

THE ROMAN CATHOLIC ARCHBISHOP OF MANILA, PETITIONER AND APPELLANT, VS. JOSE RUIZ SUNICO, OBJECTOR AND APPELLANT, AND TEODORO CATLI, TUTOR AND CURADOR AD LITEM OF LIBERATA CATL...

G.R. No. 11527. February 16, 1917

Ponente: CARSON, J.

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CARSON, J.:

These are two separate appeals from decrees entered in the course of proceedings had in the Court of Land Registration.

We shall consider first the appeal of petitioner from the decree maintaining the contentions of the opponent Teodoro Catli, tutor and curador ad litem of Liberata Catli, and denying registration of the parcel of land which the court held to be the property of the infant.

This opponent introduced in evidence a duly registered deed to the land in question from the Spanish Government dated March 22, 1892, (titulo de composicion gratuita), in favor of Francisca Canlapan, grandmother and predecessor in interest of the child Liberata Catli. It appears further that the child Liberata Catli and her predecessor in interest had been in possession of this land under claim of title, based on this grant, from the year 1892 down to the date of the institution of these proceedings, a period of more than twenty years.

No documentary evidence of title was submitted in support of the claim of ownership by the church, the only evidence offered in support of that claim being the oral testimony of two witnesses, the parish priest and a sacristan of the local church, who testified in general terms that the land in question is included in a large tract of land, planted in cane (cañas espinas), which had been in possession of the church for more than forty years, under a claim of ownership. The testimony of these witnesses was extremely vague and uncertain as to the precise nature of the alleged possession and title of the church, and there can be no doubt that the evidence of record fully sustains the court below in its holding that under no circumstances could such evidence put in doubt the claim of title set up on behalf of the infant Catli.

The evidence in support of the infant's claim of ownership was submitted at a hearing had after a decree had been entered adjudicating title in favor of the church, the decree having been opened on a showing that no notice of the petition had been served on the infant or her guardian, and that notice which had been directed to Francisca Canlapan, the infant's grandmother, had never been served because she had died some years prior to the institution of the proceedings.

It appears that neither the child nor its guardian had actual notice of the application for registry in favor of the church until a few days prior to the entry of the decreed adjudicating title in favor of the church, which was dated the 15th day of May, 1914; that on the 20th day of May, 1914, the guardian filed a motion praying that the default judgment be set aside in so far as it affected the interests of his ward, and that his opposition to the registry of the

infant's land in favor of the church be heard and adjudicated; that this motion, for some reason which does not appear of record, was held under advisement until the 9th of March, 1915, when it was denied; that without excepting to the order denying that motion, the guardian, on the 26th of March, 1915, renewed his motion, and accompanied his prayer for reconsideration with the documentary evidence of the infant's claim of title; and that on the 8th of the following April the court granted the prayer of the motion, set aside the original decree in favor of the church in so far as it related to the land claimed by the infant, and set a date for the hearing at which the evidence above set forth was adduced and a decree entered sustaining the opposition to the registration of the land in favor of the church.

Due exception was noted by counsel for the church to each and all of the orders which resulted in the opening of the original decree, and on this appeal, counsel insists, upon the authority of the provisions of section 38 of Act No. 496, and of our rulings in the case of *Gray Alba vs. De la Cruz* (17 Phil. Rep., 49) that these orders should be reversed, and that the original decree adjudicating title in favor of the church should be given full force and effect, without regard to the evidence submitted at the rehearing in support of the infant's claim of title.

We cannot agree with these contentions of counsel for the church. The facts in the case relied upon were wholly different from those in the case at bar. The ruling in the former case, in which it was held that the court below had erred in reopening and setting aside a decree of registration in the absence of proof of actual fraud was predicated upon the fact that the decree in question in that case was a final, unappealable decree directing the registration of the land in dispute, and that under the provisions of section 38 of Act No. 496, "such decree shall not be opened by reason of the absence, infancy, or other disability of any person affected thereby, nor by any proceeding in any court for reversing judgments or decrees; subject, however, to the right of any person deprived of land or of any estate or interest therein by decree of registration obtained by fraud to file in the Court of Land Registration a petition for review within one year."

In the case now before us, the decree directing the registry of the land claimed on behalf of the infant Catli which was set aside by the court below was not a final, unappealable decree, and never did become final and unappealable.

This decree was entered by the trial judge on the 15th day of May, 1914, adjudicating title to the land and directing the entry by the clerk of the court of the appropriate orders and decrees looking to the issuance of a certificate of registration in conformity therewith; and while it is not improperly called a decree, in a strict technical sense, it would more appropriately be designated as a decision, or filed opinion of the court, adjudicating title to the land and directing the entry by the clerk of the appropriate orders and decrees looking to the issuance of a certificate of registration after the lapse of the period within which an appeal might be taken from the decision. Under the statute, this decision or decree could not become final until thirty days after notification to the interested parties. Until it became final and unappealable, it might be set aside by the trial judge on a motion for a new trial, and was subject to such alteration or amendment, in form or in substance, as in his opinion might be necessary or proper in the interests of justice. (Section 14 of Act No. 496 as amended by section 4, Act No. 1108 and section 26, Act No. 2347. (Cf. *Estate of Cordoba, and Zarate vs. Alabado*, 34 Phil. Rep., 920, and cases there cited.)

The record discloses that a motion for a new trial was submitted on the 20th of May, 1914, that is to say, five days after the entry of the decree; that no action was taken on this motion until the 15th day of January, when an order to show cause why the motion should not be granted was duly entered; that this motion was not disposed of until the 9th of March, 1915, when it was denied; that this motion was renewed on the 26th of March, 1915, and was finally granted on the 8th of April, 1915. From this summary of the history of the proceedings, it will readily be seen that thirty days had not elapsed from the date of the entry of the decree to the date of the entry of the order

setting aside the decree and granting a new trial, after excluding from that period the time during which the court had under consideration the defendant's different motions for a new trial.

We conclude, therefore, that the trial judge was clothed with full power and jurisdiction to set aside the decree and grant a new trial on the motion of the oppositor representing the infant Catli, and that the decree finally entered in favor of the oppositor being fully sustained by the evidence introduced at the new trial should be affirmed, with the costs of this instance against the appellant.

Turning now to the appeal of Jose Ruiz Sunico, we find that the land in question on his appeal, is a part of the large tract planted in cañas espinosas claimed by the church within which the parcel just adjudicated in favor of the infant Catli is also located. As we have already indicated the evidence in support of the claim of title to this tract by the church is not very conclusive, consisting as it does of the somewhat vague and indefinite oral testimony of the parish priest and one of his sacristans to the effect that the church had exercised certain acts of dominion over this land for a period of more than forty years. On the other hand, the appellant Sunico offered documentary evidence which tends strongly to maintain his claim of ownership, if the land in dispute is contained within the boundaries of the land mentioned in these documents. Appellant's evidence as to the identity of these lands is not wholly satisfactory, and would hardly be sufficient to sustain an affirmative finding in favor of his claim of title, were this an action of ejectment brought by him to oust the church from possession ; but it seems to us to be at least sufficient to raise such a doubt as to the title to the land in question on this appeal, as to make it unsafe, on the evidence now in the record, to grant the prayer of the church for the issuance of a certificate of title under the Land Registration Act. The burden in cases of this kind is upon the applicant to establish his claim of title by such clear and satisfactory proof that a solemn decree can be entered, declaring that the proof submitted by him affirmatively establishes his title as against the whole world.

Sunico offered in evidence the record of certain proceeding had in the Court of First Instance of the province wherein this land is located, to prove that in the course of certain litigation with reference to the possession of the lands in dispute, which arose on a former occasion between the parish priest and himself, he had secured a judgment enjoining the parish priest from disturbing him in his possession of this land and declaring, at the same time, that as between himself and the parish priest, he (Sunico) had the right to possession. This evidence appears to have been excluded by the trial judge on the ground that the appellant failed to establish the identity of the land then in dispute with that in question in these proceedings. If the identity of these lands were sufficiently established, this evidence would have considerable weight as tending to weaken the probative value of the oral testimony of the plaintiff in support of its claim of prescriptive title based on forty years of undisturbed possession. And while the evidence as to the identity of the land involved in that litigation with the land now in dispute does not appear to be conclusive, we are inclined to think that the trial court erred in excluding the record of the former litigation, and that this record should have been admitted in evidence so that it might be considered together with all the evidence of record, and due effect given to its probative value as that might appear from a comparison of all the documentary and oral testimony touching the identity of these lands.

Certain it is that the decree entered by the lower court in so far as it affects the lands in question on this appeal, cannot be sustained and must be set aside; and having in mind the nature of these proceedings, and the possibility, if not the probability, that the question as to the identity of the lands in dispute can be established with sufficient certainty upon a new trial to sustain a definite finding in this regard and thus finally dispose of the contentions of the parties with regard thereto, we are of opinion that the record should be returned for a new trial as to the lands in question on this appeal.

Ten days hereafter let judgment be entered affirming the decree of the court below, in so far as it relates to the lands in question on the appeal of the applicant from the adjudication in favor of the infant Catli, with the costs in

favor of the appellee; and reversing the decree in so far as it relates to the lands in question on the appeal of the oppositor Sunico, and directing the return of the record to the court below for a new trial of the issue raised by his opposition to the applicant's prayer for registration of the lands in dispute between them, without especial condemnation of costs in this instance. So ordered.

Torres, Trent, and Araullo, JJ., concur.

MORELAND, J., dissenting:

I do not agree to the judgment as written.

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