

**THE SPOUSES ANDRES ENCINARES AND JUANA NALAZON,
APPLICANTS-APPELLEES, VS. ENRIQUE CATIGHOD, PROCESA
DOROGA AND ARTEMIO DELORINO, OPPOSITORS-APPELLANTS.**

G.R. No. L-29764. November 29, 1973

Ponente: FERNANDO, J.

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FERNANDO, J.:

This appeal to us at a time when such a step could validly be taken from a lower court decision finding the preponderance of evidence in favor of the applicants, the spouses Andres Encinares and Juana Nalazon, now appellees, and adjudicating in their favor for registration purposes the two lots in question, was, to say the least, ill-advised. For according to the findings of such court, the oppositors-appellants Enrique Catighod, Procesa Doroga and Artemio Delorino did object to such registration in favor of applicants solely on the ground that they were lessees of the municipality of Catarman, which did not even bother to question an order of default. It was not surprising, therefore, that their opposition did not prevail, for under such a tenuous claim, the rights asserted by applicants and duly proven could not be disregarded. With such a formidable obstacle in their path and the only question before us limited to one of law, this appeal cannot prosper.

The relevant facts, as set forth in the appealed decision, follow: "The parcel of land [Lots 1 and 2 in Plan PSU 205821] subject of this registration is located in the Municipality of Catarman, Province of Northern Samar, Philippines * * *. The Notice of Initial Hearing of this case, * * *, was duly published in the Official Gazette on August 30, and September 6, as shown by the Certificate of Publication of the Land Registration Commission dated September 23, 1965 * * *. A copy of the Notice of Hearing, * * * was posted on September 8, 1965 in the Courthouse, in the municipal building of Catarman and on the lots as described in the Notice of Initial Hearing and on the land applied for as shown by the certificate of the Sheriff dated September 8, 1965 * * *. It appears further as shown by the letter of Jose G. Torres, Officer in charge of the Bureau of Forestry stationed at Catarman, Northern Samar, * * * that the land sought for registration is inside the Alienable and Disposable Block-1 Project No. 11 located at the poblacion of Catarman, Northern Samar, as certified by the Director of Forestry, Manila, under Forestry Administrative Order No. 4-417 dated March 18, 1936 and that the Bureau of Forestry has no objection to the registration of the same. The District Land Officer, stationed at Catarman, Northern Samar, in his letter addressed to the Court dated January 21, 1966, * * * stated among other things, that the land subject of registration has not been issued title either administratively or judicially to PSU-205821, situated in the poblacion of Catarman, Northern Samar. On December 18, 1965, an order of Special General Default was issued by this Court against the whole world except the opposition of Enrique Catighod, Artemio Delorino and Procesa Doroga." [1] It was then noted: "So the only oppositors to the registration of the land subject of this application are Enrique Catighod, Artemio Delorino and Procesa Doroga whose rights and interest over the land subject of this registration are subordinated to the rights of the municipality of Catarman from which they derived whatever rights or interests they have over the land in question. The Municipality of Catarman has already been declared in default, hence, she has lost personality before this Court." [2] A recital thereafter is made of the evidence for

applicants, now appellees: "The applicant Andres Encinares is a Filipino citizen and was born in Barcelona, Sorsogon, of Filipino parents and had exercised his rights of suffrage since the year 1921. He [was] married to Juana Nalazon, also a Filipino citizen, in the year 1943. He identified that the land subject of this registration as indicated in Plan PSU-205821, * * * as conjugal property with his wife Juana Nalazon. They bought the said land from Eugenio Adan, and Liberato Adan on September 18, 1962 and the document of absolute sale, * * * was notarized on October 19, 1962. This land which the spouses Andres Encinares and Juana Nalazon bought from Eugenio Adan and Liberato Adan is only a portion of a big land where a part of the same was sold by the Adans to Elias Patilan. The Acedillo Street was formerly a part of the land. This land was previously a riceland but now it is already covered into residential lots. After buying the land in question, Andres Encinares placed therein his tenant Pastor Florano * * *. He also allowed one Paller to construct a house on the land in question * * *. The oppositors Enrique Catighod, Artemio Delorino and Procesa Doroga constructed their respective houses in the premises upon prior permission granted them by Eugenio Adan and Liberato Adan who were the former owners and occupants of the land."[3]

After mentioning that the oppositors' claim of ownership was predicated on the theory that they occupied the land in question by virtue of a lease contract entered into by the municipality of Catarman with them, the decision on appeal stated: "The evidence presented and established by the oppositors proved conclusively that whatever rights or interest they have over the portions claimed by them * * * the source came from the Municipality of Catarman."[4] There is this further relevant consideration: "When the Court ordered the Municipality of Catarman to produce papers of her claim of ownership over the property in question, what were produced were papers of another property, * * * and another Tax Decl. No. 28551 which are different from the land in question. Hence, her claim of ownership is untenable."[5] Before reaching the decision that applicants should prevail, mention is likewise made by the lower court of the following: "If the Municipality of Catarman is without right or authority over the property in question, what rights can she convey to the oppositors? None. The oppositors cannot have a better right or interest than the Municipality of Catarman from which they derived the source of their possession over the land in question. And as a matter of fact, the said municipality of Catarman had already been declared in default."[6]

Nothing better demonstrates the futility of this appeal than the foregoing recital of controlling facts and the decision thus reached by the lower court. So we rule.

- It has been a well-settled principle of this Court, as attested by a host of cases impressive for their number and their unanimity, that where the appeal is taken directly to this Court, only questions of law could be raised. The latest decision reiterating such a doctrine is *Flores v. Flores*.^[7] Express reference was made therein to the earlier case of *Perez v. Araneta*, a 1968 decision.^[8] *Flores* made clear that since then, from *Lucero v. Loot*,^[9] eleven more decisions were handed down, speaking to the same effect.^[10] With the authoritative and controlling force of such a doctrine, it becomes obvious why the principal error assigned by appellants cannot be deemed as possessed of any merit. After finding that the preponderance of evidence was in favor of applicants-appellees, a conclusion arrived at by a careful study of the proof offered, discussed with some detail in its decision, the lower court could not have refused the registration sought. Moreover, appellants did not deny, as they very well could not deny, that they were merely lessees of the municipality of Catarman, which did not even bother to question an order of default against it. Their claim was thus purely derivative. How could they expect to prevail as against applicants who did demonstrate to the satisfaction of the court a quo that they were entitled to the registration sought? It might be that the municipality of Catarman could, but, as pointed out, it apparently was not even interested in pursuing the matter further after a general order of default was entered against it. Hence, as set forth at the outset, the appeal by oppositors directly to this Court was ill-advised.

- Another error raised was the alleged failure of the lower court to allow the municipality of Catarman to

oppose the application in order to protect whatever interest it might have over the parcel of land in question. To state the error is to make manifest how lacking it is of any legal support. The adversary system presupposes that a party suffering from an invasion or infringement of any right will not stand idly by and fold his hands in helpless submission. Precisely, there are courts to give him redress. To quote from Cardozo: "A great jurist, Rudolf von Ihering, in his 'Struggle For Law,' ascribes the development of law itself to the persistence in human nature of the impulse to resent aggression and maintains the thesis that the individual owes the duty to himself and to society never to permit a legal right to be wantonly infringed." [11] The municipality of Catarman, if it chose to, assuming that it had a grievance, could have taken the necessary step. It did not, however. That was an exercise of will. Could a third party compel it to act otherwise? The answer is plain. Moreover, from the circumstances of this case, it is more than a legitimate inference that the municipality of Catarman was well aware that it was not entitled to any remedy, not having been an injured party. Oppositors cannot thus impute any error in the lower court for not allowing it to litigate any asserted proprietary rights. Whatever recourse they may have against the municipality of Catarman on the theory that they were lessees certainly could not be relied upon to prolong a suit after a finding that applicants were entitled to registration only because there was such an alleged denial of opportunity for the municipality of Catarman to take a stand which it was not even disposed to make.

- With the express mention in the decision on appeal that oppositors did build their houses on the disputed parcel of land in question, what was said by us in *Flores v. Flores* possesses relevance. Thus: "At any rate, the reversal of the decision goes no further than to recognize the right of the applicants-appellants to the registration of the two parcels of land in question. Whatever rights oppositors-appellees may have by virtue of their being allowed to construct their houses on the lot in question is not, in any way, affected by the decision reached by us." [12]

WHEREFORE, the decision of May 29, 1968 is affirmed. Without costs.

Zaldivar, (Chairman), Barredo, Antonio, and Fernandez, JJ., concur.

Aquino, J., in the result.

[1] Record on Appeal, 98-100.

[2] Ibid, 102-103.

[3] Ibid, 103-104.

[4] Ibid, 108.

[5] Ibid, 109.

[6] Ibid.

[7] G.R. No. L-28930, August 17, 1973.

[8] G.R. No. L-18414, July 15, 1968, 24 SCRA 43.

[9] G.R. No. L-16995, October 28, 1968, 25 SCRA 687.

[10] The latest case mentioned was *De la Paz v. de Guzman*, G.R. No. L-28147, February 29, 1972, 43 SCRA 384.

[11] *Morningstar v. Lafayette Hotel*, 105 NE 651, 657 (1914).

[12] G.R. No. L-28930, August 17, 1973.

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