

**ARSENIO DELA CRUZ, PEDRO SANGABOL AND LUCIA GUTIERREZ,
PETITIONERS, VS. POTENCIANO REANO, AND THE HON. FLORENDO
P. AQUINO, JUDGE OF THE COURT OF FIRST INSTANCE OF NUEVA
ECIJA, R...**

G.R. Nos. L-29792 and L-29866. August 31, 1970

Ponente: DIZON, J.

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DIZON, J.:

Petitioners in L-29792 are Arsenio dela Cruz, Pedro Sangabol and Lucia Gutierrez, while Francisco, Hermogenes, Celestino, Eufemia, Victoria, Felimon, Claudia, and Marcelo all surnamed Juan, are the petitioners in L-29866. Common respondents are Potenciano Reano and the Honorable Florendo P. Aquino, Judge of the Court of First Instance of Nueva Ecija. As both cases call for, and depend upon the resolution of one and the same legal question, We consider and decide them jointly.

G. R. No. L-29792

The facts involved in L-29792 are the following:

Pursuant to Homestead Patent No. V-21853 issued by the Secretary of Agriculture and Natural Resources, by authority of the President of the Philippines, on July 28, 1954, in accordance with the provisions of Commonwealth Act No. 141, Original Certificate of Title No. P-1870 was issued in the name of Simeon Gutierrez by the Office of the Register of Deeds for the Province of Nueva Ecija on August 18, 1956. It covered Lots Nos. 1, 2 and 3 of plan H-105846 (hereinafter referred to simply as Lots 1, 2 and 3) - identical in technical description and in area to Lots 1896, 1914 and 1913, respectively, of the Cadastral Survey of Sta. Rosa, Nueva Ecija (certificate issued by the Acting District Land Officer of Nueva Ecija on July 11, 1968 marked as Annex A-1 and appearing at p. 12 of the record).

In the course of time Lots 1 and 2 were acquired petitioner Arsenio dela Cruz in whose name Transfer Certificate of Title No. NT-69521 was issued. Dela Cruz also acquired Lot 3-A of subdivision plan (LRC) Psd-69137, with an area of 12,482 square meters, the same being a portion of Lot 3 (which corresponds to Lot No. 1913 of the Sta. Rosa Cadastre), Transfer Certificate of Title No. NT-70380 having been issued in his name.

On the other hand, petitioner Pedro Sangabol acquired Lot No. 3-C of the aforesaid subdivision plan (LRC) Psd 69137, the same being a portion of 30,003 sq. m. of Lot No. 3, and as a result Transfer Certificate of Title NT-69551 was issued in his name and that of his wife, Francisca del Rosario.

It further appears that by virtue of a partition agreement inscribed on June 16, 1967, Lot 3-B of same subdivision plan (LRC) Psd-69137 - the remaining portion of Lot 3 - was acquired by the other petitioner, Lucia Gutierrez, to whom Transfer Certificate of Title No. NT-70251 was issued.

On May 16, 1966 - more than ten years after issuance of Homestead Patent No. V-31853 and a little less than ten

years after the issuance of Original Certificate of Title No. P-1870 - private respondent Potenciano Reano filed in Cadastral Case No. 67 of the Court of First Instance of Nueva Ecija a verified "Petition for Continuation of Cadastral Proceedings" (Underline supplied), alleging, substantially, that he was the owner of a of land covered by Plan Psu-66102 approved by the Director of Lands on November 15, 1929, having acquired it from previous owner, Pedro Padilla, who subsequently allowed to be subdivided into 30 cadastral lots with an aggregate identical to that of the land described in the aforesaid plan; that he had sufficient evidence to prove title thereto and, on the strength of said allegations, prayed for the lifting the order of general default entered in said Cadastral Case No. 67, and that, after proper proceedings, decision be rendered adjudicating aforesaid lots in his favor.

On November 16 of the same year, Judge Serafin R. Cuevas, then presiding the lower court, rendered judgment adjudicating a number of lots in favor of Potenciano Reano, among them being Lots 1896, 1913 and 1914 of the Cadastral Survey of Sta. Rosa, Nueva Ecija. On June 6, 1968, alleging that, pursuant to said decision, the decree of registration as well as the corresponding original certificates of title No. 3187 (for Cadastral Lot No. 1896); No. 3178 (for Id. Lot No. 1913), and No. 3176 (for Id. Lot No. 1914) had been issued in his name, said respondent filed an ex-parte motion with the lower court praying for the issuance of a writ of possession directing any of the law to place him in physical possession of the covered by said titles. This petition was heard and subsequently granted ex-parte. It was only when the writ of possession issued on the 11th of the same month was served upon petitioners that they learned of the proceedings instituted by Reano and discovered that Cadastral Lots Nos. 1896, 1913 and 1914 - which were already covered by Ori-ginal Certificate of Title No. P-1870 issued since August 18, 1956 in the name of their predecessor in interest, Simeon Gutierrez - were among those adjudicated to Reano. Consequently, they filed with the lower court a verified motion to set aside the writ of possession, but the same was denied by the respondent judge in his order of October 4, 1968. Their motion for reconsideration filed thereafter having been likewise denied by His Honor in an order of October 29 of the same year, petitioners filed the present petition for certiorari praying:

"1. That a writ of certiorari be issued directing the respondent Judge Florendo Aquino to certify to this Honorable Court a transcript of the proceedings in Cadastral Case No. 67, L.R.C. Cadastral Record No. 1556, Lots Nos. 1896, 1914 and 1913, Director of Lands versus Potenciano Reano, et al., claimants;

"2. That after the corresponding hearing of the parties herein, a final judgment be entered annulling the writs of possession and the orders of October 4, 1968 and October 29, 1968;

"3. That pending the final hearing and determination of these proceedings, an order of preliminary injunction be issued directing the respondent Judge Florendo Aquino to refrain and desist, until further orders from this Court, from enforcing the writs of possession, and declaring the said orders and writs, null, and void; and,

"4. That petitioners recover their costs."

In his answer to the petition for certiorari the private respondent, after making denials of the material averments of the petition, alleged by way of affirmative defenses: that certiorari is not the proper remedy; that the decision rendered in his favor on November 16, 1966 in Cadastral Case No. 67 was based upon an in macion possessoria, a declaration of ownership, Plan Psu-66102 approved by the Director of Lands and Cadastral Survey Plan Psu-66102; that cadastral lots 1896, 1913 and 1914 were privately owned even before Original Certificate of Title No. P-1870 was issued as a result of administrative proceedings; that this being so, the Government no right to dispose of the lands covered by the same; that the writs of possession complained of were merely incidental to the execution of the final and executory judgment rendered in his favor; that the orders complained of having become executory, the same could no longer be assailed in certiorari proceedings.

G. R. No. L-29866

In connection with G. R. L-29866 it appears that, in accordance with Homestead Patent No. D-995 previously issued by the President of the Philippines under the provisions of Commonwealth Act 141, Original Certificate of Title No. P-275 was issued on July 24, 1948 in the name of Mariano Juan, covering Lot No. 1863 of the Cadastral Survey of Sta. Rosa, Nueva Ecija with an area of 83, 135 square meters. Mariano Juan died in the year 1965 and the petitioners in the case are his legitimate children.

On May 16, 1966, or eighteen years after the issuance of Original Certificate of Title No. P-275, private respondent Potenciano Reano filed a "Petition for Continuation of Cadastral Proceedings" in Cadastral Case No. 67 praying for the setting aside of the order of general default entered in said proceeding and for the registration in his name of several parcels of land situated in Sta. Rosa, Nueva Ecija, among them being Lot No. 1863 of the Cadastral Survey of said municipality. On November 16 of the same year the Court of First Instance of Nueva Ecija, acting as a cadastral court, rendered a decision adjudicating to respondent Reano the lots included in his application, including Lot No. 1863. Subsequently, alleging that the decision rendered in favor had become executory and that Original Certificate of Title No. 0-3176 covering Lot 1863 had been issued in his name, Reano filed an ex-parte motion for the issuance of a writ of possession directing any peace officer to place him in possession of several lots, among them the aforesaid Lot No. 1863. After an ex-parte hearing, respondent judge granted said motion.

On July 3, 1968, having become aware of the situation above described, petitioners filed a motion praying for setting aside of the order for the issuance of the writ of possession mentioned above, but the respondent judge denied it on October 4 of the same year. Then on October 11 petitioners filed another motion for reconsideration alleging that the title issued in favor of private respondent Reano was null and void and, therefore, should be cancelled, of that the writ of possession mentioned heretofore should likewise set aside, but this motion met the same fate by order of the respondent judge of October 29, 1968. Thereafter the Juans filed the Petition for Certiorari (L-29866) now before Us. The answer thereto filed by the private respondent alleges substantially the same defenses inter posed in his answer in L-29792.

The following are, We believe, pertinent and relevant considerations in deciding the two cases before Us.

(1) Pursuant to Homestead Patent No. V-31853 granted on July 28, 1954, Original Certificate of Title No. P-1870 was issued in the name of Simeon Gutierrez on August 18, 1956, the same covering Lots Nos. 1, 2 and 3 of Plan H-105846 which, beyond question, correspond to Lots 1896, 1914 and 1913 of the Cadastral Survey of Sta. Rosa, Nueva Ecija, respectively.

As official duty is presumed to have been duly performed and the Homestead Patent and Original Certificate of Title abovementioned are entitled to full credit in the absence of clear proof that they were issued illegally or through fraud, it can be safely said that prior to the issuance of the aforesaid Homestead Patent, Simeon Gutierrez had filed the corresponding homestead application; that, after the necessary survey had been made and proper notice was served, the required investigation was conducted by the State; that applicant Gutierrez was found to have been in possession of the property applied for and to have made thereon the required cultivation. That Gutierrez had really been in possession of said land from the time of the filing of his homestead application, and that his successors in interest had continued such possession and are still enjoying the same, is further demonstrated by these facts: firstly, respondent Reano had to file a petition for the issuance of a writ of possession to oust them and, in turn, to obtain possession of Lots 1896, 1940 and 1913; secondly, on May 16, 1966, Reano filed in Cadastral Case No. 67 a "Petition for Continuation of Cadastral Proceedings" and for the setting aside of the order of general default already entered therein; all of which necessarily means that Pedro Padilla, his alleged predecessor in interest, had not claimed Lots 1914 and 1913 when the proceedings were started.

(2) It was only on May 16, 1966 or more than ten years after the issuance of the Homestead Patent in favor of Simeon Gutierrez, and nearly ten years after the issuance of Original Certificate of Title No. P-1870 that private respondent Reano filed a petition to register in his name the same cadastral lots.

(3) In the case of G. R. L-29866, Homestead Patent No. D-995 and Original Certificate of Title No. P-275 - both covering Lot No. 1863 of the Cadastral Survey of Sta. Rosa, Nueva Ecija - were issued on the same date - July 24, 1948 - in the name of Mariano Juan.

As in the case of the lots involved in L-29792, it must likewise be presumed that prior to July 24, 1948 Mariano Juan had been in possession of and had been cultivating Lot 1863, and that it was only after adequate investigations had been made by the Bureau of Lands that the Homestead Patent in his favor was issued.

It was only on May 16, 1966, or eighteen full years after the issuance of the Homestead Patent and Original Certificate of Title already mentioned, that Reano filed a petition for the continuation of the proper cadastral proceedings so that he could claim several lots, among them Lot 1863 of the Cadastral Survey of Sta. Rosa, Nueva Ecija.

Further proof of the fact that Mariano Juan and, after his death, his heirs have been and still are in possession of Lot 1863 is the fact that Reano's alleged pre-decessor in interest did not file his answer or claim to Lot 1863 at the start of the cadastral proceedings and was therefore included in the order of general default issued therein, and he (Reano) had to file on June 6, 1968 an ex-parte motion for the issuance of a writ of possession under which he could eject the Juans from Lot 1863 and, in turn obtain possession thereof.

The issue arising from the above facts may be briefly stated as follows:

May a parcel of land already titled for more than ten years in the name of a party by virtue of a Homestead Patent issued by the Government in the ordinary course of administrative proceedings, be registered again in the name of another party as a result of subsequent cadastral proceedings?

The answer, We believe, must be in the negative.

In *Manalo vs. Lukban, et al.*, Vol. 48, Phil. p. 973, We held that land granted by the Government to a private individual who applied for it as a homestead, is considered no longer registerable within the meaning of the Land Registration Act after the issuance of the homestead patent and the original certificate of title issued in accordance therewith.

In *Pamintuan vs. San Agustin et al.*, 43 Phil. 558, well as in *El Hogar Filipino vs. Olviga*, 60 Phil. p. 17, We likewise held that in a cadastral proceeding the Court has no jurisdiction to decree again the registration of land already decreed and registered in an earlier registration case, and that the second decree entered for the same land is null and void.

Moreover, considering that the petitioners in both cases before Us and their predecessors had been in possession of the land, first as homesteaders and later, as absolute owners, for more than ten years before respondent Reano filed his application for registration; that, as a result of the proceedings had in connection with their Homestead application, the homestead patent original certificates of title mentioned heretofore were issued in their name, no further argument is needed to that said petitioners and their predecessors had acquire title to the land by prescription.

It being clear from the foregoing that the registration decreed in the name of private respondent Reano of Lots 1896, 1914, 1913 and 1863 of the Cadastral Survey of Sta. Rosa, Nueva Ecija is null and void, the certificate of title covering the same issued in his name must also be deemed null and void. From this the inevitable conclusion

is that he had no right to the issuance of the writs of possession complained of.

Respondent Reano contends, however, that certiorari is not the proper remedy available to the petitioners the two cases before Us. This We find to be untenable is view of the fact that, as shown in the foregoing discussion the judgment rendered in his favor, the decree of registration entered and the certificates of title issued in name covering the properties in question were all void, other contention that the titles he had secured were base on an Informacion Possessoria does not change the situation in his favor because the issuance of one such instrument does not, by itself alone, actually remove the land to which it refers from the public domain.

WHEREFORE, the writs of certiorari prayed for in the above-entitled cases are granted and, as a consequence, the writs of possession issued by the respondent judge Cadastral Case No. 67, GLRO Record No. 1556 in relation to Lots Nos. 1896, 1914, 1913 and 1863 of the Cadastral of Sta. Rosa, Nueva Ecija, are hereby set aside and rendered of no legal effect whatsoever. With costs again the private respondent.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Ruiz Castro, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

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