

PASCUAL STA ANA, APPLICANT AND APPELLANT, VS. EULALIO MENLA, DEFENDANT. ARCADIO NARVADES AND DOMINGA NARVADES, OPPOSITORS AND APPELLEES.

G.R. No. 15564. April 29, 1961

Ponente: LABRADOR, J.

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LABRADOR, J.:

Appeal from an order of the Court of First Instance of Camarines Sur, Hon. Perfecto R. Palacio, presiding, ordering the reconstitution of the records of the above-entitled case, and against another order for the issuance of the decree of registration over the lands subject of this proceeding, in the name of the oppositors Arcadio Narvades and Dominga Narvades.

On June 24, 1947, attorney for oppositor Eulalio Menla filed a petition for reconstitution, alleging that the court records of the above-entitled case were destroyed in or about March, 1945. Notice for the hearing of the above motion was furnished the attorney for the applicant Pascual Sta. Ana, who thereupon filed a motion to dismiss the petition for reconstitution, on the following ground: that the cause of action is barred by the Statute of Limitations. On November 21, 1957, the court denied the motion to dismiss and ordered the records of the above-entitled case reconstituted upon (a) the transcript of stenographic notes taken during the trial; (b) the blue print plan, PSU 9624 and 96264 covering the land in question; and (c) the decision of the court dated November 28, 1931. A motion to reconsider the order for reconstitution was denied.

On March 26, 1958, counsel for the oppositors filed a motion, alleging that the applicant had abandoned his right to the reimbursement of his expenses for registration and praying that a decree for the registration of the land be issued in the name of the oppositors. Opposition to this petition was again filed by attorney for the applicant, on the ground that as the decision in the case became final 30 days after November 28, 1931, and the oppositors have slept on their rights, their cause of action is barred by the Statute of Limitations. The lower court overruled the objection and on May 14, 1958, it ordered issuance of the decree of registration, of the parcels of land in the name of the oppositors. A motion to reconsider the same having been denied, the applicant has prosecuted this appeal.

In his first assignment of error, appellant argues that as the decision in the registration case was rendered on November 28, 1931, it had become unenforceable 15 years later, that is, at the time the petition for the reconstitution of the records was presented on June 24, 1947. The above contention is without merit. Act No. 3110, which governs the reconstitution of lost or destroyed records, provides that records of judicial proceedings in the office of the Clerk of Court of the Court of First Instance may be reconstituted as soon as practicable, after the occurrence of any fire or other public calamity resulting in the loss of all or part of the records of judicial proceedings. (Sec. 1, Act 3110). The loss occurred during the Liberation of this country in 1945, and the application for the reconstitution was made on June 24, 1947. It is apparent that the petition for reconstitution herein is not belated; it must have taken some time before the oppositors-appellees, who asked for the

reconstitution, came to know of „the loss of the judicial records of the registration case. Besides, in a resolution of this Court dated October 14, 1946, the period for the reconstitution of judicial records was extended to June 30, 1947. (42 Off. Gaz., No. 10, p. 2446) In any case such reconstitution was also extended by the provisions of Republic Act No. 441 to June 7, 1951.

The second assignment of error is as follows:

"THAT THE LOWER COURT ERRED IN ORDERING THAT THE DECISION RENDERED IN THIS LAND REGISTRATION CASE ON NOVEMBER 28, 1931 OR TWENTY SIX YEARS AGO, HAS NOT YET BECOME FINAL AND UNENFORCEABLE."

We fail to understand the arguments of the appellant in support of the above assignment, except in so far as it supports his theory that after a decision in a land registration case has become final, it may not be enforced after the lapse of a period of 10 years, except by another proceeding to enforce the judgment or decision. Authority for this theory is the provision in the Rules of Court to the effect that judgment may be enforced within 5 years by motion, and after five years but within 10 years, by an action (Sec. 6, Rule 39.) This provision of the Rules refers to civil actions and is not applicable to special proceedings, such as a land registration case. This is so because a party in a civil action must immediately enforce a judgment that is secured as against the adverse party, and his failure to act to enforce the same within a reasonable time as provided in the Rules makes the decision unenforceable against the losing party. In special proceedings the purpose is to establish a status, condition or fact; in land registration proceeding, the ownership by a person of a parcel of land is sought to be established. After the ownership has been proved and confirmed by judicial declaration, no further proceeding to enforce said ownership is necessary, except when the adverse or losing party had been in possession of the land and the winning party desires to oust him therefrom.

Furthermore, there is no provision in the Land Registration Act similar to Sec. 6, Rule 39, regarding the execution of a judgment in a civil action, except the proceedings to place the winner in possession by virtue of a writ of possession. The decision in a land registration case, unless the adverse or losing party is in possession, becomes final without any further action, upon the expiration of the period for perfecting an appeal.

The third assignment of error is as follows:

"THAT THE LOWER COURT ERRED IN ORDERING THE ISSUANCE OF A DECREE OF REGISTRATION IN THE NAMES OF THE OPPOSITORS-APPELLEES BASED ON A DECISION WHICH HAS ALLEGEDLY NOT YET BECOME FINAL, AND IN ANY CASE ON A DECISION THAT HAS BEEN BARRED BY THE STATUTE OF LIMITATIONS."

We also find no merit in the above contention. There is nothing in the law that limits the period within which the court may order or issue a decree. The reason is what is stated in the consideration of the second assignment of error, that the judgment is merely declaratory in character and does not need to be asserted or enforced against the adverse party. Furthermore, the issuance of a decree is a ministerial duty both of the judge and of the Land Registration Commission; failure of the court or of the clerk to issue the decree for the reason that no motion therefor has been filed can not prejudice the owner, or the person in whom the land is ordered to be registered.

For the foregoing considerations the judgment appealed from is hereby affirmed, with costs against the applicant-appellant.

Bengzon, C.J., Padilla, Concepcion, Reyes, J.B.L., Barrera, Paredes, and Dizon, JJ., concur.

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