

GAMALIEL B. PALMA AND EDUARDO A. BELTRAN, PETITIONERS, VS. COURT OF APPEALS, CEZAR C. PARALEJO, PAIRING JUDGE OF BR. 97, RTC, QUEZON CITY, HORTENSIA Z. YUSECO, AMIGO REALTY DEVE...

G.R. No. 101383. September 12, 1994

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

IRENEO B. ZIALCITA, JR., filed before the Regional Trial Court of Quezon City a petition praying for the approval of the holographic will purportedly executed by his half-sister Basilia Zialcita Vda. de Taningco on 24 February 1984.[1] The trial court appointed respondent Hortensia Z. Yuseco as temporary administratrix for the payment of taxes and to effect necessary measures for the preservation of the estate of the deceased.

Among other properties, the deceased left a house and lot located at No. 65 Santo Tomas St., Galas, Quezon City, covered by TCT No. 33181. When respondent Yuseco took steps to pay the real estate taxes on the property, she discovered that it had already been sold on 9 May 1988 by Paulino Taningco, husband of the deceased, to Ireneo B. Zialcita, Jr., and TCT No. 383664 was issued in his name. In turn, the latter sold the property to petitioners Gamaliel B. Palma and Eduardo A. Beltran for P1,000,000.00 through a deed of absolute sale dated 9 June 1988 for which they were issued TCT No. 383686 and Tax Declaration No. 826 in their names. On 8 November 1989, the property was again sold, this time by petitioners, to the Carmelite Theresian Missionaries, Inc., and TCT No. PR-17857 and Tax Declaration No. C-030-00730 were issued in its name.

On 2 April 1990, respondent Yuseco filed before the trial court a motion to declare void all the deeds of sale, tax declarations and transfer certificates of title covering the property. When the motion was heard, the Carmelite Theresian Missionaries, Inc., appeared but petitioners did not. Respondent Yuseco presented a post office registry receipt showing that she furnished petitioners a copy of her motion.

On 5 June 1990, the trial court issued the disputed order nullifying the aforementioned documents based on the following findings: (a) the property cannot be the subject of any transaction without the probate court's approval; and, (b) the deed of sale dated 9 May 1988 between Paulino Taningco and Ireneo B. Zialcita, Jr., is a "clear forgery" because the latter himself declared before the trial court that Paulino Taningco died in February 1984. The trial court even observed that Zialcita, Jr., upon order, surrendered the owner's duplicate copy of TCT No. 33181 to the Register of Deeds on 11 August 1987 which was later kept in its vault. However, the document was burned, together with the records of the case, when fire razed the Quezon City Hall on 11 June 1988. The original of the title kept in the Register of Deeds was likewise burned. This circumstance notwithstanding, Zialcita, Jr., was able to acquire the property and transferred its ownership to petitioners.

In addition to granting the motion of respondent Yuseco, the trial court directed the Offices of the Register of Deeds, the City Assessor and the City Treasurer of Quezon City to expunge said documents and other related papers from their records, and recommended the filing of the corresponding criminal action against Ireneo B.

Zialcita, Jr., and petitioners Gamaliel B. Palma and Eduardo A. Beltran.[2]

On 22 June 1990, the trial court denied probate of the holographic will of Basilia Zialcita Vda. de Taningco.[3] Zialcita, Jr., failed to establish the authenticity of the handwriting of the testatrix by at least three witnesses as required under Art. 811 of the New Civil Code, and for lack of mental capacity of the testatrix, oppositors having established that she, at 90, was semi-invalid and suffering from "senile dementia" as of the time the holographic will was executed.

Meanwhile, asserting that they came to know of the order of the trial court of 5 June 1990 only on 3 July 1990 upon receipt of a subpoena from the Provincial Prosecution Office of Rizal in I.S. No. 90-5059 wherein they were sued as co-respondents by a certain Rev. Sr. Asuncion E. Cuirana, petitioners filed on 24 September 1990 a motion for intervention and petition for relief.

The trial court refused to take cognizance of the motion and petition on the ground that it had lost jurisdiction over the case considering that a petition for certiorari and mandamus was already filed by Zialcita, Jr., with the Court of Appeals assailing the order of the trial court of 5 June 1990.[4]

On 3 April 1991, the Court of Appeals set aside the order of 5 June 1990 on the basis of the following established doctrines: (a) a trial court, acting as a probate court, cannot adjudicate or determine title to properties claimed to be part of the estate and which are equally claimed to belong to outside parties; and, (b) Torrens titles cannot be attacked collaterally.[5]

However, upon motion of respondent Yuseco for reconsideration, respondent Court of Appeals rendered an amended decision dated 31 May 1991 reversing its previous decision and affirming the questioned order of the trial court, after considering the following circumstances which it admittedly overlooked: (a) the sales transactions transpired in 1988 whereas Sp. Proc. No. Q-43599 was filed in 1984. Undoubtedly, subject property was part of the estate of the deceased and therefore under the jurisdiction of the probate court which, under settled jurisprudence, has the authority to approve any disposition regarding properties under administration; and, (b) the trial court's challenged order of 5 June 1990 has become final and executory. It has already been fully executed because subject property, with authority of the probate court, had been sold to respondent Amigo Realty Development Corporation.[6] Petitioners' motion for reconsideration was denied in the resolution of 5 August 1991.[7]

In this petition, petitioners reiterate the issues raised before respondent Court of Appeals: (a) Petitioners are innocent purchasers for value; (b) P.D. 1529 prohibits collateral attack on Torrens Titles; (c) The trial court acted without or in excess of jurisdiction in determining the question of ownership of subject property; and, (d) Petitioners were deprived of their property without notice and hearing.

Petitioners claim that they purchased the property from its registered owner, Ireneo B. Zialcita, Jr., whose certificate of title was clean. They even verified his title with the Register of Deeds and found the same to be genuine. Notwithstanding the express prohibition in Sec. 48 of P.D. 1529, their certificate of title was subjected to collateral attack.[8] A probate court cannot adjudicate or determine title to properties claimed to be part of the estate and which are equally claimed to belong to third parties. Lastly, the trial court never issued any summons or notice to them in connection with the questioned order.

We find for respondents. The Court of Appeals did not commit any reversible error in issuing its assailed decision and resolution.

The main deterrent to the success of the present petition is the fact that the order of the trial court of 5 June 1990 had been executed. As earlier mentioned, the subject property was sold to respondent Amigo Realty Development

Corporation with authority from the trial court.[9] We have ruled that once a judgment has been executed, it may no longer be amended, modified or altered.[10] The case is deemed terminated once and for all.[11] The same ruling holds in the case of an order which has been enforced.

In view of the foregoing, we find it unnecessary to resolve the other issues raised by petitioners.

WHEREFORE, the petition is DENIED. The decision of respondent Court of Appeals dated 31 May 1991 and its resolution dated 5 August 1991 are AFFIRMED. Costs against petitioners.

SO ORDERED.

Davide, Jr. and Quiason, JJ., concur.

Cruz, J., (Chairman), on official leave.

Kapunan, J., no part.

[1] Sp. Proc. No. Q-43599.

[2] Annex "3," Petition; Rollo, pp. 106-107.

[3] Annex "6," Petition; Rollo, pp. 117-123.

[4] The appeal was dismissed by respondent court in the resolution of 5 February 1992 for failure of Zialcita, Jr., to file his brief within the reglementary period. The entry of judgment was made on 19 May 1992; Annex "7," Comment; Rollo, p. 166.

[5] CA-G.R. SP No. 24074, penned by Associate Justice Luis L. Victor, ponente, and Associate Justices Segundino G. Chua and Isaali S. Isnani concurring; Rollo, pp. 39-46.

[6] Id., pp. 31-35.

[7] Id., p. 37.

[8] Sec. 48. Certificate not subject to collateral attack. - A certificate of title shall not be subject to collateral attack. It cannot be altered, modified or cancelled except in a direct proceeding in accordance with law.

[9] Rollo, p. 35.

[10] *Christian Literature Crusade v. NLRC*, G.R. No. 79106, 10 April 1989, 171 SCRA 712; *Tan Hang v. Paredes*, G.R. No. 73627, 29 January 1988, 157 SCRA 694.

[11] *Alazas v. Salas*, G.R. No. 83693, 4 December 1989, 179 SCRA 804.

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