Reyes, J.B.L., Barrera, Dizon, Regala, Makalintal and Bengzon, J.P., JJ., concur.

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