

SPOUSES ANDRES SUOBIRON AND SOCORRO SUOBIRON, JOSE SULLANO JR. AND IRENEO FERRARIS, PETITIONERS, VS. COURT OF APPEALS, LAND REGISTRATION COMMISSION, REGISTER OF DEEDS OF THE PRO...

G.R. No. 109903. November 20, 1995

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

Petitioner-spouses Andres Suobiron and Socorro Suobiron, Jose Sullano Jr. and Ireneo Ferraris instituted on 2 December 1980 an action to annul the orders dated 25 August 1945 and 28 January 1946 of the then Court of First Instance (CFI) of Iloilo in LRC Case No. 673, GLRO Record No. 54404, as well as OCT Nos. 69237 and 69238 and the corresponding decrees issued by the Land Registration Commission. Public respondents Land Registration Commission and Register of Deeds of the Province of Iloilo, and private respondents Fortunata Ponce Vda. de Adelantar, Caridad A. Chanco, Florecita A. Montilla, Evangelina A. Coscoluela, and Remedios, Lynde, Douglas and Protacio, all surnamed Adelantar, were named defendants.

Petitioners alleged in their complaint that the land registration court acted without or in excess of jurisdiction in issuing both orders because the requirements of the law on reconstitution of court records were not complied with thus rendering void not only the orders but also the decrees and certificates of title issued thereunder.

Private respondents denied the allegations for the annulment of the orders and decrees. They counterclaimed for the delivery to them of the property in litigation consisting of 26.5 hectares of sugarland and for the payment of the net produce which they could have received had they not been deprived of possession thereof.

From the evidence and the admission of the parties the trial court found that the two (2) parcels of land were previously subject of LRC Case No. 673, GLRO Record No. 54404, before the CFI of Iloilo and that aside from the Director of Lands, the other oppositors who appeared therein were Doroteo Legarde and Bernabe, Basilia, Quintin and Fortunato, all surnamed Lorezo.

On 1 September 1941, after due notice, publication and hearing, the CFI rendered judgment adjudicating the parcels of land in favor of spouses Luis Adelantar and Fortunata Ponce. The oppositors elevated the decision to the Court of Appeals. On 23 March 1943, however, for failure of the oppositors to pay the docket fees and to deposit the estimated cost of printing the record on appeal within the reglementary period, the appellate court dismissed the appeal.

On 22 March 1945, four days after the American forces liberated Panay Island, the CFI was reorganized. Pursuant to Act 3110,[1] the clerk of court submitted a report stating that all court records were destroyed or burned as a result of the battle for liberation. Thereafter, on 7 June 1945 the court issued an order directing the reconstitution of the records. The order was published in two (2) leading newspapers in Iloilo City, namely, "Ang Tigbatas" and "The Times," once a week for six (6) months.

On 18 August 1945 Luis Adelantar filed a motion for reconstitution of the records of LRC Case No. 673 furnishing copies thereof to oppositors Sabas, Ireneo, Pilar and Preciosa, all surnamed Lucero, and Bernabe, Basilia, Quintin and Fortunato, all surnamed Lorezo, through their respective counsel, as well as the Provincial Fiscal of Iloilo representing the Director of Lands. The oppositors did not however appear when the motion was heard on 25 August 1945. Thus on the same day the CFI gave due course to the motion for reconstitution.

On 28 January 1946, on motion of the Adelantar spouses, the CFI directed the issuance of decrees covering the property in litigation after which Decrees Nos. 766623 and 766624 were issued by the Land Registration Commission. On the basis of these decrees OCT Nos. 69237 and 69238 were issued in the name of the spouses Luis Adelantar and Fortunata Ponce.

Taking advantage in the meantime of the chaotic conditions during the war, Quintin Lorezo and Bernabe Lorezo entered the litigated property and appropriated the produce thereof to the damage and prejudice of the registered owners. Consequently, on 26 August 1947 the Adelantars filed an action in the CFI of Iloilo against the Lorezos for recovery of possession, docketed as Civil Case No. 938. Basilia Lorezo, Isabel Lorezo and Canuto Lucero intervened and were allowed to file their answers.

On 3 September 1953 the CFI rendered judgment declaring the Adelantar spouses owners of the property and ordering the receiver earlier appointed by the court to deliver to them the possession thereof as well as the produce received by the receiver since his appointment.

The decision having become final and executory the trial court issued a writ of execution which was implemented by the Provincial Sheriff on 27 February 1954 by delivering to the spouses Luis Adelantar and Fortunata Ponce the possession of the two (2) parcels of land. On the same occasion Luis Adelantar accepted from the receiver the produce consisting of five (5) bultos of palay. However, after the delivery of the property by the Provincial Sheriff to the Adelantars, Quintin, Basilia, Bernabe and Fortunato Lorezo re-entered the premises. Other persons followed suit.

The property soon became the subject of a cadastral survey. Fortunata Ponce, who was already a widow, filed an answer claiming ownership. The spouses Andres Suobiron and Socorro Suobiron also filed an answer claiming ownership of portions thereof by purchases from Quintin in 1960, from Basilia and Isabel Lorezo in 1961, and from Canuto Lucero in 1969 thus prompting the cadastral court to advise the parties to file the proper action and to litigate the question of ownership.

Accordingly, on 22 July 1970 Fortunata Ponce and the other private respondents, as heirs of Luis Adelantar, filed an action for quieting of title and for recovery of possession with damages before the CFI of Iloilo, docketed as Civil Case No. 8283. The complaint however was dismissed without prejudice.

On 21 December 1972 petitioners sought annulment of the certificates of title of the Adelantars but their action was also dismissed without prejudice on 22 February 1980. Thus petitioners filed their complaint alleging co-ownership of the property.

On 29 August 1986, finding no factual nor legal basis to grant petitioners' prayer, the trial court dismissed the complaint and directed them to vacate the property and deliver possession thereof to private respondents and to pay them jointly and severally P39,750.00 annually as net produce from 1970 until possession was restored to the latter, P10,000.00 as attorney's fees, and to pay the costs of suit.[2]

On 19 January 1993 respondent Court of Appeals affirmed the ruling of the trial court except with respect to the award of attorney's fees which was deleted as no reason was given therefor.[3] On 15 March 1993 the motion for reconsideration was denied.[4]

Petitioners raise these issues before us: whether the provisions of Act 3110 have been complied with; whether the decision in Civil Case No. 938 is conclusive upon them; and, whether they are liable to private respondents for damages.

Petitioners allege that Act 3110 was violated since (a) the general notice of loss required to be served by registered mail to interested parties and its publication in the Official Gazette were not complied with; (b) no notice of loss was sent to counsel of record of their predecessors-in-interest; and, (c) no duly certified or authentic copy of the Court of Appeals' resolution of 23 March 1943 was produced in the reconstitution proceedings. They also claim that the decision in Civil Case No. 938 is not conclusive upon them because the subject matter thereof does not involve the legality of the reconstitution of LRC Case No. 673, and that damages should not have been awarded against them as their possession of the parcels of land was lawful.

We affirm the decision of the Court of Appeals as we find no reversible error therein. Sections 1, 2 and 3 of Act 3110 provide:

Sec. 1. As soon as practicable after the occurrence of any fire or other public calamity resulting in the loss of all or part of the records of judicial proceedings on file in the office of the clerk of a Court of First Instance, said officer shall send a notice by registered mail to the Secretary of Justice, the Attorney-General,[5] the Director of Lands, the Chief of the General Land Registration Office,[6] the clerk of the Supreme Court, the judge of the province, the register of deeds of the province, the provincial fiscal, and all lawyers who may be interested, stating the date on which such fire or public calamity occurred and whether the loss or destruction was total or partial, and giving a brief list of the proceedings not affected in case the loss or destruction was partial.

Sec. 2. Upon receipt of the notice mentioned in the preceding section, the court shall issue or cause to be issued a general notice which shall be addressed and sent by registered mail to the lawyers and officers mentioned in the preceding section, and to such other persons as might be interested, advising them of the destruction of the records, with a brief list of the proceedings not affected in case the destruction was partial, and of the time fixed by this Act for the reconstitution of the destroyed records.

This notice shall also be published in the Official Gazette and in one of the newspapers most widely read in the province, once a week, for four consecutive weeks.

Sec. 3. The parties to civil cases, or their counsels, shall appear and file, within thirty days after having been notified in accordance with the next preceding section, an application for the reconstitution of the records in which they are interested, and the clerk of the court, upon receiving such application, shall send notice to all parties interested, or their counsels, of the day, hour, and place when the Court will proceed to the reconstitution, requesting them to present, on said day and hour, and at said place, all copies of motions, decrees, orders, and other documents in their possession, having reference to the record or records to be reconstituted.

As may be gleaned from the above, the Act provides that after the occurrence of any fire or other public calamity resulting in the loss of all or part of the records of judicial proceedings, the clerk of court shall send a notice by registered mail, among other officers, to the judge of the province and all lawyers who may be interested in the proceedings (Sec. 1) and upon receipt of such notice, the court shall issue a general notice which shall be addressed and sent by registered mail to said lawyers and offices, and to such other persons as might be interested, advising them of the destruction of the records. This notice shall be published in the Official Gazette and in one of the newspapers of wide circulation in the province once a week for four consecutive weeks (Sec. 2). The Act likewise provides that any interested party or his counsel shall appear and file within thirty days after having been notified of the destruction as above stated an application for the reconstitution of the records of the case, and the clerk of court upon receiving such application shall send notice to other parties interested or their counsel of the

day, hour and place when the court will proceed with the reconstitution (Sec. 3).

This briefly is the procedure laid down by Act 3110 for the reconstitution of a court record in case of loss or destruction.

In *Paluay v. Bacudao*[7] we held that there was substantial compliance with the law if the clerk of court sent a notice to the judge of the province informing him of the destruction of all court records in the province and that acting thereon the judge immediately issued an order for their reconstitution which was published in a newspaper of general circulation in the city or province once a week for six (6) months. The law was considered substantially complied with even if it did not appear that notice of the destruction was ever served by registered mail to all lawyers or persons who appeared to be interested in the cases affected. It was enough that the applicant sent a copy of his petition for reconstitution to the oppositors or their counsel in order that they may be notified of the date and place of the hearing thereof.[8]

In the case at bench, the requirements of the law for the reconstitution of a court record were fulfilled. The clerk of court, soon after liberation, sent a notice to the then presiding judge of the Court of First Instance of Iloilo informing him of the destruction of all court records in the province. Acting thereon the judge immediately issued an order for their reconstitution which was published in two (2) newspapers of general circulation in the Province and City of Iloilo once a week for six (6) months. Copies of the motion for reconstitution were served by the movant (the now deceased Luis Adelantar) on the oppositors through their respective counsel. It appearing that Atty. Felix Evidente was not the oppositors' counsel of record the allegation that no notice was served on him may no longer be relevant.

The Adelantar spouses might have failed to submit in the reconstitution proceedings an authentic copy of respondent court's resolution of 23 March 1943 as what they submitted instead was the order dated 10 June 1944 of the CFI in LRC Case No. 673 directing compliance with and execution of the resolution quoted in the order.[9] But we find that this is another instance of substantial compliance with Act 3110, particularly Sec. 3 thereof, regarding presentation by the interested parties of all copies of motions, decrees, orders and other documents in their possession relative to the record or records to be reconstituted.

The decision in Civil Case No. 938 declaring the Adelantar spouses owners of the two (2) parcels of land claimed by Basilia Lorezo, Isabel Lorezo and Canuto Lucero is conclusive upon the parties therein as well as their successors-in-interest, the parties herein, under the doctrine of *res judicata*. The trial court held petitioners liable to private respondents for the net produce of the properties in question from the time the former's possession in good faith was legally interrupted when they were served summons in connection with private respondents' complaint for recovery of possession with damages filed 22 July 1970, docketed as Civil Case No. 8283, at the rate of P1,500.00 per hectare or P39,750.00 for 26.5 hectares annually until possession was restored. It may be that petitioners acquired the disputed properties in good faith and had since then occupied the same but such bona fide character of possession ceased when they were served summons. Possession acquired in good faith may not lose this character except in the case and from the moment facts exist which show that the possessor is not unaware that he possesses the thing improperly or wrongfully, conformably with Art. 528 of the Civil Code.

As early as *Rodriguez v. Francisco*,[10] this Court already ruled that -

x x x x on the date of the service of summons upon appellee in this case, considering that (appellant) was thereafter declared owner by final judgment (G.R. No. L-12039), appellee's possession in good faith was interrupted and hence from that time he lost the right to the fruits.[11]

In turn, that decision was based on *Tacas v. Tobon*[12] where this Court, citing *Manresa*,[13] stated -

But to every possessor in good faith there comes a time when he is considered a possessor in bad faith. When the owner or possessor with a better right comes along, when he becomes aware that what he had taken for granted is at least doubtful, and when he learns the grounds in support of the adverse contention, good faith ceases. The possessor may still believe that his right is more secure, because we resign ourselves with difficulty to the sight of our vanishing hopes; but when the final judgment of the court deprives him of the possession, all illusion necessarily disappears. Although he may not have been convinced of it before, the possessor becomes aware that his possession is unlawful from the time he learns of the complaint, from the time he is summoned to the trial. It is at this time that his possession is interrupted, according to article 1945, and that he ceases to receive the fruits, according to the first paragraph of article 451. The ruling of the court retroacts to that time; but shall good faith be deemed to cease then? Although there is a great difference between requiring the possessor in good faith to return the fruits he received from the time when his possession was legally interrupted, and considering him a possessor in bad faith for all legal purposes from that time, the law had to establish a definite rule on the matter, which is none other than that deducible from a combination of articles 452, 1945 and 435. Whether or not the defendant be a possessor in good faith, for there is no doubt that he can be, and the law makes no attempt to deny it, from the service of judicial summons, there exists an act that this possessor knows that his right is not secure, that someone disputes it, and that he may yet lose it; and if the court holds that restitution be made, that time determines all the legal consequences of the interruption, the time when the possession in good faith ceased to be so before the law
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WHEREFORE, the petition is DENIED. The decision of respondent Court of Appeals dated 19 January 1993 and its resolution of 15 March 1993 are AFFIRMED. Costs against petitioners.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Kapunan, and Hermosisima, Jr., JJ., concur.

[1] An Act to Provide an Adequate Procedure for the Reconstitution of the Records of Pending Judicial Proceedings and Books, Documents, and Files of the Office of the Register of Deeds Destroyed by Fire or Other Public Calamities, and for Other Purposes.

[2] Records, p. 403.

[3] Decision penned by Justice Eduardo G. Montenegro concurred in by Justices Arturo B. Buena and Regina G. Ordoñez-Benitez; Rollo, pp. 69-70.

[4] Id., p. 71.

[5] Now Solicitor General.

[6] Now Land Registration Commissioner.

[7] 97 Phil. 561 (1955).

[8] Ibid.

[9] Exh. "4."

[10] No. L-13343, 29 December 1962, 6 SCRA 917.

[11] Citing Art. 544 of the Civil Code which provides that a possessor in good faith is entitled to the fruits received before the possession is legally interrupted, and Art. 1123 of the same Code which provides that civil

interruption is produced by judicial summons to the possessor.

[12] 53 Phil. 356 (1929).

[13] Commentaries on the Spanish Civil Code, Vol. 4, pp. 270-271.

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