

ALEJANDRA DE LOS REYES, APPLICANT AND APPELLEE, VS. BRAULIO DE VILLA, OPPOSITOR AND APPELLANT.

G.R. No. 23514. November 12, 1925

Ponente: OSTRAND, J.

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OSTRAND, J.:

It appears from the record of the present case that on January 19, 1923, Alexandra de los Reyes filed an application for the registration of two parcels of land situated in the municipality of Sariaya, Province of Tayabas. Under the date of March 31, 1928, the Court of First Instance rendered a decision the final or disposing clause of which reads as follows:

"Therefore, after general order of default, the inscription and registration of the two parcels of land which are the subject of the petition as well as the house of strong materials built on parcel No. 1 in the name of Alejandra de los Reyes, a widow of 62 years of age, is ordered. As soon as this decision becomes final, let the decrees and corresponding certificates of title be issued."

On June 5, 1923, the court issued the following order: "The decision rendered by this court on March 31, 1923, having become final and non-appealable, it is hereby ordered that the Chief of the General Land Registration Office comply with section 21 of Act No. 2347." The section mentioned provides for the preparation of the final decree by the1 Chief of the General Land Registration Office.

On November 22, 1923, the following final decree of registration was issued:

"DECREE NO. 145230

"UNITED STATES OF AMERICA

"PHILIPPINE ISLANDS

"COURT OF FIRST INSTANCE, PROVINCE OF TAYABAS

"Case No. 1232, G. L. R. O. Record No. 22862, having been duly and regularly heard, in accordance with the provision of law, it is hereby decreed that Alejandra de los Reyes, a widow, of Sariaya, Tayabas, Province of Tayabas, P. I., is the owner in fee simple of certain land situated in said Province of Tayabas more particularly bounded and described as follows: (Here follows technical description of the land by courses and distances.)

"Therefore, it is ordered by the court that said land be registered in accordance with the provisions of the Land Registration Act in the name of said Alejandra de los Reyes, subject, however, to such of the incumbrances mentioned in article 39 of said law as may be subsisting, and to:

"Witness: the Honorable Servillano Platon, Auxiliary Judge of said Court, the 31st day of March, A. D. nineteen hundred and twenty-three;

"Issued at Manila, P. I., the 22d day of November, A. D. 1923, at 9 a. m.

"Attest:

(Sgd.)

"ENRIQUE ALTAVAS

"Chief of the General Land

Registration Office

"[SEAL OF THE COURT]"

On July 25, 1924, the appellant herein, Braulio de Villa, presented a petition for the review of the decree under section 38 of the Land Registration Act, the petitioner alleging that the registration of the land in question had been obtained by fraud. This petition was opposed by Alexandra de los Reyes on the ground that it had been presented after the expiration of the time allowed by said section 38 for the presentation of such petitions, and in an order dated October 22, 1924, the court below sustained this contention and dismissed the petition. From this order the petitioner for review appeals.

The only question presented for our consideration is as to the date from which the year within which a petition for review under said section 38 may be presented, should be computed. The appellant contends that in the present case the year began on November 22, 1923, when the final decree was issued, and that therefore the petition for review filed July 25, 1924, was presented well within the one year period provided for in section 38 of the Land Registration Act. The appellee, on the other hand, maintains that the decision of March 31, 1923, in which the registration was ordered was a decree within the meaning of section 38 and that the one year period began to run as soon as that decision was rendered and that consequently the petition was presented out of time.

In our opinion section 38 itself when read together with section 40 of the same Act furnishes a complete answer to the question. The two sections read as follows:

"Sec. 38. If the court after hearing finds that the applicant has title as stated in his application, and proper for registration, a decree of confirmation and registration shall be entered. Every decree of registration shall bind the land, and quiet title thereto, subject only to the exceptions stated in the following section. It shall be conclusive upon and against all persons, including the Insular Government and all the branches thereof, whether mentioned by name in the application, notice, or citation, or included in the general description 'To all whom it may concern.' 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. But any person aggrieved by such decree in any case may pursue his remedy by action for damages against the applicant or any other person for fraud in procuring the decree. Whenever the phrase 'innocent purchaser for value' or an equivalent phrase occurs in this Act, it shall be deemed to include an innocent lessee, mortgagee, or other encumbrancer for value."

"Sec. 40. Every decree of registration shall bear the day of the year, hour, and minute of its entry, and shall be signed by the clerk. It shall state whether the owner is married or unmarried, and if married, the name of the husband or wife. If the owner is under disability, it shall state the nature of the disability, and if a minor, shall state his age. It shall contain a description of the land as finally determined by the court, and shall set forth the estate of the owner, and also, in such manner as to show their relative priority, all particular estates, mortgages,

easements, liens, attachments, and other incumbrances, including rights of husband or wife, if any, to which the land or owner's estate is subject, and may contain any other matter properly to be determined in pursuance of this Act. The decree shall be stated in a convenient form for transcription upon the certificates of title hereinafter mentioned." (*Italics are ours.*)

The Land Registration Act expressly recognizes two classes of decrees in land registration proceedings, namely, decrees dismissing the application and referred to in section 37, and decrees of confirmation and registration dealt with in the next succeeding four sections of the Act. It will be noted that section 38 speaks of the latter class, the decrees of registration. It says: " * * * Every decree of registration shall bind the land, and quiet title thereto * * *. Such decree shall not be opened by reason of 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 * * *."

Section 40 defines or describes the decree of registration, prescribes the form and contents of every such decree, and provides for its entry. As no one will deny that the legislative power may define any particular decree and prescribe its form and as both of the sections quoted expressly refer to the same kind of decree, i. e., the decree of registration, there would seem to be little or no room for doubt that the appellant's contention is correct and that the time for presenting his petition for review began to run from the date of the entry of the final decree of November 22, 1923. We might therefore let the matter rest here without further discussion, but the somewhat loose use of the word "decree" in various sections of the original Land Registration Act and the failure to give due consideration to subsequent legislation, has led to considerable confusion and our reports contain conflicting expressions by way of obiter dicta on the subject. We shall therefore briefly discuss the arguments against our views, especially so since the point in question is now for the first time squarely before the court.

Counsel for the appellee contends (1) that inasmuch as section 38 speaks of a decree subject to appeal it must refer to the decision of the court and not to the decree described in section 40, which is non-appealable and (2) that since the enactment of Act No. 2347, which transferred the duty of preparing and entering the latter decree to the Land Registration Office, such decree has become a mere administrative decree inferior to the decision of the court and is not entered as a judicial decree.

I

The appellee's first contention falls to the ground when it is considered that the original Land Registration Act did not provide that the decision of the court should become final and non-appealable before the entry of the decree of registration; that provision was the result of subsequent legislation. In passing the original Act the legislator no doubt had in mind a situation where the clerk would be able to enter the decree immediately upon the filing of the decision of the court; the provision in section 38 that the indefeasibility of the decree shall be subject to "the right of appeal hereinbefore provided" so indicates. At that time the impression prevailed that in this country an ordinary non-technical description by metes and bounds of the land to be registered would be sufficient for the purposes of the decree and of the certificate of title and that it therefore was practicable for the clerk, without technical assistance, to enter the decree immediately after the rendition of the decision and before the expiration of the time for appeal. When the change in procedure was made, the legislator very properly did not disturb the reference to the right of appeal in section 38; there may still be cases where a final decree of registration is inadvertently entered before the time for appeal has expired. This will rarely occur, but the possibility exists and it would be unjust to cause a party to lose his right of appeal without any fault on his part, through a mistake of the clerk.

In the earlier cases brought before the now defunct Court of Land Registration, the original idea prevailed and decrees of registration were sometimes entered immediately after the rendition of the decisions and with land descriptions based on mere non-technical sketches instead of on accurate surveys. This soon led to hopeless confusion. Provisions were therefore made for land descriptions prepared by technical men upon careful surveys and in section 4 of Act No. 1108, it was further provided that no certificates of title should be issued until after the period for taking an appeal had expired. This, in practice, was regarded as equivalent to requiring the postponement of the entry of the decree until the decision had become final and non-appealable, so that after the passage of that Act no final decree of registration was supposed to be prepared and entered until the decision upon which it was based had become final.

This procedure was adhered to after the abolition of the Court of Land Registration and is still followed. Section 21 of the Act of reorganization of February 28, 1914 (Act No. 2347) reads as follows:

"Sec. 21. Of the decree.—Immediately after final decision by the court directing the registration of any property, the clerk shall send a certified copy of such decision to the Chief of the General Land Registration Office, who shall prepare the decree in accordance with section forty of Act Numbered Four hundred and ninety-six, and he shall forward a certified copy of said decree to the register of deeds of the province or city in which the property is situate. The register shall then comply with the duties assigned to him in section forty-one of Act Numbered Four hundred and ninety-six."

The term "final decision" in this section has always been construed to mean a decision which has become final and non-appealable.

The reasons for the change to the present system of procedure in preparing and entering the decrees of registration are very obvious. Examining section 40, we find that the decrees of registration must be stated in convenient form for transcription upon the certificate of title and must contain an accurate technical description of the land. This requires trained technical men. Moreover, it frequently occurs that only portions of a parcel of land included in an application are ordered registered and that the limits of such portions can only be roughly indicated in the decision of the court. In such cases amendments of the plans and sometimes additional surveys become necessary before the final decree can be entered. That can hardly be done by the court itself; the law very wisely charges the chief surveyor of the General Land Registration Office with such duties (Administrative Code, section 177). When in addition to this it is considered that in practice the decree of registration is not entered until after the expiration of the period of thirty days from the time of the notification of the decision ordering the registration (Act No. 1108, section 4, in relation with Act No. 1484), it can hardly be seriously contended that the decree of registration must be presumed to be entered at the time of the filing of the decision of the court.

The decision upon which the decree of registration is based is, under the present practice, nothing but a statement of the facts of the case and the law applicable thereto, together with an order for the eventual preparation, issuance and entry of the decree. In other words, in relation to the land registration cases in which the registration is granted, our trial courts now follow the old equity practice in England and the United States, with the exception that the decree is prepared by the chief clerk of land registration instead of by counsel, and that it is signed by said chief clerk in the name of the judge instead of by the judge himself. After its preparation and signing, the decree is immediately entered by copy in volumes eventually bound and kept in the General Land Registration Office. Then, and not until then, does the final and complete decree of registration becomes a matter of record.

The present case well exemplifies the procedure above outlined. The decision is dated March 31, 1923, but bears no note of its filing with the clerk. It states the facts of the case and contains a final or "dispositive clause" which declares a "general default," orders the registration of the two parcels of land which formed the subject of the application, and provides that decrees and certificates of title shall be issued when "this decision becomes final."

In a certain sense and in the wider signification of the term, the decision may be regarded as a decree, and is sometimes referred to as such, but that it is not the decree of registration described in section 40 of the Land Registration Act is very obvious: It does not bear the date and the year, hour and minute of its entry and is not signed by the clerk. It is not stated in a convenient form for transcription upon the certificates of title and does not describe the land; the land description must be gathered from other parts of the record. A person having before him only the decision itself would be unable to determine the area and location of the land.

Over two months after the rendition of the decision, the court issued an order declaring it final and non-appealable and directing the Chief of the General Land Registration Office to prepare the decree of registration, but such decree was not issued and entered until November 22, 1923. The decree thus entered is hereinbefore quoted and is in the form prescribed by section 40 of the Land Registration Act; it is signed by the Chief of the General Land Registration Office in the name of the judge who rendered the decision, and bears the seal of the court; and it states the date and hour of its issuance which may be presumed to be simultaneous with its entry. It is both in form and in substance the decree of registration described in section 40 and referred to in sections 38, 39 and 41 of the Land Registration Act and it is the decree in this case.

The decree of registration has its origin in the decision ordering its issuance and entry, and inasmuch as it relates back to the rendition of that decision, it may readily be conceded that had section 38 provided that the petition for review might be presented within a year from the rendition of the decree, the situation would perhaps have been different. But here we are only concerned with the date of the entry and under the old equity practice, which is followed in land registration cases, there is a wide difference between the rendition of a decision or order directing the issuance of a decree and the entry of such decree. The fact that most of the Courts of First Instance have deviated from the old practice in ordinary civil cases, and that in such cases the filing of the decision of the court is generally considered equivalent to the entry of the judgment, has nothing to do with cases such as the present; here both practical considerations and the law compel a different procedure.

II

The appellee's second contention is that while previously to the enactment of Act No. 2347, the decree of registration provided for in section 40, *supra*, was a judicial decree, that Act by transferring the duty of issuing the decree to an administrative officer, i. e., the Chief of the General Land Registration Office, made it an administrative decree of inferior rank.

This contention can certainly not be sustained. The decree is issued in the name of the court, and under its seal, by the Chief of the General Land Registration Office in his capacity as chief clerk of the Court of First Instance in land registration matters, and not as an administrative official merely. His duty is ministerial and he is acting under the orders of the court. The decree must be in conformity with the decision of the court and with the data found in the record, and he has no discretion in the matter. He cannot exercise independent judicial functions and if he is in doubt upon any point in relation to the preparation and issuance of the decree, it is his duty to refer the matter to the court. He acts as an official of the court and not as an administrative official, and his act is the act of the court. The decree is therefore a judicial decree and so far from being inferior to any other judicial order, it is the last word of the court in regard to the registration and is the basis for the issuance of the certificate of title; if we were to hold otherwise, our Land Registration Act would be unconstitutional. The determination of private land titles is a judicial matter and cannot be effected by administrative orders or decrees; under our constitutional limitations it must be a judicial process throughout (*People ex rel. Kern vs. Chase*, 165 Ill., 527; *State vs. Guilbert*, 56 Ohio St., 575).

Summarizing our conclusions hereinbefore stated, we hold that in a land registration case where the application

for registration is granted, there can be only one decree of registration; that the petition for a review of such decree must be presented within one year from its entry; that the final form and contents of the decree of registration is prescribed by section 40 of the Land Registration Act and that it cannot be formally entered until it has been prepared as therein provided; that such a decree has its inception in the decision of the court ordering its issuance and entry and is a judicial and not an administrative decree; that in the absence of evidence to the contrary, the date noted on such decree as the date of its issuance and entry must be taken to be the true date of such entry; and that the time for presenting a petition of review begins to run from that date.

Some of the members of the court are not in complete accord with all of the conclusions herein set forth, but recognizing the importance of definitely settling the principal question, will sign our decision without dissent.

For the reasons stated, the judgment appealed from is hereby reversed and it is ordered that the case be remanded to the court below for trial upon the merits. No costs will be allowed in this instance. So ordered.

Avanceña, C. J., Street, Malcolm, Villamor, Johns, Romualdez, and Villa-Real, JJ., concur.

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