

MELECIO ARCBO, CLAIMANT AND APPELLEE, VS. ANDRES VARELA, CLAIMANT AND APPELLANT.*G. R. No. L-2872. May 30, 1951*

Ponente: REYES, J.

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In cadastral case No. 50 (G. L. R. O. cadastral record No. 1820) of the Court of First Instance of Batangas, lot No. 13956 was claimed by Jose Ma. Gabriel for himself and for his sister Carmen P. Gabriel as an inheritance from their deceased mother Trinidad Paterno de Gabriel; while for lot No. 14076 an answer was filed by the administrator of the intestacy of the deceased Mariano R. Varela, claiming the said lot for the intestacy and for the decedent's brother, Andres R. Varela (who was then in America) and stating that the lot had been acquired by the two Varela brothers by inheritance from their deceased mother and should be adjudicated and decreed one-half to the intestacy of Mariano R. Varela and one-half to Andres R. Varela. Subsequently, however, Jose Ma. Gabriel and Carmen P. Gabriel sold lot No. 13956 to Melecip Arceo; while on his part the administrator of the intestacy of Mariano R. Varela, acting with the approval of the court, sold to the same vendee Melecio Arceo the interest and participation of the intestacy in lot No. 14076. Following these two sales, Melecio Arceo filed his answer in the cadastral proceeding laying claim to the two lots above mentioned and praying that the same be adjudicated and decreed in his favor. Immediately thereafter he also asked that the two lots be set for hearing, stating that the same had already been acquired by him. Without notice to anybody except the provincial fiscal and Melecio Arceo himself, hearing was had on the two lots, and on August 26, 1944, Judge Primitivo L. Gonzales rendered his decision, adjudicating them to Melecio Arceo and ordering the issuance of the corresponding decree of registration upon the decision becoming final.

Some three years thereafter, or on August 18, 1947, with the decision already final, Melecio Arceo petitioned the court to order the Chief of the General Land Registration Office to issue the corresponding decree and title in accordance with its decision. On September 1, 1947, Andres R. Varela appeared through counsel and opposed the petition, alleging that he had acquired the lot in question by inheritance from his deceased father, mother, brother, and sister and praying that the decision adjudicating the lots to Arceo be set aside and a new trial ordered on the ground that the said decision is null and void as having been obtained by fraud and as having been rendered by a judge who had no authority to try and decide the case. Overruling Andres Varela's opposition and denying his motion to reopen, the court, through Judge Eugenio Angeles, granted the petition of Arceo and ordered the issuance of a decree and title in favor of the latter. His motion for a reconsideration having been denied, Andres Varela appealed to the Court of Appeals, but that court has certified the case to us on the ground that the same involves only questions of law.

The first point raised by appellant's counsel is that as a judge-at-large assigned to Batangas to try and decide criminal and civil cases, Judge Primitivo Gonzales had no authority to hear and decide cadastral cases, "the same being (in counsel's own language) the exclusive province and jurisdiction of the Batangas cadastral court duly created, organized and established in accordance with law." Counsel, however, does not cite the law creating "the

Batangas cadastral court," and if what he has in mind is the Land Registration Act and its amendments, then we must say that the old Court of Land Registration created by that law has already been abolished and the jurisdiction and powers of said court and the land registration judges have already been transferred by Act No. 2347 to 'the Courts of First Instance and judges thereof, of the provinces in which the land which is to be registered is situated.' As a judge-at-large assigned to the Court of First Instance of Batangas, Judge Gonzales must be deemed to be clothed with the powers of that court over all kinds of cases unless his assignment is for a limited purpose only, which has not been proven to be the case. The law presumes that a court or judge acting as such was acting in the lawful exercise of his jurisdiction. (Section 69 [n], Rule 123, Rules of Court.)

It is next contended that the lower court erred in adjudicating the two lots in question to Melecio Arceo without due process of law, and in not granting appellant's motion for reopening on the ground of fraud. With reference to lot No. 13956, there is no merit in this contention. It is true, as alleged by appellant that Atty. Felix Villanueva, the attorney of record for the administrator of the intestacy of Mariano Varela, was not notified of the hearing¹ on this lot. But then the record on appeal does not show that a claim for the lot was filed in the cadastral proceedings on behalf of the intestacy and the appellant. What the record does show is that the lot was claimed first by Jose Ma. Gabriel and Carmen P. Gabriel and later by their grantee, the appellee herein. In the circumstances, neither appellant nor the attorney for the administrator was entitled to notice.

But with respect to lot No. 14076 the record on appeal shows that, as already stated above, this lot was claimed for both the administrator of the intestacy of Mariano Varela and the latter's brother, the appellant herein, the answer stating that the lot had been inherited by the two brothers from their deceased mother and should be adjudicated and decreed in their favor: one-half to the intestacy of Mariano Varela and one-half to Andres Varela. It is true that the administrator, with the approval of the court, later made a sale in favor of the appellee. But it should be noted that, according to the express terms of the deed, what was sold was only the right and participation which the deceased Mariano Varela and his heir might have ("todo derecho y participation que dicho difunto y su heredero pudiera tener") in the lot in question. And to make it clear that the deceased did not own the whole lot, the description of the land as given in the deed specifically states that a part thereof is declared in his name. With the recitals in the answer filed by the administrator for this lot and the terms of the deed executed by him in favor of the appellee, the latter must or should have known that the deed did not make him sole owner of the lot in question. And yet notwithstanding that knowledge, actual or constructive, he filed a sworn claim for the whole lot and made the court believe that he was the sole owner thereof. In so doing, he must be deemed to have acted in bad faith amounting to a fraud.

In the case of Palet vs. Tejedor (55 Phil., 790) it was held that "a co-owner of land who applies for and obtains the adjudication and registration in his name of a lot which he knows has not been allotted to him in the partition, acts in bad faith, and the decree issued may be reviewed within the year following such issuance, in accordance with section 38 of Act No. 496." The appellee herein stands on no better footing than the co-owner referred to in that case, and it appearing that appellant's petition for reopening on the ground of fraud was filed before the final decree of registration was issued, we are of the opinion that the said petition should have been granted.

Wherefore, the order for the issuance of a decree and title in favor of Melecio Arceo is affirmed with respect to lot No. 13956 but revoked with respect to lot No. 14076, and as to the latter lot the case is ordered reopened and remanded to the court below for proper proceedings. With costs against the appellee.

Paras, C. J., Feria, Pablo, Bengzon, Tuason, Montemayor, Jugo and Bautista Angelo, JJ., concur.

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