

PIO L. CABALLES, PETITIONER, VS. THE DIRECTOR OF LANDS AND THE COURT OF FIRST INSTANCE OF LAGUNA, RESPONDENTS.*G. R. No. 14424. January 18, 1921*

Ponente: STREET, J.

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This is an original application to this court by Pio L. Caballes, a resident of Pagsanjan, in the Province of Laguna, for relief from the effects of a judgment by default entered in a cadastral case in the Court of First Instance of said province with respect to the parcel of land designated as lot No. 171 in the cadastral survey. The matter is now before us for determination upon petition and answer, together with the proof submitted by the petitioner and by the Attorney-General, as representative of the respondents.

It appears that on December 26, 1917, the Director of Lands, in behalf of the Government, filed a petition in the Court of First Instance of Laguna for the settlement and adjudication of several parcels of land in accordance with the provisions of Act No. 2259, known as the Cadastral Act. The lands affected by this proceeding are located in the municipality of Cavinti, in said province, and among the lands included therein is the parcel designated as lot No. 171.

Notice of the proceeding was published on February 1, 1918, according to law; and the cause was set for hearing upon April 1, 1918. Between that date and April 20, 1918, the case was called for trial more than once; and upon the date last named general default was declared as to all unclaimed lots, and the same were declared to be public land. Among the pieces of property included in this default is said lot No. 171, as to which no claimant had appeared.

The petitioner herein, Pio L. Caballes, alleges that he is the exclusive owner of said lot; and he has in fact proved to our satisfaction that he was the true owner thereof upon the date the judgment by default was taken.

The explanation given by the petitioner of his failure to appear in the court and make timely claim to said property is that the said lot No. 171 in the cadastral proceeding, had been combined in the revised assessment in the municipality of Cavinti with the lot No. 169, also belonging to the petitioner, and that when the petitioner appeared in the cadastral proceeding to claim lot No. 169, it did not occur to him to interpose a separate claim to lot No. 171, believing, as he did, that said lot was comprised in No. 169. The good faith of this assertion is in our opinion shown by the fact that he united to the documents relating to lot No. 169 his title papers with reference to lot No. 171. It appears that the petitioner had but lately purchased lot No. 171 from one Florencio Ansay; and among the circumstances contributing to the error into which the petitioner fell with respect to this parcel, is the fact that Florencio Ansay was the owner of this land at the time it was surveyed, and the petitioner had purchased it between the time of the survey and the date when he should have appeared in court to claim it. For this reason the notice sent out in the cadastral proceeding with respect to lot No. 171 was apparently sent to Florencio Ansay. It may be added that the petitioner had purchased both lots from the same Florencio Ansay but at different times.

After the default had been declared on April 20, 1918, as above stated, this fact was not brought to the petitioner's

attention until a full month had elapsed, when information concerning the matter was communicated to him by his vendor, Florencio Ansay. Immediately upon receiving this information, the petitioner proceeded to take steps to correct the error and to this end, through his attorney, on May 23, 1918, interposed a motion for reconsideration before the Court of First Instance, explaining his failure to claim the property sooner, and asking the court to set aside the judgment by default in order to allow him to prove his title.

The facts stated in the application aforesaid indubitably supply a good ground for setting aside the default, and if it had been filed within the period of thirty days, the judge of the Court of First Instance would, we presume, have acceded to the request. The application, however, though filed with all reasonable promptitude after the fact of default had been discovered by the petitioner, came too late, by the space of two or three days, to be entertained in the character of a motion for a new trial.

Although, for the reason stated, the application to which reference has been made supplies no ground for the granting of a new trial, in the ordinary acceptance of that term, nevertheless it is our opinion that this application could be viewed as an independent application for relief under section 113 of the Code of Civil Procedure, if applicable to cadastral cases. Said section in very broad terms authorizes a court to give relief against any judgment, order, or other proceeding taken against a party "through his mistake, inadvertence, surprise, or excusable neglect, provided application be made within a reasonable time, but in no case exceeding six months, after such judgment, order, or proceeding was taken." We can, however, discover no sufficient basis for holding said section to be applicable in cases of this kind.

In this connection it may be observed that the law immediately applicable to cadastral cases is Act No. 2259, as amended. Section 11 of said Act provides, among other things, as follows:

"SEC. 11. The trial of the case * * * shall be conducted in the same manner as ordinary trials and proceedings in the Court of Land Registration, and shall be governed by the same rules. Orders of default and confession shall also be entered in the same manner as in ordinary cases in the same court and shall have the same effect. All conflicting interests shall be adjudicated by the court and decrees awarded in favor of the persons entitled to the lands or the various parts thereof, and such decrees, when final, shall be the basis for original certificates of title in favor of said persons, which shall have the same effect as certificates of title granted on application for registration of land under the Land Registration Act, and except as herein otherwise provided all of the provisions of said Land Registration Act, as now amended, and as it hereafter may be amended, shall be applicable to proceedings under this Act, and to the titles and certificates of title granted or issued hereunder."

Under this provision it is evident that, as regards procedure, cadastral cases are governed by exactly the same rules and provisions of law as ordinary cases for the registration of land. In order to discover the procedure to be followed in a cadastral case, it is therefore only necessary to examine the law applicable to the procedure in registration cases.

Upon examination of the provisions of Act No. 496 (the Land Registration Act) it will be found that the Code of Civil Procedure has not in general terms been made applicable in registration proceedings, though certain provisions of said Code have been made applicable, and even this is done in a guarded manner. Thus, we find that in section 14 of Act No. 496, as amended by Act No. 1108, provision is made for the review of registration proceedings in the Supreme Court, and to this end the appropriate sections of the Code of Civil Procedure, touching appeal, are expressly adopted. It is needless to say that section 113 is not mentioned in this connection, for that section has nothing to do with the subject of review in the Supreme Court. On the contrary it makes provision for independent review in the court of origin.

Furthermore, it will be found that Act No. 496, so far from adopting section 113 of the Code of Civil Procedure, contains provisions inconsistent with that section. Thus, in section 38 of Act No. 496, as amended, we find the

following, among other provisions, touching the effect of the decree in registration cases:

"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 after entry of the decree, provided no innocent purchaser for value has acquired an interest. If there is any such purchaser, the decree of registration shall not be opened, but shall remain in full force and effect forever, subject only to the right of appeal hereinbefore provided.*"

There is, therefore, no escape from the conclusion that the Court of First Instance was powerless to grant the relief sought in the petitioner's motion of May 23, 1918, for a new trial in that court. It follows that said court, in denying that motion, as it did on August 8, 1918, was acting regularly, and within the scope of its judicial authority. Consequently there is no basis for the annulment of that order by this court in the present proceeding, considered in the light of an application for the writ of certiorari.

The petitioner supposes, however, that the facts set forth by him are sufficient to afford a basis for relief under section 513 of the Code of Civil Procedure, which provides for relief, upon direct application to the Supreme Court, in any case where a judgment is rendered by default and a party thereto is deprived of a hearing by fraud, accident, mistake, or excusable negligence. Now, the remedy provided in that section is undoubtedly applicable in, cadastral cases, for said section is expressly mentioned in section 14 of Act No. 496, as amended by Act No. 1108, as one of the sections of the Code of Civil Procedure applicable to registration proceedings. The trouble here is, however, that an application for relief under section 513 must be made to the Supreme Court within sixty days after the aggrieved party first learns of the judgment against which relief is sought; and this condition has not been complied with in the present case.

In this connection it must be borne in mind that, upon the admission of the petitioner himself, he first learned of the default on or about May 20, 1918.. The present petition was filed in this court on August 23, 1918, which was more than three months after he was apprised of the default in question. It was therefore too late, considered in the character of an application to this court under section 513 of the Code of Civil Procedure. It is hardly necessary to add that in applying the provision of that section in regard to the time of the filing of the application, we are not at liberty to deduct the time consumed in this case in the fruitless effort of the petitioner to get relief in the Court of First Instance. In any view which can be taken of the case the situation is one which has passed beyond the possibility of judicial relief.

We regret our inability to grant relief, but the positive mandate of the law must be obeyed. Of course there was no design on the part of the legislature, in adopting the Cadastral Act, to create a system under which the property of an individual could be acquired by the Government without compensation. But it was deemed necessary in the general interest to require owners to appear in the cadastral proceedings to claim their own; and where default occurs, its legal effects must follow, unless application for relief is made within the time allowed.

Before closing this opinion we may be permitted, without intending criticism upon the course pursued below, to admonish the courts against precipitancy in making default in cadastral cases effective as to parcels in respect to which no claimant at all has appeared, and especially where the situation and character of the land is such as to suggest that it belongs to somebody and could not be public land. In the proceeding now before us, judgment by default was declared about four months after the original petition was filed. If the interval had been longer, the notoriety and publicity of the proceedings might have contributed to the timely correction of the error into which the petitioner had fallen in this case.

Furthermore fiscals, and other attorneys representing the Government in these matters, will do well to bear in mind that the policy of the Cadastral Act is to procure the registration of property in the name of the true owner and the public interest cannot be well served otherwise than by the intelligent and sympathetic promotion of this end.

The petition is dismissed, with costs. So ordered.

Mapa, C. J., Araullo, Malcolm, and Villamor, JJ., concur.

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