

JOSE E. ONG, PETITIONER, VS. THE COURT OF APPEALS, ESCOLASTICA PAGUIO AND MIGUEL PAGUIO, RESPONDENTS.

G.R. No. L-33436. June 22, 1984

Ponente: RELOVA, J.

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RELOVA, J.:

Appeal by certiorari from the decision of the then Court of Appeals in CA-G.R. No. 41514-R and the resolution of said court denying the motion for reconsideration of the aforesaid decision, with prayer that the judgment rendered by Judge Hernando Pineda of the then Court of First Instance of Lanao del Norte, dated June 22, 1967, be reinstated and declared as final.

The antecedents of this petition are as follows:

Cadastral proceedings were initiated in the then Court of First Instance of Lanao del Norte involving several lots of the Iligan Cadastre, among which are Lots Nos. 1146 and 2585. Initial hearing was set for March 25, 1957 and, despite due publication, only Silvestre Openiano and herein petitioner Jose E. Ong filed their respective answers, each claiming exclusive ownership over said Lots 1146 and 2585. Hence, an order of general default was issued on March 28, 1957 against all those who did not file any answer in said cadastral proceedings. However, on May 23, 1957, the courthouse of Iligan City was burned, thus compelling the trial court to issue an order to claimants who had previously filed their answers to reconstitute them. As found by the then Court of Appeals -

"Before Openiano reconstituted his answer he sold the two lots in dispute to the private respondent, Escolastica P. Paguio married to Miguel Paguio, on August 6, 1959. The vendee registered her deed of sale under Act 3344. When the sale was effected, Openiano promised Mrs. Paguio that he would instruct his lawyer to reconstitute his answer and to inform the Court of the sale thereof to the Paguios as well as to inform the vendees of the reconstitution.

"On September 9, 1959, Openiano reconstituted his answer without the knowledge of the vendees and without informing them thereafter. In fact, the vendees did not know that the case was tried and decided against Openiano until a writ of possession was issued after the lapse of thirty (30) days from the date Openiano received copy of the decision. Neither did Openiano divulge said sale to the land registration court prior to the trial of the case. As a result of such failure of Openiano to give said notices, the Paguios failed to ask the Court to substitute them as claimants in place of Openiano. Neither did Ong file a petition to include the Paguios as parties to the proceedings in spite of the fact that during the trial of the case, counsel for Openiano disclosed that his client sold the lots to the Paguios. It also appears undisputed that immediately after the sale of August 6, 1959, the Paguios took possession of the two lots, constructed thereon a school building worth P70,000.00 which they used to house their school up to the present. This fact was known to Ong who, notwithstanding that he lived in the neighborhood of the lots in dispute, did not dispute Paguio's possession of the lots, nor do anything to recover said possession from the Paguios.

"The hearing of the case involving the ownership of the two lots proceeded between Ong and Openiano. Trial was held on various dates between February 1961 and October 1966, after which the Court of First Instance of

Lanao del Norte, thru Judge Hernando Pineda, rendered a decision dated June 22, 1967 adjudicating said lots in favor of Jose E. Ong, subject to the obligation on the part of Ong to pay Silvestre Openiano the sum of P5,900.00 (Annex B). No appeal from the decision having been made by Silvestre Openiano, the cadastral court, on August 16, 1967, issued an order for the issuance of a decree of registration of Lots Nos. 1146 and 2585 in favor of Jose E. Ong (Annex C). It appears that up to the present said order has not yet been complied with.

"On September 11, 1967, a Writ of Possession was issued on motion of Jose E. Ong (Annex D). It was served on Silvestre Openiano on September 28, 1967 who refused to receive the sum of P5,900.00 tendered to him, informing the Sheriff that all his rights to the lots were already sold to Mrs. Paguio. The Sheriff then sought to eject the Paguios from the lots on the basis of the Writ of possession but the Paguios refused to vacate the premises claiming that they were not parties to the case and, therefore, the decision rendered therein is not binding to them.

"On December 18, 1967, Escolastica Paguio and her husband, Miguel Paguio, filed a petition for relief from judgment alleging, among other things, that 'notwithstanding the disclosure in open court of the fact that claimant Silvestre Openiano had already sold the parcels of land in question to Mrs. Escolastica Paguio, neither the parties nor the Court took any steps to bring into the case said Mrs. Escolastica Paguio, who, by virtue of the sale to her by Openiano, had become an indispensable party in substitution of the latter, and, for her part, Mrs. Paguio, for reasons hereinbefore alleged, was never informed and was ignorant of all the proceedings in this case until the rendition of the judgment object of this petition for relief" (Annex E p. 33, Rollo). To this, Jose E. Ong filed an opposition dated January 3, 1968 (Annex F).

"On April 2, 1968, the cadastral court, thru respondent Judge Teodulo C. Tandayag, acting on the petition for relief from judgment and the opposition thereto, issued an order the dispositive part of which reads as follows:

'IN VIEW OF ALL THE FOREGOING, the judgment of this court of June 22, 1967, adjudicating lots 1146 and 2585 in favor of Jose Ong in the above cadastral case is hereby set aside, including all proceedings for the execution and enforcement of the same.

'Petitioners (Paguio) are hereby ordered to file their answer in the above cadastral case within 15 days from receipt of this order, furnishing a copy of said answer to all claimants and oppositors and the latter to file their opposition or reply within 10 days from receipt of the copy of the answer of petitioners.

'After the filing of the said pleadings, this case shall be immediately set for retrial.' (Annex I).

"His motion for reconsideration of the above order having been denied on May 11, 1968 (Annex K), Jose E. Ong came to this Court thru the instant petition.

"The petitioner contends that, in issuing the orders dated April 2, 1968 and May 11, 1968, marked as annexes I and K, respectively, thereby setting aside the final judgment dated June 22, 1967, and ordering a retrial of the cadastral case, the respondent Judge acted with grave abuse of discretion and/or excess of his jurisdiction x x x.

x x x x x x x x

"It cannot be denied that the petition for relief made on December 18, 1967 was filed within sixty (60) days from the time the petitioners learned of the decision and not more than six months after said decision was promulgated. It is accompanied by an affidavit wherein it is alleged that Escolastica P. Paguio is the owner of the lots in dispute, having acquired them in good faith from Silvestre Openiano; that she was unable to inter-vene or have herself instituted as party to the proceedings because she acquired them at a time when the records of the answers of the complainants were not yet reconstituted, the same having been previously burned; that after Openiano reconstituted his answer, he did not apprise said respondent of such fact and neither the petitioner nor the cadastral court took steps to have her brought as party to the proceedings; that she has a good and valid claim to

the lots; that since her acquisition of said lots, she introduced valuable improvements thereon, having constructed a school building now being occupied by the St. Peter's College of Iligan City; and that her possession of the lots together with that of her predecessors in interest covering a period of more than forty years was continuous, open, public, peaceful and adverse, in the concept of owner.

"The respondent Judge, not contented with the recitals in the sworn petition for relief from judgment and its accompanying affidavit, received evidence from the parties and, thereafter, rendered his questioned order of April 2, 1968 setting aside the judgment dated June 22, 1967 and all proceedings for the execution and enforcement of the same; requiring the herein private respondents to file their answer and ordering a re-trial of the case.

"Premises considered we find that the respondent judge acted within his jurisdiction in entertaining the petition for relief from judgment filed by Escolastica P. Paguio and her husband Miguel Paguio. We do not agree with the petitioner that the respondent judge acted with great abuse of discretion in granting the relief prayed for by the Paguios. On the contrary, if the respondent judge did not issue the Order of April 2, 1968, the private respondents, without fault on their part, would have been deprived of their opportunity to defend themselves." (pp. 25-33, Rollo)

After hearing, respondent Court of Appeals dismissed the petition. Hence, this appeal by certiorari, Jose E. Ong claiming that the Court of Appeals erred:

- (1) in holding that the Paguio spouses, as transferees pendente lite of the herein disputed lots, are indispensable parties to the cadastral case involving said lots such that their failure to intervene or to take steps to be made parties to said cadastral case constitutes, or can be invoked as, excusable negligence or mistake for the allowance of their petition for relief from the already final cadastral judgment despite the fact that their transferor pendente lite, validly continued and prosecuted in their behalf the cadastral case pursuant to Section 20, Rule 3 of the New Rules of Court.
- (2) in sustaining the trial court's order allowing the petition for relief filed by the Paguio spouses by considering and relying upon a ground neither asserted nor made as a basis of said petition.
- (3) in holding that the instant case is parallel to the case of *Elviña vs. Filamor, et al.* (56 Phil. 305) and on the basis thereof applied the ruling made in the latter case to the former.
- (4) in holding that the Paguio spouses are innocent purchasers in good faith despite their actual and constructive knowledge that at the time of their acquisition thereof the herein disputed lots were the subject of a pending cadastral litigation between the herein petitioner and their transferor.
- (5) in disregarding that the Paguio spouses, being merely transferees pendente lite cannot even pretend to possess a better and more efficacious title and claim than their transferor pendente lite over the herein disputed lots.
- (6) in sustaining the trial court's order allowing the Paguio spouses to file a cadastral answer almost twelve years after the institution of the herein cadastral case without even moving to lift the order of general default issued therein. (pp. 1-4, Petitioners Brief)

The petition is devoid of merit. It is a fact that Openiano had reconstituted his answer without informing the Paguios thereof, much less of the hearing of the case. Thus, the Paguios were prevented from substituting themselves as claimants to the two lots - 1146 and 2585, from appearing in court and inter-vening in the cadastral case and from appealing from its decision. Hence, the filing of a petition for relief by private respondents Miguel and Escolastica Paguio was in order considering that prior to the issuance of a decree in land registration cases, the court continues to have control over the proceedings, and that the judgment remains under its control and sound discretion of the court rendering it.

"The decision upon which the decree of registration is based is, under the present practice, nothing but a statement of the facts of the case and the law applicable thereto, together with an order for the eventual preparation, issuance and entry of the decree. In other words, in relation to the land registration cases in which the registration is granted, our trial courts now follow the old equity practice in England and the United States, with the exception that the decree is prepared by the chief clerk of land registration instead of by counsel, and that it is signed by said chief clerk in the name of the judge instead of by the judge himself. After its preparation and signing, the decree is immediately entered by copy in volumes eventually bound and kept in the General Land Registration Office. Then, and not until then, does the final and complete decree of registration becomes a matter of record." (De los Reyes vs. De Villa, 48 Phil. 227, 235).

With respect to petitioner's contention that the Paguios are not innocent buyers of the land in question, suffice it to say that when the latter purchased subject property they immediately took possession thereof and introduced improvements, consisting of school building of St. Peter's College worth P70,000.00. Petitioner Ong never made any protest. Besides, the Paguios transferred the tax declaration of Openiana into their names and registered the sale under Act 3344. While it is true that the Paguio spouses did not file their answer or claim over the property at the time the cadastral proceedings were commenced by the Director of Lands, it is a fact that they could not have filed the same because at the time they have not yet purchased Lots 1146 and 2585 from the Openianos and, therefore, they have no interest as yet over the same.

Finally, it cannot be said that the trial court's order in setting aside its decision and allowing herein private respondents to file their answer, was issued with grave abuse of discretion. Recapitulating, when the corresponding notice was published requiring all persons who were interested to file their claims and the initial hearing was set, only Silvestre Openiano and petitioner Jose Ong did file their respective answers, both laying claims to subject Lots Nos. 1146 and 2585. Before any hearing could be held with respect to them, however, the cadastral records of the court were destroyed by fire. Thereafter, the court ordered all claimants whose answers were destroyed in the fire to reconstitute the same. Subsequently, claimant Silvestre Openiano sold his rights, title and interest over the said lots to herein private respondents. In the case of Elviña vs. Filamor, 56 Phil. 305, it was held that a person, not originally a party and therefore did not file any opposition or claim to the property, was allowed to avail of a petition for relief in land registration case.

"An order of default and the decision wherein said order is included, entered in a registration proceeding, may be set aside even after thirty days from its promulgation, by reason of fraud, surprise, or excusable negligence, if a motion is filed to that effect within six months from the date of the decision, under section 113 of the Code of Civil Procedure, and before the chief of the General Land Registration Office issues the decree of registration in pursuance of the order to that end." (Elviña vs. Filamor, 56 Phil. 305)

ACCORDINGLY, this petition is DISMISSED, with costs against petitioner.

SO ORDERED.

Melencio-Herrera, Plana, Gutierrez, Jr., and De La Fuente, JJ., concur.

Teehankee, (Chairman), J., no part.

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