

**ALLAN LUMAPAS, OSCAR LUMAPAS, MARIA THERESA CASTILLO
AND MARICEL LUMAPAS, PETITIONERS, VS. GREGORIO LIMPOT
LUMAPAS, RESPONDENT.**

G.R. No. 130682. March 10, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is a petition for review on certiorari of the Amended Decision[1] of the Court of Appeals in CA-G.R. SP No. 41099 dated July 7, 1997, granting the writ of mandamus prayed for by herein respondent, Gregorio Limpot Lumapas, to compel Judge Camilo E. Tamin, Presiding Judge of the Regional Trial Court of Zamboanga del Sur, to issue a writ of execution in Civil Cases Nos. 90-20,025 (2993) and 90-20,015 (2631) in favor of the respondent herein.

The antecedent facts are as follows:

In August 1951, the Republic of the Philippines filed an application with the RTC of Zamboanga del Sur claiming ownership over certain properties which include Lot 4329 located in Molave, Zamboanga del Sur, with an area of 95,771 square meters. The case was docketed as Cadastral Case No. N-3, Cadastral Record N-10. Claiming a right over said property, Guillermo Lumapas filed his answer on July 15, 1952.

During the pendency of the case or on April 8, 1965, Guillermo, still single, died intestate. On September 20, 1984, Gregorio Limpot Lumapas, who claimed to be the only son of Guillermo, filed a motion for his substitution of the deceased. The trial court granted the motion. Gregorio later filed his Answer to the application.

On October 3, 1984, the trial court rendered judgment adjudicating Lot 4329 to the claimant Gregorio as the owner thereof. Gregorio was issued OCT No. 0-6,151 on July 8, 1985.

Gregorio thereafter filed a complaint with the RTC of Zamboanga del Sur for the recovery of possession of the property against Demetria Lumapas who was then in possession of the subject lot. This was docketed as Civil Case No. 90-20,015 (2631). For their part, Allan Lumapas, Maria Theresa Castillo, Oscar Lumapas and Maricel Lumapas, filed a civil complaint against Gregorio Lumapas for recovery of possession of property with damages, docketed as Civil Case No. 90-20,025 (2993).

The plaintiffs in Civil Case No. 90-20,025 alleged, inter alia, that they were the brothers and sisters of the deceased Guillermo Lumapas. Guillermo died single and without issue. They claimed that Gregorio Lumapas obtained OCT No. 0-6,151 through fraud, deceit and gross misrepresentation and that the property had been titled to Guillermo Lumapas long before OCT No. 0-6,151 was issued to Gregorio, or on April 21, 1953, through a homestead patent.

The trial of the two cases was consolidated. On February 12, 1991, the trial court rendered judgment[2] in favor of Gregorio Limpot Lumapas, the decretal portion of which reads:

WHEREFORE, in view of the foregoing, this court renders judgment in favor of GREGORIO LIMPOT LUMAPAS and against the party of Allan Lumapas, et al. –

- Declaring that Gregorio Limpot Lumapas is the son of Guillermo Lumapas alias “Memong” with Laureana Limpot alias “Ilay”, and the sole heir of said Guillermo Lumapas;

- Declaring Gregorio Limpot Lumapas as the rightful owner of the lot covered by the two torrens titles, namely:

a)

OCT P-157 in the name of Guillermo Lumapas registered with the Office of the Register of Deeds of Zamboanga del Sur on April 12, 1953 by virtue of Homestead Patent No. V-16060 dated March 27, 1953 issued in the name of Guillermo Lumapas; and

b)

OCT No. 0-6,151 in the name of Gregorio Limpot Lumapas, registered on August 20, 1985 by virtue of Cadastral Decree No. N-190636 Cadastral Case No. N-3, Cadastral Record No. N-10, dated October 31, 1984;

- Ordering the Register of Deeds of Zamboanga del Sur to cancel the owner’s duplicate of title and the original certificate of title bearing OCT P-157 in the name of Guillermo Lumapas registered with that office on April 21, 1953 by virtue of Homestead Patent No. V-16060, dated March 27, 1953 issued in the name of Guillermo Lumapas, and henceforth, to deal with said land as registered only under OCT 0-6,151 in the name of Gregorio Limpot Lumapas, dated August 20, 1985, by virtue of Cadastral Decree No. N-190363 Cadastral Case No. N-3, Cadastral Record No. N-10, dated October 31, 1984;

- Ordering the immediate issuance of a writ of possession, directing the court sheriff to place Gregorio Limpot Lumapas in possession over said lot covered by OCT 0-6,151;

No finding as to cost.

SO ORDERED.[3]

The decision was appealed to the Court of Appeals, docketed as CA-G.R. CV No. 31820. On February 28, 1994, the Court of Appeals rendered a decision reversing that of the trial court. The decretal portion of the decision reads, thus:

WHEREFORE, the appealed decision is hereby REVERSED and a new one entered as follows:

(1) Declaring that Gregorio Lumapas has not sufficiently proved that he is the son of Guillermo Lumapas; and

(2) Declaring Gregorio to have the right of possession over lot 4329; and

No pronouncement as to costs.

SO ORDERED.[4]

The appellate court ruled that the issue of whether the appellees-spouses Lumapas obtained OCT 0-6,151 through fraud and deceit should be raised in the appropriate proceedings, as the said title could not be attacked collaterally. The CA also ruled although he failed to prove that he was the son of Guillermo Lumapas, the appellee Gregorio Lumapas had the conditional right to possess the property, pending final determination of the validity of the title issued to him.

The decision of the CA became final and executory on March 13, 1995.

Gregorio Lumapas filed a motion for a writ of execution, but the trial court denied the said motion in its Order

dated December 6, 1995 on the following ground:

Gregorio Limpot has been declared by the Honorable Court of Appeals to be not the legal heir of Guillermo Lumapas.

...

... Gregorio Limpot has no legal right to use the surname "Lumapas" without the consent of the putative father, "Gregorio Limpot-Lumapas" is therefore, a non-entity in so far as the law is concerned for there is in fact no such person existing.

Inasmuch as Gregorio Limpot, the movant is not a legal heir of Guillermo Lumapas, therefore, he has no legal authority or personality to act for and in behalf of Gregorio Limpot-Lumapas, the non-existing person to whom the Honorable Court of Appeals has awarded the possession of the land in litigation. He is a mere pre-tender who should not be allowed to benefit from his illegal maneuvers (sic). He is a complete stranger in so far as the estate of Guillermo Lumapas is concerned.[5]

Gregorio Lumapas forthwith filed a petition for mandamus against Judge Camilo Tamin with this Court, docketed as G.R. No. 123119. On February 7, 1996 we issued a Resolution dismissing the petition for the petitioner's failure to comply with paragraphs 2 and 4 of SC Circular No. 1-88, which took effect on January 1, 1989. The petitioner filed a motion for reconsideration of the said resolution but this Court, on April 30, 1996, denied the said motion with finality.

On June 18, 1996, Allan Lumapas, Oscar Lumapas, Maria Theresa L. Castillo and Maricel Lumapas, filed a petition for the cancellation of OCT No. 0-6,151 with the RTC, Branch 23, Molave, Zamboanga del Sur, presided by Judge Camilo Tamin. The case was docketed as Special Case No. 96-50,022 (Cadastral Case No. N-3). The petitioners therein alleged, inter alia, that Gregorio Lumapas, through deceit and misrepresentation in Cadastral Case No. N-3, was able to secure a second title over the property under his name; as such, OCT No. 0-6,151 was null and void. Furthermore, the petitioners therein invoked the ruling of the CA in CA-G.R. CV No. 31820 that Gregorio Lumapas failed to prove his filiation with Guillermo Lumapas. The petitioners prayed that after due proceedings, judgment be rendered in their favor as follows:

(1)

Declaring Original Certificate of Title No. 0-6,151, Registry of Deeds of Zamboanga del Sur, issued to the respondents in their names, as null and void ab initio; and cancelling the same;

(2)

Retaining said OCT No. 0-6,151 in the custody of the Honorable Court, pending the final determination of the instant petition.

(3)

Declaring Original Certificate of Title No. P-157 in the name and issued to deceased Guillermo Lumapas still in full force and effect and delivering the same to the petitioners;

(4)

Ordering the respondents to pay damages to the petitioners for litigation expenses and attorney's fees in the sum of P100,000.00; and the sum of P50,000.00 in the concept of nominal and corrective damages and to pay the costs of this suit; and further –

(5)

GRANTING unto the petitioners such other relief or remedy that serves the cause of law, justice and equity.[6]

In his answer to the petition, Gregorio Lumapas averred that (1) he was the sole heir of Guillermo Lumapas; (2) the trial court had declared him as owner of the property in Civil Case No. 90-20,015 (2631) and Civil Case 90-20,025 (2993), and that the said decision was upheld by the CA in CA-G.R. CV No. 31820 and by this Court in G.R. No. 117338; and, (3) the petitioners' action was barred by res judicata and prescription.

On July 9, 1996, Gregorio filed a motion for the inhibition of Presiding Judge Camilo Tamin, on the ground that he and his counsel filed an administrative complaint against said Judge Tamin, and that the latter had filed a complaint for disbarment against said counsel. On July 12, 1996, the trial court issued an order denying the motion for inhibition.

Gregorio Lumapas then filed a petition for prohibition with the Court of Appeals against Judge Camilo E. Tamin for the nullification of his July 12, 1996 Decision. The case was docketed as CA-G.R. SP No. 43507. On September 4, 1997, the CA dismissed the petition.

In the meantime, on July 23, 1997, the trial court rendered judgment in Special Case No. 96-50,022 in favor of herein petitioners and against the respondents-spouses Gregorio Lumapas and Erlinda Contento. The decretal portion of the decision reads:

- Declaring Original Certificate of Title No. P-157 in the name of Guillermo Lumapas, as the only valid certificate of title over the land in litigation.
- Ordering the Register of Deeds for the Province of Zamboanga del Sur to cancel Original Certificate of Title No. 0-6,151, in the name of Gregorio Limpot Lumapas married to Erlinda Contento, over the land in litigation, the same being a spurious illegitimate title.
- No pronouncement as to cost.

SO ORDERED.[7]

On July 28, 1997, the respondents filed a notice of appeal from the decision.[8] However, on August 21, 1997, the trial court issued an order denying the notice of appeal. On October 20, 1997, Gregorio Limpot Lumapas filed a petition for annulment of judgment in Special Case No. 96-50,022 with the Court of Appeals under Rule 47 of the Rules of Court. The case was docketed as CA-G.R. SP No. 45817. On November 21, 1997, the CA issued a Resolution dismissing the petition for failure of the petitioner to allege extrinsic fraud in his petition. The appellate court ruled that the remedy of the petitioner was to file a petition for certiorari for the nullification of the trial court's Order dated August 21, 1997 denying his notice of appeal. The CA issued a Resolution on February 23, 1998 denying petitioner's motion for reconsideration. Consequently, Gregorio filed a petition for review on certiorari with this Court on March 20, 1998, docketed as G.R. No. 132661. The petition was, however, denied by this Court on March 25, 1998 for being deficient in form. The motion for reconsideration by the respondent herein was later denied by this Court on January 15, 2001.

Undaunted, the Spouses Lumapas filed a petition for mandamus with the Court of Appeals to compel the RTC to issue a writ of execution to enforce the decision of the appellate court in CA-G.R. CV No. 31820. The case was docketed as CA-G.R. SP No. 41099. At first, the appellate court dismissed the petition, but on September 7, 1997 it rendered judgment granting the writ. The decretal portion of the Decision reads:

WHEREFORE, premises considered, finding the motion for reconsideration to be impressed with merit, the earlier decision is hereby SET ASIDE, and a new one is issued GRANTING the writ of mandamus and accordingly, ordering the respondent Court to ISSUE the writ of execution as prayed for by the petitioner.

SO ORDERED.[9]

On October 10, 1997 Allan Lumapas, Oscar Lumapas, Ma. Theresa Castillo, and Maricel Lumapas, filed the instant petition for review on certiorari of the decision of the Court of Appeals in CA-G.R. SP No. 41099. The case was docketed as G.R. No. 130682. The petitioners alleged, inter alia, that the respondent indulged in forum shopping because his petition for mandamus in the CA was the third petition filed in the Court of Appeals and in this Court. They further averred that the writ of mandamus in effect reversed the decision of this Court in G.R. No. 132661, and that the decision of the CA in CA-G.R. SP No. 41099 had been mooted by the decision of the RTC in Special Case No. 96-50,022. In his comment on the petition, the respondent Gregorio Limpot Lumapas alleged that the public respondent Judge Camilo Tamin had a personal interest in the petition at bench; he wanted to prevent the enforcement of his decision in Civil Case No. 90-20,015 (2631) because of his decision in Special Case No. 96-50,022. The respondent also pointed out that the petition was prepared by no less than Judge Camilo Tamin.

The Court of Appeals ruled that its decision in CA-G.R. SP No. 31820 had long become final and executory as of March 13, 1995. According to the appellate court, it was the ministerial duty of the trial court to issue a writ of execution to enforce the appellate court's decision. For their part, the petitioners assert that Transfer Certificate of Title No. 0-6,151 relied upon by the respondent on his claim for possession of the property had already been nullified by the RTC in Special Case No. 96-50,022 where OCT P-157 in the name of petitioners-predecessors was declared the only valid title and OCT No. 0-6,151 under the name of the respondent was ordered cancelled. The decision of the RTC had become final and executory. In his comment on the petition, respondent Gregorio averred that by issuing a writ of mandamus, the appellate court was merely enforcing its decision in CA-G.R. SP No. 31820, which had long become final and executory.

The only issue in this case is whether or not the trial court may be compelled by a writ of mandamus to issue a writ of execution for the enforcement of the decision of the Court of Appeals in CA-G.R. CV No. 31820.

The petition is meritorious.

The fallo of the decision of the appellate court in CA-G.R. SP No. 31820 reads:

WHEREFORE, the appealed decision is hereby REVERSED and a new one entered as follows: lauren

(1)

Declaring that Gregorio Lumapas has not sufficiently proved that he is the son of Guillermo Lumapas;

(2)

Declaring Gregorio to have the right of possession over lot 4329; and,

No pronouncement as to costs.

SO ORDERED.[10]

However, the appellate court in its decision ruled that, although the respondent Gregorio Lumapas failed to prove his filiation to the deceased Guillermo Lumapas, the fact that he had legal title over the subject land entitled him to the possession thereof, pending the final determination of the validity of the title issued to him in an appropriate proceeding:

The question now posed is if Gregorio failed to prove by sufficient evidence his filiation to Guillermo Lumapas, does it follow that he is not entitled to the possession of the said property?

Gregorio was able to obtain a title in his name over the questioned property after the cadastral proceedings instituted by the Republic of the Philippines. Originally, the respondent therein was Guillermo who after his death, was substituted by Gregorio on the ground that he is the son of the former. He was subsequently issued OCT No. 0-6,151. This Torrens title is now a conclusive evidence of his ownership of the subject land (Ching vs. CA, 181 SCRA 9). After the expiration of the one-year period from the issuance of the decree of registration, the said certificate of title became incontrovertible (Section 38, Land Registration Act, now Section 32, P.D. 1259). In fine, whether or not his title was obtained fraudulently as alleged by appellants, is beyond the competence of this Court to determine. The issue should have been raised during the proceeding before the cadastral court. A Torrens title cannot be collaterally attacked, the issue on the validity of title, i.e. whether or not it was fraudulently issued can only be raised in an action expressly instituted for that purpose (Co vs. CA, 196 SCRA 705). Appellants' prayer for the cancellation of appellee's title and the reconveyance of the same to them, under the facts obtaining, is legally impossible. To sustain their action would be inconsistent with the rule that the act of registration is the operative act that conveys a parcel of land to its registered owner under the Torrens system.

What we are saying is that, although appellee has not sufficiently proved his filiation to the late Guillermo Lumapas, the fact that he has a legal title over the subject land entitles him to the possession thereof, pending the final determination of the validity of the title issued to him in an appropriate proceeding.[11]

In fine, the right of the respondent to take possession of the property subject to a resolutive condition, that is, the final determination in Cadastral Case No. N-3 on the issue of whether respondent Gregorio Lumapas is the legal heir of Guillermo Lumapas and of the validity of OCT No. 0-6,151. Conformably to the decision of the appellate court in CA-G.R. CV No. 31820, the petitioners filed their petition therein for the cancellation of OCT 0-6,151 in Cadastral Case No. N-3. The case was docketed as Special Case No. 96-50,022. The respondent failed to file an answer and was declared in default. In its Decision dated July 23, 1997, the trial court nullified Original Certificate of Title 0-6,151 under the name of the respondent Gregorio Lumapas and declared Original Certificate of Title No. P-157 under the name of Guillermo Lumapas as the only valid title over the property. The decision of the RTC had become final and executory. The decision of the RTC in Special Case No. 96-50,022 is a supervening cause or reason which renders the final and executory decision of the appellate court in CA-G.R. CV No. 31820 as unenforceable.[12] The nullification of Original Certificate of Title No. 0-6,151 under the name of the respondent left him without any legal basis for his claim of right of possession over the property. Having been declared the owners of the property, being the lawful heirs of Guillermo Lumapas, the petitioners are entitled to the possession of the property.[13]

In view of the foregoing disquisition, there is no longer a need for the Court to still resolve the other issues raised by the petitioner.

IN LIGHT OF ALL THE FOREGOING, the petition is GRANTED. The assailed decision of the Court of Appeals is SET ASIDE and REVERSED.

SO ORDERED.

Quisumbing, (Acting Chairman), Austria-Martinez, and Tinga, JJ., concur.
Puno, J., (Chairman), on leave.

[1] Penned by Associate Justice Ramon A. Barcelona with Associate Justices Artemon D. Luna and Maximiano C. Asuncion concurring.

[2] Penned by Judge Camilo E. Tamin.

[3] CA Rollo, pp. 45-47 (CA-G.R. SP No. 41099).

[4] Id. at 56.

[5] Lumapas v. Tamin, 334 SCRA 394 (2000).

[6] CA Rollo, p. 19 (CA-G.R. SP No. 45817).

[7] Id. at 112

[8] Id. at 113.

[9] Rollo, p. 20.

[10] CA Rollo, p. 56 (CA-G.R. SP No. 41099).

[11] Id. at 55-56. (Italics ours.)

[12] Flores v. Court of Appeals, 259 SCRA 618 (1996).

[13] Nazareno v. Court of Appeals, 326 SCRA 338 (2000).

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