

PAZ TY SIN TEI, PETITIONER AND APPELLEE, VS. JOSE LEE DY PIAO, RESPONDENT AND APPELLANT.*G.R. No. 11271. May 28, 1958*

Ponente: FELIX, J.

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Antecedents. - Dy Lac, a Chinese national, was long before the effectivity of the Philippine Constitution, the absolute and registered owner of certain real properties in Manila. After the death of his wife in China in 1907, by whom he had a son, Dy Lac contracted a second marriage with Ong Tiem alias Uy Cho, also a Chinese, whom he brought into the Philippines in 1920 together with the latter's maid-servant Gue Kuy alias Paz Ty Sin Tei.

On June 28, 1938, Dy Lac executed a document donating to Paz Ty Sin Tei two parcels of land together with all the improvements thereon, located at Ronquillo street and Rizal Avenue known as Lots 8 and 22, Block 2127 of the Cadastral Survey of Manila, with a combined area of 655.70 square meters and covered by Transfer Certificates of Title Nos. 50071 and 50074 registered in the name of Dy Lac, married to Uy Cho. By reason of said deed, the aforementioned certificates of title were cancelled and T.C.T. Nos. 53825 and 53826 were issued by the Register of Deeds of Manila in the name of Paz Ty Sin Tei, single, Chinese. Simultaneously and on the same day, Dy Lac executed another deed of donation, this time in favor of Tomas Dy Suan Choan, Paz Ty Sin Tei's minor illegitimate son, giving him another parcel of land located at Magallanes and Anda streets, Intramuros, Manila, covered by T.C.T. No. 50072, in the name of Dy Lac, married to Uy Cho, and in virtue of said disposition, T.C.T. No. 50072 was cancelled and another title (T.C.T. No. 53925) was issued in the name of the minor Tomas Dy Suan Choan. However, barely 2 months thereafter, said minor died and the property thus passed to and was inherited by his mother, who secured a corresponding certificate of title over the same parcel of land in her favor (T.C.T. No. 56580). At the time when the donations were made, Dy Lac was said to be the owner of the following properties, to wit:

1.

Two parcels of land located at Ronquilio St. and Rizal Avenue, Manila, covered by T. C. T. Nos. 50071 and 50074 (donated to Paz Ty Sin Tei on June 23, 1938)..... P44,839.00

2.

A parcel of land located at Anda and Magallanes Sts., Intramuros, Manila, covered by T.C.T. No. 50072 (donated to Tomas Dy Suan Choan on June 23, 1938)..... 22,356.00

3.

Shares of stock in the Mariano Uy Chaco Sons & Co., Inc. (par value)..... 10,000.00

4.

Cash..... 28,000.00

P105.195.00

The aforementioned cash of P28,000.00 was said to have been utilized in purchasing from the Monte de Piedad and Savings Bank in April, 1940, houses and lot located at Zurbaran St., Manila, and Dy Lac caused the title thereof (T.C.T. No. 58652) to be placed in the name of Paz Ty Sin Tei. As his second marriage was not blessed with any issue, upon Dy Lac's death on May 14, 1948, he was survived by his second wife Uy Cho and his son by the first marriage, Jose Lee Dy Piao. In his will, however, he named Paz Ty Sin Tei as executrix thereof; thus, the latter instituted Special Proceedings No. 5541 with the Court of First Instance of Manila for the probate of the same. Pending her qualification as such executrix, the Court appointed the Equitable Banking Corporation as special administrator of the testate estate of Dy Lac. Upon entering its appointment, the Equitable Banking Corporation filed Civil Case No. 14697 of the Court of First Instance of Manila, seeking to annul the donations consisting of real and personal properties made by the deceased to Paz Ty Sin Tei on the ground that the latter was an alien disqualified to acquire lands in the Philippines and otherwise had no right to possess said properties. In the same proceedings Jose Lee Dy Piao, together with the widow Uy Cho, tried to intervene and pursuant to the provisions of Section 110 of the Land Registration Act on August 22, 1951, they caused as heirs of Dy Lac the annotation at the back of T.C.T. No. 58652, an adverse claim for the protection of their alleged rights, pending the determination thereof in Special Proceedings No. 55141.

On October 20, 1951, the Court dismissed the main complaint on the ground that as only the State could judicially inquire into the validity of a conveyance of agricultural lands in the Philippines, neither the donor himself where he alive nor the special administrator could seek annulment of the donations or question the validity of the donee's title thereto. The Court, however, did not make any pronouncement as to the intervenor's right or interest in the properties in question because the main case having been dismissed, there remained no litigation wherein their cause could be entertained. Thus, passing upon their second motion for reconsideration, the Court clarified the dismissal of the complaint in intervention to be without prejudice to the intervenor's right to secure relief in an independent action.

On March 21, 1955, Jose Lee Dy Piao instituted a civil action with the Court of First Instance of Manila for the revocation of donations and/or reconveyance (Civil Case No. 25736) alleging, among other things, that through influence exerted on Dy Lac by Paz Ty Sin Tei, with whom the former had extramarital relations, said Dy Lac donated to the latter and her son the parcels of land covered by T.C.T. Nos. 53825, 53826 and 56580; purchased the houses and lot covered by T.C.T. No. 58652 and placed the title thereof in the name of said Paz Ty Sin Tei, married to Dy Lac, although in fact defendant was not married to his father, and upon the death of Dy Lac in 1948, she caused the amendment of T.C.T. No. 58652 to read as "Ty Sin Tei, widow of Nazario Dee Dy Lac"; that in 1938 when the donations intervivos were made, Dy Lac's assets amounted to P95,195.00 (must be P105,195.00) ; that pursuant to the law then enforced, he could only freely dispose of one-third of the same or P31,731.66 (correctly P35,065.00) and as the donations given to defendant and her son far exceeded said amount, they were illegal and inofficious and thus invalid; that as upon the death of Tomas Dy Suan Choan, the property donated to him passed by right of succession gratuitously to his mother, Paz Ty Sin Tei, the latter was bound to preserve the same for the benefit of the heirs in the direct line from whence it came or allegedly in favor of the plaintiff and the widow Uy Cho; that defendant, however, conveyed and sold the said property to Magnolia V. Antonio for the sum of P24,000.00, by reason of which, T.C.T. No. 56580 (in the name of Paz Ty Sin Tei) was cancelled and T.C.T. No. 33578 was issued to the purchaser. Plaintiff therefore prayed the Court for the delivery and/or reconveyance to him as heir of Dy Lac or to the decedent's estate the properties covered by T. C. T. Nos.

53825, 53826 and 58652; that plaintiff be ordered to bring into the estate the amount of P28,000.00, the proceeds of the sale of T.C.T. No. 56580 in the event said property could not be recovered from the purchaser Magnolia V. Antonio; to render an accounting of the fruits of the above-mentioned properties; and for costs. Plaintiff on the same day (March 21, 1955) caused the annotation of a notice of lis pendens at the back of T.C.T. No. 58652. Said civil case No. 25736 appeared to have been dismissed for failure to prosecute, but plaintiff immediately instituted another action (Civil Case No. 28727) which, at the time of the filing of the instant case was still pending determination in the lower court. A notice of lis pendens was likewise correspondingly annotated at the back of the same T. C. T. No. 58652.

The Case. - On March 23, 1955, Paz Ty Sin Tei filed a petition (GLRO Rec. No. 11546) for the cancellation of the adverse claim appearing on T. C. T. No. 58652 on the ground that Civil Case No. 14697 of the Court of First Instance of Manila, wherein the adverse claimant Jose Lee Dy Piao was an intervenor, had already been dismissed by order of the Court of October 20, 1951, which order had become final on December 24, 1951; that said claimant having failed to institute any action or proceeding relative to said Civil Case No. 14697, is already barred from filing any action in connection with that property; that as petitioner's right to dispose of said property, being the registered owner thereof, was being withheld by the existence of the aforementioned adverse claim, it was prayed the Court that the Register of Deeds of Manila be ordered to cancel the same.

This petition was opposed by the adverse-claimant contending that while it was true that Civil Case No. 14697, wherein he tried to intervene was dismissed, said order of dismissal did not operate to deprive him of his right to annotate claim against the property in question being the legitimate son of the deceased Dy Lac; that the doctrine of res judicata was not applicable to him because he had never become a party to that case; that in view of the pendency of Sp. Proc. No. 5541 and Civil Case No. 25736 wherein petitioner's right over the property was being questioned, there is no reason for the cancellation of the adverse claim which was designed to protect the rights of the claimant until said cases were finally disposed of. To this opposition, petitioner filed a reply asserting that at the instance of the claimant, as plaintiff in Civil Case No. 25736 of the Court of First Instance of Manila, a notice of lis pendens was already annotated at the back of T. C. T. No. 58652, and as the object of the aforesaid case referred to the claim of the adverse claimant, the latter had in his favor 2 annotations, i.e., the adverse claim and the notice of lis pendens. Petitioner further argued that as either of the two protects the claim of Jose Lee Dy Piao, at least one must be ordered cancelled for he could not avail of the two remedies at the same time, for if both were allowed to stand, they would overburden the title in question.

On June 25, 1955, the lower Court issued an order holding that an adverse claim could not be made to stand for an indefinite time and where the Land Registration Act affords no relief for the protection of his right or interest, the adverse claimant should institute the (proper action within a reasonable period and cause the annotation of a notice of lis pendens, in which case the adverse claim would lose its validity. And as oppositor Jose, Lee Dy Piao had already instituted Civil Case No. 25736, and had caused the annotation of a notice of lis pendens on the same title, the Court ordered the Register of Deeds of Manila to cancel the notation of adverse claim at the back of T. C. T. No. 58652, upon the payment by petitioner of proper fees. From this order, oppositor Jose Lee Dy Piao appealed to the Court of Appeals, but said Tribunal elevated the case to Us for proper disposition on the ground that the issues raised are purely of law.

The Issue. - As may be gathered from the above narration of facts, the only issue presented by this appeal is whether the institution of an action and the corresponding annotation of a notice of lis pendens at the back of a certificate of title invalidates a prior notation of an adverse claim appearing on the same title, where the aforementioned action " and the adverse claim refer to the same right or interest sought to be recovered. In other words, whether the annotation of a notice of lis pendens invalidates an adverse claim previously annotated in the

same title where both notices refer to and are designed to protect the same interest, or whether a notice of lis pendens would be unnecessary and superfluous where an adverse claim has previously been annotated.

Discussion of the Controversy. - There is no question that Transfer Certificate of Title No. 58652 is registered in the name of Paz Ty Sin Tei. Appellant, however, asserts that the property covered by said certificate of title was actually purchased by Dy Lac with his own money, and that through the machinations and undue influence exerted by appellee, title thereto was placed in the latter's name to the prejudice of the decedent's heirs. There is likewise no dispute as to the fact that appellant caused the annotation of an adverse claim on said property on August 22, 1951, and that without said notation having been cancelled a notice of lis pendens was also inscribed on the same title on March 21, 1955, upon the institution by said claimant of a civil action based on the same ground as his adverse claim. Hence, appellee protested against the existence of 2 notices in her title and sought the cancellation of the adverse claim on the allegation that one invalidates the other. We find this contention to be untenable. The registration of an adverse claim is allowed by Section 110 of Act 496, which reads as follows:

SEC. 110. Whoever claims any part or interest in registered land adverse to the registered owner, arising subsequent to the date of the original registration, may, if no other provision is made in this Act for registering the same, make a statement in writing setting forth fully his alleged right or interest, and how or under whom acquired, and a reference to the volume and page of the certificate of title of the registered owner, and a description of the land in which the right or interest is claimed.

The statement shall be signed and sworn to, and shall state the adverse claimant's residence, and designate a place at which all notices may be served upon him. This statement shall be entitled to registration as an adverse claim, and the court, upon a petition of any party in interest, shall grant a speedy hearing upon the question of the validity of such adverse claim and shall enter such decree therein as justice and equity may require. If the claim is adjudged to be invalid, the registration shall be cancelled. If in any case the court after notice and hearing shall find that a claim thus registered was frivolous or vexatious, it may tax the adverse claimant double or treble costs in its discretion.

The annotation of an adverse claim is a measure designed to protect the interest of a person over a piece of real property where the registration of such interest or right is not otherwise provided for by the Land Registration Act, and serves as a notice and warning to third parties dealing with said property that someone is claiming an interest on the same or a better right than the registered owner thereof. The aforementioned Section 110 lays down the procedure for the registration of such notice-by filing a sworn statement with the Register of Deeds of the province where the property is located, setting forth the basis of the claimed right together with other data pertinent thereto. The validity or efficaciousness of the claim, however, may only be determined by the Court upon petition by an interested party, in which event, the Court shall order the immediate hearing thereof and make the proper adjudication as justice and equity may warrant. And it is ONLY when such claim is found unmeritorious that the registration thereof may be cancelled. In the case at bar, no such petition was filed by appellee who should be the party interested in having the notation cancelled. Instead, "We find that from August 22, 1951, when the adverse claim was registered, to March 21, 1955, when the notice of lis pendens was annotated, petitioner-appellee took no step in having the claim inquired into or investigated in order that the question of the validity of such claim may be resolved. In this connection, We note that in the sworn declaration made by Jose Lee Dy Piao stating his claim over the property in question, the following paragraph is incorporated:

"That this claim is being filed with the Office of the Register of Deeds of Manila under the provisions of section 110 of the Land Registration Act (No. 496) for the protection of the rights of the herein claimant to the above-mentioned properties, pending the final determination thereof by the Court of Special Proceedings No. 5541".

Apparently, petitioner-appellee had been agreeable thereto which furnishes the reason why she acquiesced to the

existence of the aforementioned annotation for such period of time. This fact, however, cannot alter the situation, for the wording of the law, apart from being explicit is couched in clear mandatory language and thus has to be construed as it appears on the statute. On this score alone, the action taken by the lower Court in ordering the cancellation of the adverse claim before its validity could be passed upon, is not sanctioned by law.

But We have to give certain consideration to the implication created by the lower court's ruling that the institution of a court action for the purpose of securing or preserving the right which is also the object of an adverse claim invalidates the latter, irrespective of whether a notice of lis pendens has been annotated or not, for such a doctrine gives the impression that the 2 remedies are contradictory or repugnant to one another, the existence of one automatically nullifying the other. We are inclined to believe otherwise, for while both registrations have their own characteristics and requisites, it cannot be denied that they are both intended to protect the interest of a claimant by posing as notices and caution to those dealing with the property that same is subject to a claim. But while a notice of lis pendens remains during the pendency of the action, although same may be cancelled under certain circumstances as where the case is prolonged unnecessarily or for failure of the plaintiff to introduce evidence bearing out the allegations of the complaint (*Victoriano vs. Rovira*, 55 Phil., 1000; *Municipal Council of Paranaque vs. Court of First Instance of Rizal*,[*]40 Off. Gaz., 8th Supp., 196); and it has even been held that a court, in the absence of a statute, has the inherent power to cancel a lis pendens notice in a proper case (*Victoriano vs. Rovira*, supra), the same is not true in a registered adverse claim, for it may be cancelled only in one instance, i.e., after the claim is adjudged invalid or unmeritorious by the Court, acting either as a land registration court or one of general jurisdiction while passing upon a case before it where the subject of the litigation is the same interest or right which is being secured by the adverse claim. The possibility therefore, that parties claiming an interest in a registered property desire, for any other purpose, to have their cause ventilated in a court of general jurisdiction, may result in giving them two ways of making the registration of their claimed rights. In such instances, it would not only be unreasonable but also oppressive to hold that the subsequent institution of an ordinary civil action would work to divest the adverse claim of its validity, for as We have pointed out, a notice of lis pendens may be cancelled even before the action is finally terminated for causes which may not be attributable to the claimant. And it would similarly be beyond reason to confine a claimant to the remedy afforded by section 110 of Act 496 if there are other recourses in law which such claimant may avail of. But, if any of the registrations should be considered unnecessary or superfluous, it would be the notice of lis pendens and not the annotation of the adverse claim which is more permanent and cannot be cancelled without adequate hearing and proper disposition of the claim.

Wherefore, and on the strength of the foregoing considerations, the order appealed from directing the Register of Deeds of Manila to cancel the annotation of adverse claim at the back of Transfer Certificate of Title No. 58652, is hereby set aside and appellee's petition for cancellation dismissed, "with costs against petitioner-appellee.

It is so ordered.

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

[*]70 Phil., 363.

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