

ROMANA MANILA, ET AL., APPLICANTS-APPELLEES, VS. JUSTINA ABILA, ET AL., OPPOSITORS-APPELLANTS.*G.R. No. L-26781. February 28, 1977*

Ponente: FERNANDO, J.

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A perusal of the records of this case will readily show the futility of the appeal from an order of the lower court denying a motion to set aside a decree of registration and to reopen the land registration proceedings. The judgment of the trial court in favor of the applicants ordered that Lot No. 1 be registered in the names of Ramon M. Morco, married to Felicidad B. Morato and Rogelio M. Morco, married to Pelagia Marquez, both of Camalig, Albay in equal shares, and Lot No. 2, in the name of Ignacia Manila, married to Domingo Ortega, also of Camalig, Albay. It dismissed the opposition of the oppositors, now appellants. Such decision became final and executory, no appeal having been interposed therefrom within the reglementary period. As a result, the issuance of the decree of registration was ordered. The Land Registration Commission then issued Original Certificate of Title No. 0-312, covering Lot No. 1 in favor of Ramon M. Morco and Rogelio M. Morco and Original Certificate No. 0-313, covering Lot No. 2 to Ignacia Manila. In the meanwhile, the oppositors filed a petition to set aside the decision rendered and the decree issued. It sought to nullify such original certificates of title and to reopen the proceedings. The response of the trial court was in the negative. It denied the petition on the ground that there was no showing of fraud.

It is this order that is now assailed in this Court "as contrary to law and the facts." As set forth at the outset, the effort to do so is singularly lacking in merit. The lower court acted correctly.

The law is definitely on the side of the applicants, now appellees. It is provided in Section 38 of the Land Registration Act that a decree of registration may be reopened and thereafter set aside on the ground of fraud.[1] In two decisions, *Frias v. Esquivel*[2] and *Baldoz v. Papa*,[3] there is a reiteration of the doctrine in accordance with the above provision that the final decree of registration issued in accordance with law is reviewable within one year and upon the ground of fraud. As was emphasized by Justice Dizon, the ponente in both cases, fraud is present when a party is deprived of his day in court, thus preventing him from asserting his right to the property registered in the name of applicants. That is a doctrine that goes back to *Grey Alba v. De la Cruz*,[4] a 1910 decision, which identified fraud with the "intention to deprive another of [his] just rights"[5] sufficing to constitute its "essential characteristic * * *".[6] The *Grey Alba* decision was repeatedly cited with approval in subsequent cases.[7] The latest case in point reaffirming such a doctrine is *Minlay v. Sandoval*,[8] decided in 1973. For the law cannot look with approval on a claimant not being accorded the right to be heard, unless, of course, such opportunity was lost through his own fault. That would not be in consonance with the dictates of procedural due process.

All that is necessary to show that there is no fraud is to state the findings of fact of the lower court as set forth in the decision which had become final and executory. Thus: "On the basis of the evidence presented, the Court finds the opposition of the Abilas not well taken. It appears that the late Carlos Abila executed an

acknowledgment on June 1, 1929 that the land he was occupying located in the sitio of Bariw, barrio of Buga, municipality of Libon, Albay belonged to the late Jacinto Manila who is the father of the applicants. The oppositors have not explained why their father Carlos Abila executed the acknowledgment if in truth and in fact, he possessed the land in the concept of an owner. In Exhibit 4 that was executed by the late Jacinta Siat, she said that the land she was occupying which has an area of 2 hectares more or less, is located in sitio Balatigno, barrio of Buga, municipality of Libon, Albay. This exhibit shows that the predecessors-in-interest of the oppositors have occupied a land different from the land sought to be registered. In fact, the tax declaration of the parcels of land in the names of the heirs of Benita Sayson and the heirs of Faustina Sayson show that the land of Benita Sayson and Faustina Sayson who are the daughters of Jacinta Siat are located in sitio Balatigno, barrio of Buga, municipality of Libon, Albay." [9] Then came this portion: "It appearing that the possession of the applicants of the land sought to be registered dated more than 30 years preceding the filing of the application and that said possession has been continuous, public and in the concept of an owner, the applicants are entitled to have their title to the land confirmed pursuant to the provisions of paragraph b of Section 48 of Commonwealth Act No. 141, known as the Public Land Law as amended by Republic Act No. 1942." [10]

WHEREFORE, the order appealed from is affirmed. Costs against oppositors-appellants.

Barredo, Antonio, Aquino, and Concepcion, Jr., JJ., concur.

[1] Act No. 496 (1902). Said Section 38 reads thus: "If the court, after hearing finds that the applicant or adverse claimant has title as stated in his application or adverse claim and proper for registration, a decree of confirmation and registration shall be entered. Every decree of registration shall bind the land and quiet title thereto, subject only to the exceptions stated in the following section. It shall be conclusive upon and against all persons, including the Insular Government and all the branches thereof, whether mentioned by name in the application, notice, or citation, or included in the general description 'To all whom it may concern.' Such decree shall not be opened by reason of the absence, infancy, or other disability of any person affected thereby, nor by any proceeding in any court for reversing judgments or decree; subject, however, to the right of any person deprived of land or of any estate or interest therein by decree of registration obtained by fraud to file in the competent Court of First Instance a petition for review within one year after entry of the decree provided no innocent purchaser for value has acquired an interest."

[2] 115 Phil. 755 (1962).

[3] L-18150, July 30, 1965, 14 SCRA 691.

[4] 17 Phil. 49.

[5] Ibid, 57.

[6] Ibid.

[7] Cf. Roxas v. Enriquez, 29 Phil. 31 (1914); Legarda v. Saleeby, 31 Phil. 590 (1915); Roman Catholic Archbishop of Manila v. Ruiz, 36 Phil. 279 (1917); De los Reyes v. Razon, 38 Phil. 480 (1918); Aquino v. Director of Lands, 39 Phil. 850 (1919); The Government of the Philippine Islands v. Abural, 39 Phil. 996 (1919); Sepagan v. Dacillo, 63 Phil. 412 (1936); Soroñgon Makalintal, 80 Phil. 259 (1948); Sandejas v. Robles, 81 Phil. 421 (1948); Ang Lam v. Rosillosa, 86 Phil. 447 (1950); Alcantara v. Tuazon, 92 Phil. 796 (1953).

[8] L-28901, September 4, 1973, 53 SCRA 1.

[9] Decision, Record on Appeal, 7-8.

[10] Ibid, 8. As to the finality to be accorded the findings of fact, considering the state of the record and the nature of this appeal, reference may be made to *Perez v. Araneta*, L-18414, July 15, 1968, 24 SCRA 43, *Flores v. Flores*, L-28930, Aug. 17, 1973, 52 SCRA 293; *Encipares v. Catighod*, L-29764, Nov. 29, 1973, 54 SCRA 140; *City of Zamboanga v. Alvarez*, L-20400, Nov. 28, 1975, 68 SCRA 142; *Demasiado v. Velasco*, L-27884, May 10, 1976, 71, SCRA 105; *Republic v. Reyes*, L-35545, June 18, 1976, 71 SCRA 426.

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