

THE DIRECTOR OF LANDS, PETITIONER, VS. ESTEBAN ABAD, CLAIMANTS. BEATRIZ CASTAÑEDA, CLAIMANT, RESPONDENT AND APPELLEE, VS. LEONOR CASTILLO, THRU HER GUARDIAN TOMAS MANUEL, CLAIMA...

G.R. No. L-18372. November 29, 1962

Ponente: BARRERA, J.

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BARRERA, J.:

This is an appeal taken by appellant Leonor Castillo (thru her guardian Tomas Manuel) from the order of the Court of First Instance of Zambales (in Cad. Case No. 12, LRC. Cad. Rec. No. 377) adjudicating to appellee Beatriz Castañeda Lots Nos. 9102 and 9103 of the San Narciso (Zambales) Cadastre.

The records disclosed that when Lots Nos. 9102 and 9103 of the San Narciso (Zambales) Cadastre were called for hearing on June 12, 1956, only claimant-appellee Beatriz Castañeda appeared, and so, an order of general default was entered by the court against the whole world and, thereafter, said claimant presented evidence in support of her claim of possession and ownership of said two lots.

On the following day (June 13), an answer was filed by Tomas Manuel, on behalf of minor Leonor Castillo, his grand-daughter, who also claimed ownership and possession of said lots.

On June 24, 1956, said Tomas Manuel, alleging to be the legal guardian of minor Castillo, thru counsel, filed a "motion to set aside the hearing made on June 12, 1956, or the order, if already issued, on Lots Nos. 9102 and 9103", alleging that claimant Beatriz Castañeda misrepresented that the two lots were in her possession although she fully knew that they were in the possession of claimant Leonor Castillo; that claimant Castañeda fully knew that said lots were sold by Maria Fontillas to Visitacion Aglibot, who in turn sold them to Castillo's mother; that on the morning of June 12, 1956, claimant Castañeda with Tomas Manuel were in the office of counsel (for Castillo) and were shown the deed of sale to the lots in favor of Castillo's mother; that claimant Castillo had been in possession of said lots since 1936 to the present continuously, peacefully, publicly, and with claim of ownership by Castillo's mother as well as hers; and that "the testimonies of claimant Castañeda and those of her witnesses were false and were misrepresentation of facts, coupled with fraud", so that the hearing on June 12, 1956 should be declared null and void and should be set aside.

Obviously acting on this petition, the trial court, on September 28, 1956, admitted the answer of Castillo and declared the two lots contested, in an order of this tenor:

"ORDER

"There being an opposition filed by LEONOR MANUEL CASTILLO, thru her legal guardian, TOMAS MANUEL, on Lots Nos. 9102 and 9103; claimed by BEATRIZ CASTAÑEDA. Let this two lots be declared contested.

"SO ORDERED."

Subsequently, on October 9, 1956, appellee Castañeda herself, in view of the preceding order of the court, filed a motion to set the case for hearing, which reads:

"1. That the above-stated two lots have been declared as contested, pursuant to an order of this Court dated September 28, 1956.

"2. That in order that title to the above-stated properties may be settled, decided and adjudicated to the lawful, legal and rightful claimant, said petitioner-claimant, likewise, claiming to own and possess the above-stated lots, a hearing be had in order not to delay the disposition of this case.

"3. That claimant Beatriz Castañeda, therefore, petitions this Honorable Court that a hearing be conducted by this Honorable Court."

For certain reasons, however, the case was not set for hearing. So, appellee Castañeda, on October 19, again filed a motion (the second) to set the case for hearing. The records do not show what action was taken by the court on this motion.

On December 10, 1956, appellee Castañeda reversing her former stand, filed a motion to dismiss the opposition (answer) of Tomas Manuel in representation of appellant Castillo, on the grounds, that Leonor Castillo is a minor; and that Tomas Manuel is not her guardian and, therefore, he has no personality or standing in court. On December 16, appellant Castillo, thru counsel, filed an opposition to said motion to dismiss, alleging that Tomas Manuel is her maternal grandfather; that an order of guardianship over her properties in San Marcelino, Zambales, was issued by the Court of First Instance of La Union; that there is, however, none on file in the clerk of court's office in La Union of Tomas Manuel's appointment as guardian of said properties, so that no copy thereof can be presented in court. Appellant, therefore prayed that Tomas Manuel be appointed as her guardian ad-litem, to represent her in the present cadastral case and that an appointment as guardian ad-litem be issued to said Tomas Manuel, so he could qualify.

On September 12, 1957, appellee Castañeda filed a supplemental motion to her motion to dismiss (of December 10, 1956) alleging as additional ground for the dismissal of Castillo's claim that said claim (or opposition) cannot prosper at all, because the same is not verified as required under Section 9 of Act No. 2259 (Cadastral Law) and is also not accompanied with affidavits of merits as provided in Rule 38 of the Rules of Court.

On October 15, 1957, the trial court issued the order adverted to at the beginning of this opinion, which partly reads:

"It is observed from the records of this case the following: (1) that no adjudication yet has been made by this Court in favor of claimant Beatriz Castañeda, with respect to said Lots Nos. 9102 and 9103; (2) that the answer filed by Tomas Manuel on behalf of minor Leonor Castillo was made after the hearing of said two lots, during which, evidence was presented by claimant Beatriz Castañeda in support of her claim; (3) that before the hearing, an order of general default was entered and the same has never been lifted because Tomas Manuel, alleged legal guardian of minor Leonor Castillo, or his counsel, has never petitioned to the court to that effect, if he believed that there was meritorious ground to do so, and due to failure, the case could not be reopened for hearing; (4) that the motion dated June 24, 1956, of Tomas Manuel, on behalf of said minor Leonor Castillo, through counsel, is not verified or under oath, as provided in Section 9 of Act No. 2259 and in Rule 38 of the Rules of Court; and (5) that Tomas Manuel or his counsel, in spite of the lapse of more than sufficient time, has not taken up to the present the necessary step to comply with the said requirements of law and court rules, knowing very well as they do, that this case cannot be pending indefinitely for hearing in the court.

"IN VIEW OF ALL THE FOREGOING, it is the considered opinion of the court, that the said motion dated June 24, 1956, of Tomas Manuel, alleged legal guardian of minor Leonor Castillo, through counsel, should be, as it is hereby, denied and, considering the evidence submitted by claimant Beatriz Castañeda in the hearing,

Lots Nos. 9102 and 9103 of the San Narciso (Zambales) Cadastre, should be, as it is hereby ordered adjudicated in favor of Beatriz Castañeda, of legal age, Filipino citizen, married to Exequiel Nodo, and residing at 1140 Mabini St., Malate, Manila, as her paraphernal property.

SO ORDERED.

Her motion for reconsideration of said order having been denied, appellant Leonor Castillo brought to us this appeal.

The appeal is well-taken. It is not disputed that on June 13, 1956, the day following the issuance of the order of general default and the reception of appellee Castañeda's evidence as to her ownership of the lots in question, appellant Castillo (thru her maternal grandfather and natural guardian Tomas Manuel) did file an answer duly verified by the trial judge. On June 24, 1956, appellant Castillo (thru her said guardian) did, likewise, file a motion to set aside the hearing made on June 12, 1956 (reception of Castañeda's evidence) or the order, if already issued, on said lots. Acting on said answer and motion filed by appellant the trial court, on September 28, 1956, issued an order declaring the lots contested. The legal effect of this order is the setting aside of the previous order of default insofar as appellant Castillo is concerned and the consequent admission of her answer claiming the lots in question and the recognition of her standing in court. Appellee Castañeda not only did not contest this order but expressly accepted it by submitting, in consequence thereof, two motions (on October 9 and 19, 1956) asking the court to set the case for hearing anew. Subsequently the two lots were set for hearing on October 22 and November 8, 1956, with notice to both Castañeda and Castillo. It does not appear from the records that any actual hearing took place on these dates or on any subsequent date.

Under the circumstances, the action of the lower court in entering its order of October 15, 1956 appealed from, adjudicating the contested lots to appellee Castañeda without any further hearing and without giving appellant Castillo an opportunity to be heard and present her evidence in support of her claim constitutes a reversible error as it, in effect, set aside its own order of September 28, 1956 (already final and acquiesced by the parties) which, as stated, amounted to a partial lifting of the order of default, the admission of the appellants' answer and recognition of her standing in court.

On the whole, we believe that the interest of justice will be subserved if this case is remanded to the court a quo for further proceedings, giving appellant Castillo the opportunity to present her evidence of alleged ownership of the lots in question.

Wherefore, the order appealed from is set aside, and the case is hereby ordered remanded to the court a quo for further proceedings, consistent with this decision. Costs against appellee Beatriz Castañeda. So ordered.

Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Paredes, Dizon, Regala, and Makalintal, JJ., concur.

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