

**IN THE MATTER OF THE APPLICATION FOR LAND REGISTRATION.
MARIANO SEVERO TUASON Y DE LA PAZ, ET AL., APPLICANTS. J. M.
TUASON & CO. INC., PETITIONER AND APPELLEE, VS. REGISTER
OF ...**

G.R. No. 12760. August 29, 1961

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Appeal from a decision and an order of the Court of First Instance of Rizal, dated, respectively, November 17, 1956 and January 25, 1957.

As stated in said decision:

"On July 7, 1956, Cornelio M. Aguila, in a letter signed and seemingly verified by him, requested the Register of Deeds of Quezon City to annotate his claim, which is the subject of a separate suit for annulment of original title, as an adverse claim under Sec. 110, Act 496, on Original Certificate of Title No. 735 (Rizal) and Transfer Certificate of Title No. 1267 (Quezon City). Consequently, the Register of Deeds of Quezon City annotated on Sheet 62 of Transfer Certificate of Title No. 1267 (Quezon City) the following:

PE-2469 T-1267,-ADVERSE CLAIM —Filed by Cornelio M. Aguila, who seek for the annulment of Original Certificate of Title No. 735 and as well as this title No. 1267 (37686). Doc. No. 273, Page No. 46, Book VIII, of Not. Pub. of Manila, Vicente M. Magpile).

Date of Instrument—Jan. 9, 1956

Date of Inscription—July 7, 1956

11:00 a.m.

"To Cornelio M. Aguila's request was attached a copy of a petition he filed jointly with Gregorio Venturanza and Filemon S. Custodio for annulment of Original Certificate of Title No. 735 and Transfer Certificate of Title No. 735 and Transfer Certificate of Title No. 1267. In the course of the trial, counsel for respondents admitted that the claim of Cornelio M. Aguila covers only 1,400 square meters within the property described in Transfer Certificate of Title No. 1267. The property embraced in this Transfer Certificate of Title No. 1267, however, has an area of 5,297,429.3 square meters, so much so that, in as much as neither the request for annotation of adverse claim nor its enclosure contained any technical description of the portion claimed by respondent Aguila, the adverse claim as annotated affected the entire 5,297,429.3 square meters.

"On August 22, 1956, Petitioners who is the registered owner of the land described in Transfer Certificate of Title No. 1267 (Quezon City), filed subject petition under Section 110 of Act 496 praying for the cancellation of the annotated adverse claim of Cornelio M. Aguila on Transfer Certificate of Title No. 1267. Respondents filed their answer and opposition to the petition alleging that the original registration of the land in the name of petitioner's predecessors-in-interest was fraudulent and void and that said land really belonged to Telesforo Deudor from whose heir respondent Aguila allegedly purchased a portion. Said purchase, according to the complaint in Civil

Case No. Q-1745 of this Court entitled 'Cornelio M. Aguila, et al. vs. Florencio Deudor, et al.' was effected on Aug. 4, 1951."

After due hearing, said court rendered the aforementioned decision invalidating the adverse claim in question and ordering the Register of Deeds of Quezon City to cancel it, as well as sentencing Cornelio M. Aguila to pay treble costs. Thereupon, counsel for Aguila filed a notice of appeal, in his name and that of Gregorio A. Venturanza and Filemon Custodio, to which petitioner-appellee objected upon the ground that Filemon Custodio and Gregorio A. Venturanza are not parties in this case and, accordingly, have no capacity or personality to appeal, and that "the case has become moot and, therefore, unappealable", because, prior to the rendition of said decision, Aguila had filed with the Register of Deeds of Quezon City a sworn petition for the cancellation of said adverse claim, and that, accordingly, its annotation had already been cancelled. The lower court issued, therefore, its appealed order of January 25, 1957, the dispositive part of which reads:

"IN VIEW OF THE FOREGOING, counsel for respondent Cornelio Aguila is hereby ordered to amend his Record on Appeal by discarding the names of Filemon Custodio and Gregorio Venturanza as respondents-appellants, and to specify therein that respondent Aguila is appealing from that part of the decision ordering him to pay treble costs, within ten (10) days from today."

Hence, this appeal by Aguila, who maintains that the lower court erred:

- "in not hearing and deciding the case under its general and ordinary jurisdiction instead of under its special and limited jurisdiction as a Court of Land Registration. (See decision of the Honorable Supreme Court in the Case of Lucina Evangelista vs. Pedro Deudor, et al., SC-G. R. No. L-12826.)
- "in not declaring the petitioner in default for failure to file its answer, as well as failed to deny and controvert respondents' counterclaim, and in refusing to admit respondents' documentary evidence.
- "in not allowing Gregorio A. Venturanza, Mary A. Venturanza and Filemon Gustodio to intervene, parties who are similarly situated, and had their adverse claims and lis pendens duly annotated on the same Transfer Certificate of Title No. 1267, (37686) of Quezon City.
- "in not ordering the dismissal of the petition for cancellation of adverse claim when in truth and in fact the adverse claims of the above named intervenors remained intact, and in full force and effect.
- "in holding that the rights and interests of Cornelio M. Aguila upon which he seeks the annotation of his adverse claim did not arise subsequent to the date of the original registration. (This is diametrically opposed to the holding in the Lucina Evangelista case 106 Phil., 170.)
- "in ordering the cancellation of the adverse claim of Cornelio M. Aguila and in holding him liable to treble the costs."

1. In the decision appealed from, the lower court held that, to be registrable under section 110 of Act No. 496, an adverse claim must consist of "a right or interest in registered lands adverse to the registered owner arising subsequent to the date of original registration"; that the latter took place, in the case at bar, on July 8, 1914 that Aguila's claim is based upon the sale of a land about 1,400 square meters said to have been made to him on August 4, 1951 by Florencio Deudor, an alleged heir of Telesforo Deudor, who allegedly had a title by possessory information to the land in dispute since April 6, 1893; that Aguila's claim is based, therefore, upon said title of Telesforo Deudor, whose alleged right to the land in question existed before the original registration thereof; and that, consequently, the registration of Aguila's alleged adverse claim, as such, was improper and the annotation thereof should be cancelled pursuant to section 110 of Act No. 496.

It is now urged by Aguila that the question involved in this proceedings should have been decided by the lower court, not as a land court with limited jurisdiction, but as an ordinary court of first instance, for the controversy between the parties calls for the application, not only of said section 110, but, also, of sections 79 and 112 of Act No. 496, and of section 24, Rule 7, of the Rules of Court. This pretense is refuted, however, by Aguila's communication to the Register of Deeds of Quezon City, for he (Aguila) specifically prayed therein for the annotation of his alleged adverse claim "as provided for by section 110 of Act No. 496". Moreover, appellee's petition for cancellation had been based upon said section 110 of Act No. 496 and filed in the proceedings for the registration of the land aforementioned. Appellant's first assignment of error is, therefore, patently devoid of merit.

2. So is his second assignment of error. In his answer and opposition to appellee's petition for cancellation of the adverse claim in dispute, appellant made some allegations, by way of affirmative, legal and special defense and counterclaim, assailing the original registration of said land as fraudulent, and, then prayed that appellee's certificate of title be annulled. No answer to said counterclaim having been filed, appellant moved that appellee be declared in default, but the motion was denied.

Section 110 of Act No. 496 reads:

"Whoever claims any right 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 cost in its discretion."

It is clear from this provision that the court, in the exercise of its limited jurisdiction thereunder, cannot pass upon the validity of the original registration proceedings. What is more, the same is assumed by said section 110 to be valid and legal in all respects. For this reason it merely permits the annotation of a right or interest arising subsequently to the original registration. Hence, the court had no jurisdiction to entertain appellant's "counterclaim" and the lower court's refusal to declare appellee in default and to admit evidence in relation thereto could not have possibly injured appellant herein.

3-4. Contrary to appellant's pretense, the lower court could not have erred, and did not err, in not allowing Gregorio A. Venturanza, Mary Venturanza and Filemon Custodio to intervene in this case, for they never sought permission to do so. Neither is it true that their adverse claim had been duly annotated on Transfer Certificate of Title No. 1267, for the annotation thereon reads:

"PE-2469 T-1267, Adverse Claim—Filed by Cornelio M. Aguila, who seek for the annulment of Original Certificate of Title No. 735 and as well as this title No. 1267 (37686). Doc. No. 273, Page No. 46, Book VIII, of Not. Pub. of Manila, Vicente M. Magpile).

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5-6. Appellant's claim is based upon a conveyance said to have been made in his favor by Florencio Deudor, one

of the heirs of Telesforo Deudor, whose alleged title consists of an entry of possessory information dated April 6, 1893, for which reason appellant alleges that the original registration in favor of the Tuasons, sometime in 1914, was fraudulent and the certificate of title issued in their name void. Thus, appellant claims to have stepped into the shoes of Telesforo Deudor whose alleged rights arose before, not subsequent to said original registration.

Lastly, as correctly stated in the decision appealed from,

"The evidence likewise shows that petitioner through Gregorio Araneta, Inc., has subdivided about three-fourths (3/4) of the land covered by Transfer Certificate of Title No. 1267 and, since 1938, has been selling subdivision lots therein under contracts to sell which obligated the petitioner, as vendor, to give the vendee a clean title as soon as the vendee has paid the price of the lot. Notwithstanding full payment by the vendees of several lots in the subdivision, however, petitioner, as vendor, could not give its vendees any clean title ever since the annotation of the adverse claim on Transfer Certificate of Title No. 1267. Untold embarrassment and irreparable injury was suffered naturally by petitioner and Gregorio Araneta, Inc. Certain vendees, whose lots were probably not at all included in the 1,400 square meters supposedly purchased by respondent Aguila and Florencio Deudor, and who had relied on clean titles from petitioner to promptly negotiate loans with the rehabilitation Finance Corporation or the Government Service Insurance System, required petitioner to file indemnity bonds and petitioner actually filed bonds in favor of the Government Service Insurance System and the Rehabilitation Finance Corporation amounting to P118,000.00 as of October 11, 1956. And all this prejudice could have been avoided had respondent Aguila only segregated the area he claims. Both from the strictly legal and equitable viewpoints, therefore, justice can be better served by ordering the cancellation of the adverse claim in question. Then, too, considering pendency of the suit for annulment filed by the respondent Aguila as well as the complaint in Civil Case No. Q-1746 which prays, among others for an order requiring petitioner and Gregorio Araneta, Inc. to execute in favor of respondent Aguila a Deed of Absolute Sale over the 1,400 sq. meters upon payment of the price agreed between respondent Aguila and Florencio Deudor, it appears clear to the Court that the annotation of the adverse claim in question is frivolous and vexatious.

"It may be said in passing that, in an attempt to reduce or to not unduly augment consequential damages, petitioner proposed in open court and after some unexpected delay in the proceedings that it would file a bond of P50,000.00 for the cancellation of the adverse claim to answer for whatever damage Aguila may suffer from said cancellation, the proceedings to continue for final resolution on the merits. This proposal was not accepted by respondent's counsel."

In view of the foregoing, and considering that the price paid by Aguila to Deudor for the 1,400 square meters allegedly sold by the latter to the former, was only P4,200.00 (Exhibit 10), and that, even prior to the rendition of the decision appealed from, appellant had asked for and secured the cancellation of the annotation of the adverse claim above referred to, apart from the fact that—by virtue of a compromise agreement entered into on March 16, 1953, which was approved by a decision of the Court of First Instance of Rizal (Quezon City Branch), dated April 10, 1953, in Civil Cases Nos. Q-135, Q-139, Q-174, Q-177 and Q-187 of said court, which has long become final and executory—the Deudors have expressly "recognized the complete, absolute and indefeasible title in fee simple" of appellee herein, it is obvious that the lower court was fully justified in rendering the decision, and in issuing the order appealed from, which are, consequently, hereby affirmed, with costs against appellant Cornelio M. Aguila. It is so ordered.

Padilla, Labrador, Reyes, J. B. L., Barrera, Paredes, Dizon, De Leon, and Natividad, JJ., concur.

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