

AMADO CAYANAN, ET AL., PETITIONERS-APPELLANTS, VS. LEON DE LOS SANTOS AND FELIX L. CAMAYA, RESPONDENTS-APPELLEES.

G.R. No. L-21150. December 26, 1967

Ponente: FERNANDO, J.

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FERNANDO, J.:

The question decisive of this appeal is whether or not in a petition for the review of a decree filed within the one-year period on the ground of actual fraud, the cadastral court acting as such could likewise inquire into an allegation that the lot subject of the decree was transferred in a simulated sale intended to avoid such a review. We hold that it can and accordingly reverse the appealed order of February 9, 1959.

The relevant facts follow: On May 30, 1958, the title of appellee De los Santos to Lot No. 56 of the Porac Cadastre was confirmed by the Hon. Arsenio Santos, then Judge of the Court of First Instance of Pampanga.[1] On December 16, 1958, a petition for review was filed in the same proceeding alleging that the said lot was registered in the name of appellee De los Santos "through actual fraud, through deceit and through intentional omission of facts" as a result of which the afore-said decision was rendered and a decree of registration obtained on August 8, 1958. Moreover, it was stated further that a simulated Deed of Absolute Sale was executed in favor of the other respondent, appellee Felix L. Camaya, on October 26, 1958, covering the said lot. The prayer was for the opening of the decree of registration, the cancellation of the Original Certificate of Title, as well as the Transfer Certificate of Title and the adjudication of said lot in favor of petitioners, now appellant Cayanan and others.[2]

This petition was denied in the order of February 9, 1959, which is on appeal. It was the view of the lower court: "Such being the case, as admitted by the petitioners, even [if] the petition has been filed within one (1) year after entry of final decree, the same cannot be favorably acted upon for the reason that the questioned lot has already been transferred to Felix L. [Camaya] in accordance with section 38 of the Land Registration Act. While it is true that the petition states that such transfer is fictitious and, therefore, not for value and that Felix L. [Camaya] is not an innocent purchaser, this question can be properly threshed out in an ordinary civil action and not in a simple petition, like the one at bar." [3]

The dispositive part of such order read: "* * * the court hereby overrules the petitioners' petition dated December 16, 1958, without prejudice to the filing of an ordinary civil action by them. With this order, their omnibus motion dated January 14, 1959 becomes academic." [4]

As stated at the outset, it was error for the lower court to deny the above petition and to require the filing of ordinary civil action by petitioners-appellants in order to test the validity of such transfer to one allegedly not an innocent purchaser for value.

That such should not be the case is the intimation that the cases yield from *Guzman v. Ortiz*, [5] promulgated in 1909, the opinion being penned by the then Chief Justice Arellano. A more explicit pronouncement is supplied by *Director of Lands v. Busuego*, [6] a 1964 decision. There this Court, through Justice Barrera, stated that there was

no dispute that within the one-year period, the petitioners in that case alleged that the person obtained the decree through actual fraud and misinterpretation. The only question then, according to Justice Barrera, was "which court should take cognizance of the proceeding, the cadastral court that had issued the decree or the competent Court of First Instance in the exercise of its general jurisdiction."

This was the answer: "It may be stated that we find no case squarely ruling on this particular point. The mere mention by the law that the relief afforded by Section 38 of Act 496 may be sought in 'the competent Court of First Instance' is no sufficient indication that the petition must be filed in the Court of First Instance, exercising its general jurisdiction, considering the fact that it is also the Court of First Instance that acts on land registration cases. Upon the other hand, it has been held that the adjudication of land in a registration or cadastral case does not become final and incontrovertible until the expiration of one year from entry of the final decree, and that as long as the final decree is not issued and the period of one year within which it may be reviewed has not elapsed, the decision remains under the control and sound discretion of the court rendering the decree, which court after hearing, may even set aside said decision or decree and adjudicate the land to another."

Then came the concluding portion of the opinion: "In the present case, as the petitions were filed within one year from the date of the issuance of the decree, pursuant to Section 38 of Act 496, the same are properly cognizable by the court that rendered the decision and granted the said decree."

As a matter of fact, even earlier, in a 1959 decision, *Santos v. Ichon*,^[7] this Court through Justice J. B. L. Reyes, stated: "It is true that under previous rulings of this court, appellee could have moved for the reopening of the case in the cadastral court so that he could be given an opportunity to prove his right to the land in question and get a decree in his favor, since the adjudication of land in a registration or cadastral case does not become final and incontrovertible until the expiration of one year after the entry of the final decree, and until then the court rendering the decree may, after hearing, set aside the decision or decree and adjudicate the land to another person * * *."

In support of the above doctrine the opinion cited, *Afalla v. Rosauro*,^[8] where it was held: "As long as the final decree is not issued by the Chief of the General Land Registration Office in accordance with the law, and the period of one year fixed for the review thereof has not elapsed, the title is not finally adjudicated and the decision therein rendered continues to be under the control and sound discretion of the court rendering it." *Valmonte v. Nable*^[9] was likewise referred to. In the language of that decision: "It should be borne in mind that the adjudication of land in a registration or cadastral case does not become final and incontrovertible until the expiration of one year after the entry of the final decree. Within this period of one year the decree may be reopened on the ground of fraud and the decree may be set aside and the land adjudicated to another party. As long as the final decree is not issued and the period of one year within which it may be reviewed has not elapsed, the decision remains under the control and sound discretion of the court rendering it."

Then mention was made of *Capio v. Capio*,^[10] the ruling being to the effect "that the adjudication of land in a registration or cadastral case does not become final and incontrovertible until the expiration of one year after the entry of the final decree; that as long as the final decree is not issued and the period of one year within which it may be reviewed has not elapsed, the decision remains under the control and sound discretion of the court rendering the decree, which court after hearing, may set aside the decision or decree and adjudicate the land to another party."

WHEREFORE, the order of February 9, 1959 is set aside and the case remanded to the Court of First Instance of Pampanga for a hearing on the merits of the petition of appellants for the reopening of the decree of registration in favor of appellee Leon de los Santos. With costs against appellees.

Concepcion, C.J., Reyes, JBL, Dizon, Makalintal, Bengzon, Zaldivar, Sanchez, Ruiz Castro, and Angeles, JJ., concur.

[1] Decision, Record on Appeal, pp. 32-34.

[2] Petition for Review, Record on Appeal, pp. 34-44.

[3] Order, Record on Appeal, p. 104.

[4] Order, Record on Appeal, p. 104.

[5] 12 Phil. 701.

[6] L-19090.

[7] 95 Phil. 677, 681 (1954).

[8] 60 Phil. 622, 624-625 (1934).

[9] 85 Phil. 256, 259-260 (1949).

[10] 94 Phil. 113, 116 (1953).

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