

ZOSIMO ROJAS, ET AL., PETITIONERS, VS. THE CITY OF TAGAYTAY AND HON. JOSE B. JIMENEZ, JUDGE, BRANCH III, COURT OF FIRST INSTANCE OF CAVITE, RESPONDENTS.

G.R. No. 13333. November 24, 1959

Ponente: BARRERA, J.

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BARRERA, J.:

Petitioners Zosimo Rojas, et al.; claiming to be the registered owners of Lot No. 1, Psu-103916-Amd. originally decreed in their favor in Case No. 398, G.L.R.O. Record No. 53546, have filed this original petition for certiorari seeking to nullify the order of the Court of First Instance of Cavite dated December 2, 1957, denying their petition to set aside the decision of June 30, 1957 rendered in another and subsequent Land Registration Case No. 323, G.L.R.O. Record No. 12440 decreeing, for the second time, the registration of the same Lot No. 1, this time in favor of the City of Tagaytay.

At the instance of herein petitioners, a writ of preliminary injunction was issued by this Court on January 24, 1958, restraining the respondent judge from taking further cognizance of the aforementioned registration case No. 323 until further orders from this Court.

It appears on record that on January 22, 1957, the City of Tagaytay filed with the Court of First Instance of Cavite Land Registration Case No. 323 applying for the registration in its name of 6 parcels of land, among which was Lot No. 1, plan Psu-103916-Amd., situated in the City of Tagaytay, containing an area of 21,812 square meters and particularly described as follows:

"Bounded on the Northeast, along line 1-2 by Lot No. 1 of Plan Psu-103916-Amd (should be Psu-103914-Amd). (Proposed Constabulary Barracks); along line 2-3, by Lot 3 of Plan Psu103916-Amd. (Portion of Molave Avenue); along 3-4, by property of Congregation de las Beatas de la Virgen Maria; along line 4-5, by property of Honorio Rojas (lot 2, Psu-103916) and along line 5-2, by Lot 1 of plan Psu-103916-Amd (should be Psu-103914-Amd.) (Proposed Constabulary Barracks:)"

The City of Tagaytay sought original registration of this parcel of land, allegedly acquired by purchase from Zosimo Rojas, either under Act No. 496 or pursuant to Chapter VIII of Commonwealth Act No. 141, said applicant and its predecessors-in-interest having been in actual possession of the land since 1894. No copy of the deed of sale was attached to the application, allegedly because it was either lost or destroyed during the Japanese occupation.

As nobody appeared at the hearing to oppose the application, an order of general default was entered by the court against the whole world, and the applicant was allowed to adduce its evidence.

On June 30, 1957, the court decreed registration of said Lot No. 1, plan Psu-103916. Amd. in the name of the City of Tagaytay, free from any liens and encumbrances, and the issuance of the corresponding certificate of title upon the finality of said decision.

On July 15, 1957, Zosimo Rojas, supposed vendor of the lot in question, together with his present co-petitioners Manuel, Bernardo, Deomedes, Felisa and Soledad, all surI named Rojas filed in the same proceeding a petition to set, aside the decision of the court in so far as said Lot No. 1, Psu-103916-Amd. was concerned; to lift the order of general default as far as it affected them because as adjoining owners cited in the application no actual notice was served them as required in Section 32 of Act 496, as amended; and praying that they be allowed to file their opposition to the registration of the aforesaid lot for the reason, among others, that said Lot No. 1 was part of a bigger parcel of land already decreed in a previous land registration ease (Case No. 398, G.L.R.O. Rec. No. 53546) and covered by an original certificate of title (O.C.T. No. 29) issued by the Register of Deeds of Cavite in their names since December 5, 1940.

The lower court denied this petition by order of December 2, 1957; hence, the filing of the instant action by the Rojas brothers for the purpose already stated above.

Petitioners assert that the court a quo, in adjudicating ownership of the lot involved herein in favor of the applicant-respondent, notwithstanding notice of its previous registration and the existence of an original certificate of title covering the same, acted without jurisdiction. There is merit in this contention.

It is not controverted that Original Certificate of Title No. 29 issued in the names of petitioners on December 5, 1940, covers a parcel of land containing an area of 67,434 square meters described and delimited in the original plan Psu-103916. Petitioners allege that Lot No. 1, with an area of 21,812 square meters, is within and forms a part of the aforementioned parcel of land. On the other hand, applicant-respondent claims that although the disputed Lot No. 1 originally belonged to petitioners, the latter sold it to the said respondent in 1937, for which reason, it is alleged, Lot No. 1 was segregated from survey plan Psu-103916 and embodied in subsequent survey plan Psu-103916 Amd. And since plan Psu-103916-Amd. (amendment-subdivision, prepared for the City of Tagaytay) was approved by the Director of Lands on February 9,, 1940, applicant-respondent contends that said plan could not have been approved had it included, as property of the City of Tagaytay, portions belonging to the petitioners.

This argument is fallacious. There is no conflict between original survey plan Psu-103916 (which is the basis of petitioners' title) and the amendatory plan Psu103916-Amd. for the latter is but a subdivision plan, as its own title states (see Annex C which is respondent's Exh. A, upon which the decree in its favor was based.) Both plans refer to a parcel of land whose total area is 67,434 square meters; the only difference is that the original plan refers to one single parcel, while the second plan refers to the same parcel but subdivided into four (4) lots (Nos. 1, 2, 3, and 4) whose aggregate area is the same 67,434 square meters. Consequently, there is no reason for the Director of Lands to disapprove the subdivision plan No. Psu-103916-Amd. The fact that this latter plan was prepared in the name of the City of Tagaytay does not make the City the owner of the lots therein described. Indeed, respondent claims only Lot 1 of the four mentioned in the plan. Be this as it may, the fact is that the whole parcel of 67,434 square meters which, as stated, includes Lot No. 1 of subdivision plan Psu-103916-Amd. was subsequently decreed, on June 15, 1940, in favor of herein petitioners, and Original Certificate of Title No. 29 covering the same was issued in their names on December 5, 1940 by the Register of Deeds of Cavite Province. This decree and certificate of title duly registered, being in rem, are binding upon all, and with even greater force upon the respondent City of Tagaytay which, according to its own allegations, derives its right of ownership in virtue of its purchase from the registered owners Rojas. Under this situation, the most logical and natural course open to respondent, in the ordinary course of business or civil transactions, was to have its deed of purchase registered and obtain a transfer certificate of title in its name after securing the court's approval of the subdivision plan segregating Lot 1 from the bigger lot described in petitioners' Original Certificate of Title No. 29. If there be question as to the sale by Rojas to the City of Tagaytay, as it seems is now the case, and the supposed deed has

been allegedly lost or destroyed during the war, respondent's remedy, if it really purchased Lot 1, is to compel the execution of another deed for the conveyance to it of the portion it had bought. Certainly, respondent can not, as it did on January 22, 1957, apply for the registration in its name of the already registered Lot No. 1, apparently, as averred by the petitioners, at the back of the registered owners.

As thus viewed, the pivotal issue is one of jurisdiction on the part of the lower court. All the other contentions of respondent regarding, possession in good faith, laches or claims of better right, while perhaps valid in an appropriate ordinary action, as to which we here express no opinion, can not avail in the case at bar if the court a quo, sitting as land registration court, had no jurisdiction over the subject matter in decreeing on June 30, 1967, the registration, in favor of respondent City, of a lot already previously decreed and registered in favor of the petitioners.

In a quite impressive line of decisions, it has been well-settled that a Court of First Instance has no jurisdiction to decree again the registration of land already decreed in an earlier land registration case and a second decree for the same land is null and void.[1] This is so, because when once decreed by a court of competent jurisdiction, the title to the land thus determined is already a *res judicata* binding on the whole world, the proceedings being in rem. The court has no power in a subsequent proceeding (not based on fraud and within the statutory period) to adjudicate the same title in favor of another person. Furthermore, the registration of the property in the name of the first registered owner in the Registration Book is a standing notice to the world that said property is already registered in his name.

Hence, the later applicant is chargeable with notice that the land he applied for is already covered by a title so that he has no right whatsoever to apply for it. To declare the later title valid would defeat the very purpose of the Torrens system which is to quiet title to the property and guarantee its indefeasibility. It would undermine the faith and confidence of the people in the efficacy of the registration law.[2]

Applicant-respondent also alleges that even granting that Original Certificate of Title No. 29 includes Lot No. 1, such registration did not confer ownership upon the petitioners/at least insofar as that portion occupied by the City Hall of Tagaytay is concerned, it being contended that such building and the land whereon it was erected are properties for public use and, hence, are outside the scope and efficacy of the Torrens title acquired by petitioners, pursuant to Section 39 of Act 496.

The aforementioned Section 39 of the Land" Registration Act reads:

SEC. 39. Every person receiving a certificate of title in pursuance of a decree of registration, and every subsequent purchaser of registered land who takes a certificate of title for value in good faith shall hold the same free of all incumbrances except those noted on 'said certificate, and any of the following incumbrances which may be subsisting, namely:

First. Liens, claims, or rights arising or existing under the laws or Constitution . . . which the statutes of the Philippine Islands can not require to appear of record in the registry.

Second. Taxes within two years after the same become due and payable.

Third. Any public highway, way, private way established by law, or any Government irrigation canal or lateral thereof, where the certificate of title does not state that the boundaries of such highway, way, or irrigation canal or lateral thereof, have been determined.

The aforequoted provision specifically enumerates the only cases that may limit the registered owners absolute title over the property: (1) liens, claims or rights existing or arising under the laws or the Constitution and which

the statutes do not require their annotation or appearance in the registry; (2) taxes within 2 years after they become due and payable; (3) encumbrance or lien duly annotated in the certificate of title; and (4) any public highway, way, private way established by law, or any Government irrigation canal or lateral thereof existing on the property even if not annotated in the certificate. It is clear therefrom that even if we concede, for the sake of argument, that a municipal building or city hall and the land whereon it is erected may be considered as properties for public use, under the well-accepted principle of *inclusio unius est exclusio alterius*, respondent cannot validly invoke the provision of law quoted above.

This decision is limited only to the action of the trial court, sitting as land registration court, decreeing, for the second time, the registration of Lot No. 1 of subdivision plan Psu-103916—Amd. in favor of respondent City of Tagaytay, a lot already previously decreed by a competent court in favor of the petitioners, which action, we hold, is null and void. Wherefore, petition is granted and the lower court's order of December 2, 1957 as well as the decision dated June 30, 1957, are hereby set aside. The injunction heretofore issued is made permanent, with costs against the respondent City of Tagaytay. It is so ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Reyes, J. B. L., Endencia, and Gutierrez David, JJ., concur.

[1] *Pamintuan vs. San Agustin*, 43 Phil., 558, 561; *Timbol vs. Diaz* 14 Phil., 587, 590; *Reyes vs. Borbon*, 50 PM1., 791, 795; *Singian vs. Manila Railroad Co.*, 60 Phil., 192, 203; *Addison vs. Payatas Estate Improvement Co.*, 60 Phil., 673; *Siddco vs. Aznar*, 92 Phil., 952; 49 Off. Gaz., [4] 1390.

[2] *Ventura, Land Titles & Deeds*, p. 183; *Legarda vs. Saleeby*, 31 Phil., 590, 593.

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