

CRISTETA L. VDA. DE SENGBENGCO, JOHN NICHOLS, FOR HIMSELF AND OTHER HEIRS OF NICHOLS, PETITIONERS, VS. HON. FRANCISCO ARELLANO, JUDGE OF THE COURT OF FIRST INSTANCE OF NEGROS OC...*G.R. No. 16269. March 08, 1961*

Ponente: BARRERA, J.

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This is a petition for certiorari filed by Cristeta L. Vda. de Sengbengco, John Nichols, for himself and the other heirs of J. Clayton Nichols, seeking to nullify the order of the Court of First Instance of Negros Occidental dated July 29, 1959 (in Civil Case No. 5404), enjoining the Provincial Sheriff of Negros Occidental from proceeding with the sale at public auction of certain sugar quedans covering the 1958-59 produce of the Hacienda "Nelia", and from taking and/or disturbing the possession of respondents Emilio Cuaycong and Romeli Cuaycong of said hacienda, (Lot No. 903 of the Sagay Cadastre), as ordered by the same court in Civil Case No. 3222.

This Court gave due course to the petition and issued a writ of preliminary injunction, upon the filing of a P10,000.00 bond, on the strength of the allegations of petitioners that, by decision of March 24, 1959 in said Civil Case No. 3222,[1] the Court of First Instance of Negros Occidental confirmed ownership of Cristeta L. Vda. de Sengbengco and the heirs of J. Clayton Nichols on Lot 903 of the Sagay Cadastre declaring them entitled not only to the possession of the aforesaid property but also to the fruits thereof from 1946 to 1959, including the sugar quota therefor; that said decision had already become final and a writ of execution was issued on March 24, 1959 and herein petitioners were actually placed in possession of the property on June 8, 1959; that thereafter, or on July 29, 1959, the respondent court issued an injunction upon petition of respondents Emilio G. Cuaycong and Romeli Cuaycong in Civil Case No. 5404 of the same court, restraining the Provincial Sheriff from proceeding with the execution of the said final judgment in Civil Case No. 3222.

It now appears from the record that herein respondents Cuaycong, plaintiffs in Civil Case No. 5404 were never made parties in Civil Case No. 3222 the sole defendant therein being merely Arturo Piccio, who was at the time in possession of the lot in question as lessee of the Cuaycongs; that in spite of the petition of Piccio to have the Cuaycongs included as party-defendants, the court, on objection of plaintiff Sengbengco, denied the petition; that Civil Case No. 3222 was for ejectment and that the declaration of ownership over the lot in favor of the Sengbengcos did not bind the Cuaycongs who were not parties to the action for ejectment; that Sengbengco was not actually placed in physical possession of the hacienda as the possession of the lessee defendant Piccio was terminated by the lapse of his lease, as a result of which the Cuaycong took possession thereof.

Herein petitioners' title to the land in question, which was the basis of the judgment in Civil Case No. 3222 the execution of which was enjoined by the controverted order, far from being settled as claimed by petitioners, is still the subject of further proceedings in Cadastral Case No. 27, G.L.R.O. No. 284 of the Sagay Cadastre. In the case of Magdalena G. Vda. de Cuaycong vs. Cristeta L. Vda. de Sengbengco, (110 Phil., 111; 60 Off. Gaz., [44] 6387)

we declared the issuance of Original Certificate of Title No. 30451 covering Lot No. 903 in question in the names of J. M. Arroyo Sengbengco and J. Clayton Nichols, tainted with fraud, and revived the order of July 17, 1937, reconsidering and setting aside the adjudication of said Lot No. 903 in favor of J. M. Arroyo, Sengbengco and J. Clayton Nichols, predecessors of herein petitioners. As a consequence, we remanded the case to the court of origin for further proceedings in the cadastral case for the purpose of determining the ownership of Lot 903 in question.

Under the circumstances, We find that the respondent court did not abuse its discretion in issuing the writ of injunction in Civil Case No. 5404, restraining the Provincial Sheriff from executing, against the respondents Cuaycong, the judgment rendered in Civil Case No. 3222.

Wherefore, the petition is hereby dismissed and the injunction heretofore issued herein is dissolved, without costs. So ordered.

Bengzon, Acting C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Paredes, and Dizon, JJ., concur.

[1] An action for ejectment filed by herein petitioners against Arturo Piccio who had leased the property from herein respondents Cuaycong.

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