

**EMMANUEL F. CONCEPCION, HEIRS OF JESUS F. CONCEPCION,
NAMELY: BETTY CONCEPCION AND JIMMY CONCEPCION; AND
HEIRS OF REGINO F. CONCEPCION, JR. NAMELY: ROSARIO VDA. DE
CONCEPCION AN...**

G.R. NO. 147928. January 11, 2005

Ponente: GARCIA, J.

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GARCIA, J.:

Under consideration is this petition for review on certiorari under Rule 45 of the Rules of Court to nullify and set aside the decision dated November 27, 2000 of the Court of Appeals in CA-G.R. CV No. 28665, dismissing, for lack of merit, the appeal thereto taken by the herein petitioners contra an earlier order dated January 22, 1988 of the Regional Trial Court, Branch V, Cebu City, then sitting as a land registration court.

All the parties in this case are descendants of the late spouses Regino Concepcion, Sr. and Concepcion Famador. Petitioner Emmanuel is a son of the late spouses while the other petitioners Betty, Jimmy, Rosario and Jernie (all surnamed Concepcion) and the respondents Antonio Concepcion, Lourdes C. Watts and Ida C. Horvat are grandchildren of the spouses.

The deceased spouses Regino Concepcion, Sr. and Concepcion Famador had seven children namely: Jose (father of respondents Antonio Concepcion, Lourdes Watts and Ida Horvat), Jesus (father of petitioners Betty Concepcion and Jimmy Concepcion), Maria, Vicente, Regino, Jr. (father of petitioners Rosario Vda. De Concepcion and Jernie Concepcion), Elena and Emmanuel. During their marriage, the couple acquired the following real properties:

- A parcel of land situated at Zulueta Street, Cebu City containing an area of 110 sq. meters, more or less, and with an assessed value of P11,000.00 hereinafter referred to as the Zulueta property, the realty involved in this case;
- A parcel of agricultural land situated at Pit-os, Cebu City, now known as Lot No. 10110, covered by Tax Dec. No. 007441, with an assessed value of P2,732.00;
- A parcel of agricultural land also situated at Pit-os, Cebu City, now known as Lot No. 10132, covered by Tax Dec. No. III-05158, with an assessed value of P740.00; and
- A parcel of agricultural land likewise situated at Pit-os, Cebu City, now known as Lot No. 10129 and covered by Tax Dec. No. 23728 with an assessed value of P223.00.

Regino, Sr. died in 1944. Ten (10) years later or in 1954, his wife, Concepcion Famador, also passed away. Upon the latter's death, she left a will^[1] disposing of all her paraphernal properties as well as her share in the conjugal partnership of gains.

The will was subjected to probate in Special Proceedings No. 1257-R of the then Court of First Instance of Cebu

City. Jose, one of the sons of the late spouses and father of the herein respondents, contested the probate on the ground that the disposition made therein impaired his legitime.

Eventually, the will was allowed probate. However, on July 6, 1960, the probate court *motu proprio* dismissed the probate proceedings because Jesus, as the estate's executor, neglected to perform his duties after the will was probated. Consequently, the probate court was not able to adjudicate to the heirs their respective shares in the estate.

On account thereof, Jose filed a complaint for partition with damages against his six (6) brothers and sisters before the then Court of First Instance of Cebu, Branch XIII, thereat docketed as Civil Case No. R-13850. In a decision[2] dated August 10, 1978, said court rendered judgment as follows:

IN VIEW OF THE FOREGOING, judgment is hereby rendered:

- Declaring the plaintiff (i.e., Jose) entitled to a share of 1,183.57 square meters as his legitime from his mother's estate and 1,829 square meters as his intestate share from the estate of Regino Concepcion, Sr.;
- Ordering defendants Regino, Jesus and Emmanuel Concepcion to contribute proportionately to the completion of plaintiff's legitime.
- Confirming the titles of the additional defendants over the properties conveyed to them.

SO ORDERED. (Emphasis supplied)

The decision became final and executory as no appeal was taken there from by the herein petitioners. Thereafter, the same court (CFI-Cebu, Branch XIII) issued a writ of execution[3] dated February 23, 1982. However, the writ was returned unsatisfied. Hence, on February 12, 1987, said court issued an alias writ of execution.[4] To this, a Sheriff's Report was submitted stating, among others, that the "writ of execution is only partially complied with pending the turn over of the share of the plaintiff (Jose) by the defendants (Jesus, Regino, Jr. and Emmanuel)."

Inasmuch as the herein respondents have not yet complied with the aforementioned August 10, 1978 decision of CFI-Cebu, Branch XIII, the same court issued an Order dated 27 May 1987[5], directing its branch sheriff Candido A. Gadrinab to execute a deed of conveyance covering the Zulueta property in favor of Jose.

Complying with the above, Sheriff Gadrinab executed a Deed of Conveyance over the Zulueta property in favor of Jose. Unfortunately, when Jose presented the same deed for registration, the Register of Deeds required him to surrender the owner's duplicate copy of TCT No. T-52227 covering the Zulueta property, which title was then in the possession of the petitioners. Despite demands, petitioners refused delivery of the title.

Hence, Jose filed with the Regional Trial Court at Cebu City, Branch V, then sitting as a land registration court, a Petition for the Cancellation of TCT No. T-52227. In an Order dated January 22, 1988[6], said court granted Jose's petition thus:

WHEREFORE, the foregoing premises considered, defendant Mr. Jesus F. Concepcion, defendant in Civil Case No. R-13850, is hereby ordered to surrender and/or deliver to the Register of Deeds of the City of Cebu the owner's copy of TCT No. 52227 covering Lot No. 204-B-SWO-24914 [Zulueta property] within ten (10) days after this Order becomes final and executory.

SO ORDERED.

There from, herein petitioners went to the Court of Appeals via an ordinary appeal in CA-G.R. CV No. 28665.

As stated at the threshold hereof, the Court of Appeals, in the herein assailed decision dated November 27, 2000,[7] dismissed the appeal for lack of merit.

Petitioners are now with us via the present recourse, on their following submissions:

I.

THE DECISION OF THE HONORABLE COURT OF APPEALS IN CA G.R.-CV NO. 28665 AND SUBJECT HEREOF IS A TOTAL DEPARTURE FROM ESTABLISHED DOCTRINES, EXPRESS LEGAL PROVISIONS AND PRINCIPLES OF LAW; THUS SAID APPELLATE COURT, IN SUSTAINING THE FINAL ORDER OF THE TRIAL COURT, GRAVELY ABUSED ITS DISCRETION TANTAMOUNT TO A WANT, IF NOT TOTAL LACK, OF JURISDICTION;

II.

THE HONORABLE COURT OF APPEALS ALSO REVERSIBLY ERRED AND GRAVELY ABUSED ITS DISCRETION IN IGNORING AND DEFYING THE OVERWHELMING EVIDENCE FOR PETITIONERS (OPPOSITORS-APPELLANTS THEREAT) WHICH SHOW THE GLARING VIOLATION OF SAID COURT IN ITS DECISION OVER THE BASIC RIGHTS OF HEREIN PETITIONERS.

It is petitioners' thesis that the cadastral court (RTC, Cebu City, Branch V), had no authority to order the surrender and/or delivery to the respondents of the owner's copy of TCT No. T-52227 covering the Zulueta property, because the parcel of land subject thereof had been devised to them by their common ascendant, the late Concepcion Famador, as indicated in her will.

The pivotal issue, then, is whether or not the Court of Appeals erred in dismissing petitioners' appeal in CA-G.R. CV 28665, thereby effectively sustaining the cadastral court's order dated January 22, 1988.[8]

We resolve the issue in the affirmative.

Before going any further, we find it necessary to speak herein on the jurisdiction of cadastral courts in the light of what transpired in this case prior to the issuance of the questioned order of January 22, 1988.

The pleadings before us disclose that in the proceedings before the cadastral court, petitioners filed an opposition claiming that the action of Sheriff Gadrinab in levying the Zulueta property was with grave abuse of authority since said property is not within the scope of the dispositive portion of the decision dated August 10, 1978 of CFI-Cebu, Branch XIII, in Civil Case No. R-13850.

In dismissing said opposition and in eventually ordering the surrender and/or delivery of the title covering the Zulueta property, the cadastral court explained in its same order of January 22, 1988:

"The matters brought out by the oppositors in their written opposition are not within the province of this Court to resolve, acting as a Cadastral Court with special and limited jurisdiction. Oppositors' complaint on the way the decision in said civil case was executed must be brought before the Court which tried the civil case and which have already resolved the issue of ownership between the parties therein",

a view evidently shared by the Court of Appeals in its impugned decision of November 27, 2000.

In *Junio vs. De Los Santos and Register of Deeds of Pangasinan*,[9] we made clear the following:

[d]octrinal jurisprudence holds that the Court of First Instance (now the Regional Trial Court), as a Land Registration Court, can hear cases otherwise litigable only in ordinary civil actions, since the Court of First Instance are at the same time, [c]ourts of general jurisdiction and could entertain and dispose of the validity or invalidity of respondent's adverse claim, with a view to determining whether petitioner is entitled or not to the relief that he seeks. (Emphasis supplied)

In *Ligon vs. Court of Appeals*,[10] we even went further by saying:

Under Sec. 2 of P.D. 1529, it is now provided that ‘Courts of First Instance (now Regional Trial Courts) shall have exclusive jurisdiction over all applications for original registration of titles to lands, including improvements and interest therein and over all petitions filed after original registration of title, with power to hear and determine all questions arising upon such applications or petitions.’ The above provision has eliminated the distinction between the general jurisdiction vested in the regional trial court and the limited jurisdiction conferred upon it by the former law when acting merely as a cadastral court. Aimed at avoiding multiplicity of suits the change has simplified registration proceedings by conferring upon the regional trial courts the authority to act not only on applications for original registration but also over all petitions filed after original registration of title, with power to hear and determine all questions arising upon such applications or petitions. (Emphasis supplied)

Clear it is from the foregoing that both the cadastral court and the Court of Appeals gravely erred in holding that the former is without jurisdiction to entertain and resolve the opposition thereat filed by the petitioners.

Be that as it may, it is, to us, improper for the cadastral court to issue its order of January 22, 1988, directing the petitioners to surrender and/or deliver the title covering the Zulueta property. That order is void and definitely without force and effect.

As it were, said order is premised on an earlier order issued on May 27, 1987 by the RTC-Cebu (former CFI-Cebu) Branch XIII in its Civil Case No. R-13850, which latter order is very much challenged by the herein petitioners. Accordingly, the propriety or validity of the cadastral court’s order of January 22, 1988 is, in turn, dependent on the propriety or validity of the order dated May 27, 1987 of RTC-Cebu, Branch XIII, in Civil Case No. R-13850.

It is undisputed that the August 10, 1978 decision of RTC-Cebu, Branch XIII, in the main case (Civil Case No. R-13850) has long become final and executory. In fact, a writ of execution as well as two (2) alias writs of execution have been previously issued by the same court. It was the non-satisfaction of these writs that prompted said court to issue its order dated May 27, 1987, directing Branch Sheriff Gadrinab to execute a deed of conveyance on the Zulueta property in favor of Jose Concepcion.

By issuing its order of May 27, 1987, RTC-Cebu, Branch XIII, sought to amend its August 10, 1978 decision. We must emphasize, however, that there is nothing in the August 10, 1978 decision of said court which authorizes the surrender and/or delivery of the title covering the Zulueta property. It merely required the defendants therein to “contribute proportionately to the completion of the plaintiff’s legitime.” In fact, said court has previously denied a “Motion for Projected Partition and Execution of Judgment” filed before it by the respondents precisely because, according to it, to allow partition of the Zulueta property will “in effect amend or alter the decision (referring to its earlier decision dated August 10, 1978) which has long become final and executory.”

The subsequent issuance of the order dated May 27, 1987 which amends the final and executory decision dated August 10, 1978 cannot be allowed. We have repeatedly held that a judgment that has become final and executory can no longer be amended or corrected except for clerical errors and mistakes. This rule holds true regardless of whether the modification is to be made by the magistrate who rendered the judgment or by an appellate tribunal which reviewed the same.[11] Doubtless, then, the order dated May 27, 1987 of RTC-Cebu, Branch XIII, in Civil Case No. R-13850 is a nullity.

And because a spring cannot rise higher than its source, it follows that the cadastral court’s order of January 22, 1988 which merely seeks to implement the earlier void order dated May 27, 1987 in Civil Case No. R-13850 is infected with the same nullity.

WHEREFORE, the instant petition is hereby GRANTED and the assailed decision dated November 27, 2000 of

the Court of Appeals VACATED and SET ASIDE.

SO ORDERED.

Panganiban, (Chairman), Sandoval-Gutierrez, Corona, and Carpio-Morales, JJ., concur.

[1] Appendix “D”, Petition, Rollo, pp. 63-64.

[2] Rollo, pp. 160, et seq.

[3] Appendix “F”, Petition, Rollo, pp. 66-67.

[4] Appendix “G-1”, Petitioners’ Memorandum, Rollo, pp. 264-265.

[5] Appendix “G”, Petition, p. 68.

[6] Rollo, pp. 59-61.

[7] Appendix “A”, Petition; Rollo, pp. 37-45.

[8] Rollo, pp. 59-61.

[9] 217 Phils. 203, 209 [1984] citing *Luna vs. Santos*, 102 Phils. 588 [1957]; *Franco vs. Monte de Piedad*, 117 Phils. 672 [1963]; and *Almiranez vs. Devera*, 121 Phils. 322 [1965].

[10] 314 Phils. 689, 697 [1995] citing *Averia vs. Caguioa*, 146 SCRA 459 [1986] and *PNB vs. ICB*, 199 SCRA 508 [1991].

[11] i.e. *Marcopper Mining Corporation vs. Briones*, 165 SCRA 464 [1988]; *Times Transit Credit Cooperative, Inc. vs. NLRC*, 363 Phils. 386 [1999]; and *Aboitiz Shipping Employees Association vs. Hon. Undersecretary of Labor and Employment*, 343 Phils. 910 [1997].

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