

## **BUFINO MANALO, PETITIONER, VS. THE HONORABLE CAYETANO LUKBAN, JUDGE OF FIRST INSTANCE OF TARLAC, AND BARTOLA LIWANAG, RESPONDENTS.**

*G.R. No. 22424. September 08, 1924*

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In this proceeding for certiorari, we are called upon to annul, after the proper proceedings, an order of the Court of First Instance of Tarlac entered on August 24, 1923, in cadastral proceeding No. 8 of that court, G. L. R. O. record No. 186, because, according to the petitioner, said order was made without jurisdiction.

The complaint having been answered, and there being no dispute as to the facts alleged by the parties, the case was submitted for consideration and judgment, which is now rendered based on the following opinion.

The facts of the case are:

On December 2, 1910, there was issued to Monico Corpus Manuel a homestead patent on a land in Caluluan, Concepcion, Tarlac. (See Exhibit 2, folio 47.)

On May 15, 1916, Monico Corpus Manuel sold said land to Bartola Liwanag for P600 with right of repurchase for the period of five years.

Some years later, cadastral proceedings were commenced covering the lands in that vicinity, which resulted in the division of the aforesaid land of Monico Corpus Manuel, sold with right of repurchase to Bartola Liwanag, into four lots Nos. 577, 578, 579 and 580. (Exhibit 6, folio 57, record.)

On June 29, 1922, judgment was rendered in cadastral proceeding No. 8 of the Court of Tarlac, G. L. R. O. record No. 186, on the land thus divided into lots, which judgment is as follows:

"It is decreed, after a declaration of general default, that the following lots be adjudicated to and registered in the name of the persons hereinafter to be mentioned, subject to the conditions specified as to each of them:

\* \* \* \* \*

"Lot 577 together with lots 578, 579 and 580 have been adjudicated to Monico Corpus Manuel, who holds gratuitous title No. III, according to certificate of title No. 55 dated December 2, 1910. Monico Corpus had acquired it during his marriage with Rufina Romero, now deceased; and, as admitted by him, lot 577 was subdivided, separating a portion of the land south of said lot equal to a portion contained in lots 578, 579 and 580, and apart from lot 577 on the north, excluding the road marked on the plan with the words 'road to S. Miguel the portion south of lot 577 having been adjudicated to the heirs of Rufina Romero by the names of Alberto, Juan, Antonio, Severina, Olimpia and Matilde Corpus; and the other portion north of said lot No. 577, with lots 578, 579 and 580 to Monico Corpus, subject to a lien in the sum of P700 in favor of Bartola Quingna of Angeles, Pampanga, payable in May, 1921.

\* \* \* \* \*

"So ordered.

"Given in Concepcion, Tarlac, Philippine Islands, this June 29, 1922.

"Ed. Gutierrez David

"Judge, Twenty-second Judicial District  
on duty in the Sixth Judicial District"

This is the judgment that was set aside by the lower court and is now sought by the petitioner to be maintained. According to said judgment, lot 577 was subdivided and, as a result thereof, the new lots Nos. 2220 and 2221 now stand in its place, as may be seen from the plans Exhibits B and B-1 (folios 11 and 12 of the record).

On August 19, 1922, in view of the fact that the land was not repurchased, the period for the repurchase having expired, Bartola Liwanag brought action in the Court of First Instance of Tarlac against Monico Corpus Manuel, concerning her title to the land already consolidated. On June 19, 1923, that court rendered judgment, the disposing part of which is as follows:

"In view thereof, judgment is entered as prayed for by said plaintiff. The title to the land described in the complaint and more particularly in transfer certificate of title No. 493 of the Province of Tarlac is adjudged consolidated in Bartola Liwanag and the heirs of her deceased husband Lupo Ramos; and the defendant Monico Corpus Manuel is hereby ordered to surrender said certificate of title to the register of deeds of the Province of Tarlac, in order that said officer may cancel it and issue another, in accordance herewith, to Bartola Liwanag and the heirs of the latter's deceased husband, Lupo Ramos. The defendant is further ordered to pay said Bartola Liwanag and the heirs of the deceased Lupo Ramos the sum of nine hundred pesos, as rental of the land in question for the five years that he had been in possession thereof as tenant; and said defendant is finally ordered to pay the costs of the suit.

"So ordered.

"Tarlac, Tarlac, January 19, 1923.

(Sgd.) "Anacleto Diaz

"Judge."

On February 27, 1923, said judgment having become final, transfer certificate No. 546 was issued to Bartola Liwanag, to effect the transfer of the title issued to Monico Corpus Manuel. (See Exhibit 5, folio 55, record.)

On May 17, 1923, Bartola Liwanag petitioned the lower court that the titles to the aforesaid lots Nos. 577, 578, 579 and 580 be issued to her and the heirs of her deceased husband Lupo Ramos.

On August 24, 1923, the lower court passed upon this petition, and entered the following order:

"This matter is before the court upon a motion for the issuance of certificates of title relative to lots 577, 578, 579 and 580 of the above entitled proceeding in the name of Bartola Liwanag and her husband Lupo Ramos in view of the fact that the land formed by these lots is the very land covered by gratuitous title No. 55, registered in the registry of property of this province and issued to Monico Corpus Manuel. On May 15, 1916, Bartola Liwanag and her husband bought this property with right of repurchase from Monico Corpus Manuel, and the conditions of said sale were such that the vendor could repurchase the land within five years from the date of said sale; and by virtue thereof, the transfer certificate of title No. 493 was issued to the purchasers.

"Monico Corpus Manuel not having made use of his right of redemption within the period stipulated, Bartola Liwanag filed a complaint in this court on August 21, 1922, against Monico Corpus Manuel, praying, among other things, for the consolidation of her and her husband's title (civil case No. 1748.) After the proper proceedings, the court rendered judgment which has become final and subject to execution, declaring consolidated the title of Bartola Liwanag and the heirs of her husband Lupo Ramos (Exhibit Liwanag-A) to the land described more particularly in transfer certificate of title No. 493. By virtue of said judgment, a new

transfer certificate of title No. 546 over the same land (Exhibit Liwanag-B) was issued to Bartola Liwanag and the heirs of her deceased husband. This land is now formed by lots Nos. 577, 578, 579 and 580, according to the declaration of Monico Corpus Manuel and the plans presented (Exhibits Liwanag-C and Liwanag-D).

"Upon the declaration of the witness Monico Corpus Manuel, expressing his agreement to the motion of Bartola Liwanag, the court grants the petition of Bartola Liwanag, and hereby orders the Chief of the General Land Registration Office to issue in the name of Bartola Liwanag and the heirs of her deceased husband Lupo Ramos certificates of title for lots 577, 578, 579 and 580.

"So ordered.

"Tarlac, Tarlac, August 24, 1923.

"M. Rosaura

"Auxiliary Judge on duty in the  
Sixth Judicial District."

It does not appear from the record when the herein petitioner acquired, as alleged by him, lot 2220, which is a portion of the land now in question, from the heirs of Rufina Romero, to whom it had been adjudicated, according to the judgment rendered in the cadastral proceeding on June 29, 1922.

On March 6, 1924, Rufino Manalo, the herein petitioner, filed a motion to set aside the order of August 24, 1923, granting the petition of Bartola Liwanag for the issuance of title over the four lots to herself and the heirs of her deceased husband.

On March 22, 1924, Bartola Liwanag petitioned the lower court that, as the order of August 24, 1923, had become final, the transfer certificate of title No. 546 be sent to the General Land Registration Office for the issuance of another certificate in accordance with said order of August 24, 1923. This petition was granted by the lower court on March 24, 1924.

On March 29, 1924, the trial court denied the motion of the petitioner dated the 6th of the same month and year. The petitioner took an exception to this ruling, moved for a reconsideration thereof Which was denied and, on May 12, 1924, filed the petition by which this proceeding was commenced.

The first point to be determined is the nature and effect of the judgment of June 29, 1922, in the cadastral proceeding.

The record shows that the land covered by said judgment had already been granted by the Government to Monico Corpus Manuel as homesteader under the provisions of Act No. 926, the corresponding certificate of title having been registered and issued to said grantee. By virtue of said registration and issuance of the certificate of title, that land is considered registered within the meaning of the Land Registration Act, No. 496 (sec. 122 of said Act).

So that when the trial was held in the cadastral proceeding which covered said land, and when the judgment of June 29, 1922, concerning said land was rendered in said proceeding, the title to said land could no longer be the subject of any inquiry, determination, or judgment, for it had already been adjudicated to Monico Corpus Manuel more than ten years before, with all the legal formalities and with all the force of a title under Act No. 496. What the judgment of June 29, 1922, intended in said cadastral proceeding was merely a partition of said land, which, as appears from the judgment itself, was based only on the admission of Monico Corpus Manuel himself, instead of going through the procedure prescribed by sections 19 to 24 of Act No. 2259 in such cases.

It does not appear that any decree was issued under said judgment, and no decree was issued undoubtedly because the execution of the judgment that one month and a few days thereafter was rendered in civil case No. 1748,

declaring the consolidation of Bartola Liwanag's title to the whole of the land, met with no opposition; and so, on February 27, 1923, the register of deeds issued, pursuant to said judgment, the transfer certificate of title of the land to Bartola Liwanag.

It results, therefore, that since the year 1910, when the title over the land in question was issued to Monico Corpus Manuel as homesteader, until February, 1923, when the certificate of the transfer of said title was issued to Bartola Liwanag, this land, according to the Land Registration Act and the books of the register of deeds, belonged first to Monico Corpus Manuel and then to Bartola Liwanag in full ownership.

The only thing that at the first sight seems to defeat the right and title of Bartola Liwanag is the aforementioned judgment of June 29, 1922, in the cadastral proceeding. But as already stated, said judgment does not define nor adjudicate any title to land, because said land had already been adjudicated before with the same force and effect as under the same Act No. 496 to which said cadastral proceeding was subject.

And the partition intended in said judgment of June 29, 1922, supposing it to have been made according to law, — which does not seem to be the case,—could not and cannot affect the title to the land partitioned. Such a partition intended in said cadastral proceeding is, as already stated, subject to the provisions of Act No. 2259, section 22 of which provides that an order of partition of this nature shall have the same force and effect as a final judgment in actions for partition under the Code of Civil Procedure.

And a final judgment in actions for partition under this Code cannot affect preferential rights according to section 196 thereof, the first part of which says:

"Nothing herein contained shall be construed so as to injure, prejudice, defeat, or destroy the estate, right, or title of any person claiming a tract of land, or any part thereof, by title under any other person, or by title paramount to the title of the joint tenants, tenants in common, or coparceners by whom partition may have been made."

And it is a fact that on the date of said judgment,—June 29, 1922,—the period within which Monico Corpus Manuel could have repurchased the land had expired, and therefore Bartola Liwanag had already acquired irrevocable title to said land (art. 1509, Civil Code), as was later judicially declared in civil case No. 1748 aforementioned.

Hence the order of August 24, 1923 (Exhibit D, folio 16), above set out, attacked as void and as having been entered without jurisdiction, is valid and effective, having been issued by a court with full jurisdiction.

Such order of August 24, 1923, does not review any decree, as there was none; nor does it review the judgment rendered in the aforesaid cadastral proceeding concerning land title, because said judgment of June 29, 1922, did not, nor could it, contain any adjudication of title, as above stated, for said judgment limits itself to making a partition of the land, which the same judgment acknowledges to have already been registered.

This is, therefore, no occasion for determining whether or not the order of August 24, 1923, is based on section 38 of Act No. 496 invoked by the petitioner; because said order was made for the purpose of enforcing, under the provisions of section 196 of the Code of Civil Procedure, the indefeasible and preferential title which Bartola Liwanag had acquired over the lands in question. There is a circumstance in said order of August 24, 1923, which must not be overlooked, and that is the fact that it was addressed to the Chief of the General Land Registration Office, when it should have been to the register of deeds. This, however, does not affect the jurisdiction of the trial court.

We hold that in entering the order of August 24, 1923, in cadastral proceeding No. 8, G. L. R. O. record No. 186, relative to lots Nos. 577, 578, 579, and 580 of said proceeding, the Court of First Instance of Tarlac did not exceed its jurisdiction, but did so with full authority and power.

The writ herein applied for is denied, and the petition  
dismissed without costs. So ordered.

Johnson, Street, Avancena, Villamor, and Ostrand, JJ., concur.  
Malcolm, J, dissents.

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