

THE REGISTER OF DEEDS, PASIG, RIZAL, PETITIONER AND APPELLEE, VS. HEIRS OF HI CAIJI AND ELISEO YMZON, OPPOSITORS AND APPELLANTS.

G.R. No. L-7261. May 11, 1956

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

This is an appeal from an order of the fourth branch of the Court of First Instance of Manila in the following consulta", or query, submitted by the Register of Deeds of Rizal:

"On December 18, 1951, Atty. Fortunato G. Ignacio, R-415 Dona Mercedes Bldg., Plaza Miranda, Manila, presented in this office for registration a deed of sale executed by Catalino Milan in favor of Enrique C. Lopez et al., covering a certain parcel of land situated in Caloocan, Rizal, covered by transfer certificate of title No. 12629 in the name of said Catalino Milan. A true copy of said deed of sale is herewith attached as Exhibit 'A'.

"Much earlier, that is on April 4, 1949, Nelly Ymzon Ricaza, 1487 Int. 1-B, San Andres, Manila, presented in this Office for registration two orders of the Court of First Instance of Rizal (Caloocan Branch) in which the Register of Deeds of Rizal was ordered to cancel transfer certificate of title No. 64681, in the name of Eliseo Ymzon (issued by the Register of Deeds of Manila during the Japanese occupation) and to issue in lieu thereof a new certificate of title in the name of Hi Caiji, 9/10, and the heirs of Eliseo Ymzon, 1/10, and to annotate in the new title an interest in the property of Nelly Ymzon, in the amount of P5,000. True copies of the orders are herewith attached as Exhibits 'B' and 'C'. These orders were denied registration because the original transfer certificate of title No. 64681 could not be found in the office of the Register of Deeds of Manila and the owner's duplicate also was not presented to this office.

"The property covered by transfer certificate of title No. 12629 in the name of Catalino Milan and that covered by transfer certificate of title No. 64681, in the name of Eliseo Ymzon, (the latter title as mentioned in the order's of the Court of First Instance of Rizal [Caloocan Branch]) is the same and identical parcel of land. The said two titles both came from transfer certificate of title No. 21860—transfer certificate of title No. 64681 having been issued by the Register of Deeds of Manila during the Japanese occupation and transfer certificate of title No. 12629 having been issued by the Register of Deeds of Rizal after liberation from the judicially reconstituted transfer certificate' of title No. 21860.

"Now, my doubt is whether I should disregard the two orders of the Court of First Instance of Rizal (Caloocan Branch) with regard to the existence of transfer certificate of title No. 6468V in the name of Eliseo Ymzon, and proceed with the registration of the deed of sale executed by Catalino Milan in favor of Enrique C. Lopez et al., or whether I should deny registration of the said deed of sale executed by Catalino Milan in favor of Enrique C. Lopez et al., and wait until transfer certificate of title No. 64681 has been cancelled by a competent court."

The heirs of Hi Caiji and Eliseo Ymzon objected to the registration of the aforementioned deed of sale, executed by Catalino Milan in favor of Enrique Lopez, on December 17, 1951, upon the ground that said reconstitution of transfer certificate of title No. 21860—which paved the way to the issuance of transfer certificate of title No. 12629

in the name of Catalino Milan—had been "secured fraudulently and thru false representations" and "is null and void for lack of the notice required by law" (Record on Appeal, pp. 32-42). Passing upon the issues thus raised, the Court of First Instance of Manila issued, on February 2, 1952, the following order.

"It appearing from the 'Consulta' of the Register of Deeds of Rizal as well as in the memoranda presented by the parties that the matter in dispute refers to the validity and legality of the issuance of a new title in the name of Catalino Milan by virtue of the orders of the Court of First Instance of Rizal dated June 11, and August 14, 1951; it appearing furthermore that the said orders have been issued by a competent court of equal, if not superior, and coordinate jurisdiction with this court, which orders have become final and have been executed, and it appearing lastly that the oppositor has an adequate and proper remedy by instituting a separate and independent action, the said 'Consulta' is hereby decided in the sense that the Register of Deeds may give due course to the deed of sale executed by the registered owner in whose name a transfer certificate of title has been issued, provided that all legal formalities with respect thereto have been complied with, and the present order has become final."

On motion of Catalino Milan, this order was implemented by smother of February 15, 1952, the pertinent part of which states:

"Considering the fact that the Register of Deeds of Rizal does not intend to appeal from the order of this court dated February 2, 1952, and that the other parties did not appear to oppose the petition in spite of the fact that they have been furnished with copies of the, petition and notified of its hearing and considering further that the rights of said other parties shall not be prejudiced in the event that the said order be enforced immediately insofar as their right to institute a separate and independent action is safeguarded in that order, the Register of Deeds of Rizal is hereby, instructed to give immediate course to the deed of sale presented by the said petitioner, provided all the conditions mentioned in the, previous order have been duly complied with and that the property covered by the new title will not be disposed of until the finality of the above-mentioned order dated February 2, 1952, this condition to be annotated on the title."

The heirs of Hi 'Caiji and those of Eliseo Ymzon have appealed from these orders, and their counsel now asserts, in his belief, that

"The lower court erred in issuing its orders of February 2 and 15, 1952 and thus ordering the registration of the deed of sale presented by Enrique Lopez et al. even under the conditions stated in the order of February 15, 1952."

In support of this lone assignment of error, appellants maintain that the order of the Court of First Instance of Rizal, dated February 1, 1949, the dispositive part of which reads:

"Wherefore, the court approves the petition for reconstitution and orders the Register of Deeds of Rizal to reconstitute the original of transfer certificate of the title No. 21860 on the basis of the description and other data appearing on T.C.T. No. 21013, with the reservation that said certificate of title as reconstituted is without prejudice to any claim of any party whose right or interest in the property was duly noted in the original at the time it was lost or destroyed, but entry or notation of which has not been made on the reconstituted title. The corresponding owner's duplicate of the reconstituted certificate shall be issued in favor of the registered owner. The lost original and owner's duplicate of the title in question are hereby declared cancelled and null and void."

is null and void, it having been issued without complying with section 13 of Republic Act No. 26, which provides:

"The court shall cause a notice of the petition, filed under the preceding section, to be published, at the expense of the petitioner twice in successive issues of the Official Gazette, and to be posted on the main entrance of the provincial building and of the municipal building of the municipality or city in which the land is situated, at least thirty days prior to the date of hearing. The court shall likewise cause a copy of the notice to be sent, by registered mail or otherwise, at the expense of the petitioner, to every person named therein whose address is

known, at least thirty days prior to the date of hearing. Said notice shall state among other things, the number of the lost or destroyed certificate of title, if known, the name of the registered owner, the names of the occupants or persons in possession of the property, the owners of the adjoining properties and all other interested parties, the location, area and boundaries of the property, and the date on which all persons having any interest therein must appear and file their claim or objection to the petition. The petitioner shall, at the hearing, submit proof of the publication, posting and service of the notice as directed by the court."

Appellants alleged, relying upon a certification of a deputy clerk of the Court of First Instance of Rizal, that the hearing of Milan's petition for reconstitution, which led to the issuance of said order of February 1, 1949, "was held without notice thereof having been made by either publication or otherwise, except by personal notice to the Register of Deeds of Rizal." (Record on Appeal, p. 39.)

It should be noted, however, that this is not an "action" in the sense of "an ordinary suit in a court of justice, by which one party prosecutes another for the enforcement or protection of a right, or the prevention or redress of a wrong as the expression is defined in the Rules of Court (Bule 2, Section 1). Neither is this a special proceeding, for we are not concerned with the grant of any "remedy" or relief (do. do.; Rule 73). All we have before us is a consultation of the Register of Deeds for the Province of Rizal—pursuant to section 200 of the Revised Administrative Code—who is "in doubt" on the question:

"Is the deed of sale executed by Catalino Milan in favor of Enrique C. Lopez et al. registerable, under the circumstances?"

In other words, said officer wants to know whether it is proper for him—in the performance of his official duties—to register said deed of sale. In deciding such question, the Court must place itself in the position of the Register of Deeds of Rizal, whose functions (under the Torrens system) are generally regarded as ministerial only (sections 193 to 198, Revised Administrative Code; Land Titles and Deeds,, by A. Noblejas, [1953 ed.], pp. 155-156). Obviously, said officer has no power to pass upon the legality of an order issued by a court of justice, much less of a Judge of First Instance, for registers of deeds are, "for administrative purposes, * * * under the General Land Registration Office" (section 192[a], Revised Administrative Code), the head of which is "deemed to be clerk of the fourth branch of the Court of First Instance of the Sixth Judicial District (City of Manila) in the exercise of the functions conferred upon said branch or the judge thereof in matters relating to the registration of land," as well as "chief clerk of all Courts of First Instance, save in the Sixth Judicial District (City of Manila) insofar as it concerns the discharge of functions conferred by law upon such courts of judges thereof on matters relating to the registration of land * * * (section 176, Revised Administrative Code). In other ,Fprd& the Register of Deeds of Rizal is subordinate to an official, who, in turn, is subordinate to the Judges of First Instance of Rizal.

Said lack of authority becomes more apparent when we consider that the Court of First Instance of Rizal was* admittedly, competent to entertain the petition for reconstitution above referred to, the only question nbw raised being the regularity of the proceedings in connection therewith and the effect of the irregularity allegedly committed therein upon the validity of the order of February 1, 1949. The determination of such issue demands the exercise of judicial power in an ordinary "action". It is beyond the scope of our jurisdiction in dealing with the consultation submitted by the Register of Deeds of Rizal, who thereby seeks advice on how he, as an officer of the Court, shall discharge his administrative or executive duties in relation to the deed of sale in question.

Wherefore, without prejudice to such proceedings as may be proper and to such measures as appellants herein may deem fit to take in order to protect, in the meantime, their alleged rights, the orders appealed from are hereby affirmed, with the costs of this instance against said appellants. It is so ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador, Reyes, J. B. L., and Endencia, JJ., concur.

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