

LEANDRA MANLAPAS AND CANUTO TOLENTINO, PETITIONERS, VS. HONORABLE JULIO LLORENTE, JUDGE OF FIRST INSTANCE OF RIZAL, RAFAEL LARA, PROVINCIAL SHERIFF OF RIZAL, AND THE CORPORATION...

G.R. No. 24804. November 24, 1925

Ponente: ROMUALDEZ, J.

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ROMUALDEZ, J.:

This is a proceeding for the issuance of a writ of prohibition against the Judge of First Instance of Rizal, the sheriff of said province and the San Francisco del Monte, Inc., commanding them to refrain from taking any action tending to enforce a writ of possession issued by said judge on April 7, 1925, concerning a land located in the barrio of San Francisco del Monte, municipality of San Felipe Neri, Province of Rizal, and which is lot A-2 of the subdivision plan of registration proceeding No. 3563 of the General Land Registration Office, which writ of possession is directed against the herein petitioners.

The latter contend that such writ of possession is illegal and was issued without jurisdiction.

The respondent San Francisco del Monte, Inc., filed a demurrer to the petition whereby this proceeding was commenced; on the ground that the petitioners have another plain, speedy and adequate remedy; that the respondent judge had jurisdiction to issue the writ in question, and that the petition does not allege that the trial court is intending to perform any further act in connection with said writ.

A hearing having been held upon the demurrer, the case was submitted for consideration and judgment."

The essential facts alleged in the petition are as follows:

About the year 1906, a registration proceeding (G. L. R. O. No. 3563) was instituted by the "Corporacion Franciscana de la Provincia de San Gregorio Magno" for the registration of certain lands located in the barrio of San Francisco del Monte above mentioned. The petitioner Leandra Manlapas entered an opposition in said proceeding, and after a hearing, the Court of Land Registration, in a judgment rendered January 11, 1910, ordered the following (Exhibit B):

"After entry of general default, the property is ordered (at 12 m.) registered in the name of the 'Corporacion Franciscana de la Provincia de San Gregorio Magno' with the exception of the two parcels claimed by the opponent, Leandra Manlapas, and described in their respective plans (L. D. 1427)."

Later on, on a date not shown by the record, the corresponding decree was issued, based on the plan dated August 25, 1910, bearing the conformity of Leandra Manlapas, according to an order of the court of September 17, 1925 (Exhibit I). (See Exhibit E.) In that decree, there was ordered the registration of a land of 199 hectares, 99 ares and 97 centiares approximately, "after excluding the area of lot B pertaining to Leandra Manlapas" of 5 hectares, 8 ares and 66 centiares, approximately, according to said decree (Exhibit C).

Then the corresponding title was issued to the applicant, the Franciscan corporation, which on June 22, 1920, sold a large part of the land to John W. Gordon, who in turn sold it to the herein respondent corporation, San Francisco del Monte, Inc.

On the 7th of April of this year this corporation, San Francisco del Monte, Inc., filed a petition for, and obtained, a writ of possession upon a portion of said land, the disposing part of which writ is as follows:

"Now therefore you are hereby commanded to place said petitioner, its agents and representatives, in possession of the property hereinbefore described and to reject therefrom all adverse occupants including the following persons, to wit:

"Leandra Manlapas and Canuto Tolentino, and confine them to the area of 50,866 square meters as excluded in the decree No. 4240, G. L. R. O. Record 3563."

The herein petitioners, on April 13, 1925 (Exhibit D), challenging the jurisdiction of the court, moved to set aside said writ of possession in so far as it affected them. On May 8, 1925, the court ordered a surveyor of the Bureau of Lands to survey, in the presence of the parties, the land occupied by the petitioner Leandra Manlapas (Exhibit E). On May 19, 1925, the attorney for the herein petitioners protested against every entrance on, surveying of, or setting of landmarks on, the parcel in possession of his clients by the agents of the Bureau of Lands (Exhibit F). On the same date said attorney moved the trial court to suspend the order for the survey of the land until the question of the jurisdiction was decided, and that thereafter the writ of possession issued April 7, 1925 (Exhibit G) be annulled. The survey thus ordered was carried into effect, the surveyor of the Bureau of Lands having afterwards filed his report (Exhibit H) dated June 26, 1925, which is as follows:

"In compliance with the order of the Court of First Instance of Rizal, dated May 8, 1925, 'The Bureau of Lands is hereby ordered to survey the land now occupied by said Mrs. Leandra Manlapas, having in view the aforesaid lot B, as described in the plan above-mentioned,' I have the honor to report the following:

"With the aid of the interested parties and their agents the relocation of the corners of lot B of the plan designated G. L. R. O. No. 3563 was laid on the ground in conformity with the technical description specified in said plan. The good office of Mr. J. L. Myers, representing the San Francisco Estate, was availed of in this phase of the work.

"After all the corners of the above-mentioned lot B were set on the ground, the incongruity of the land included therein and that actually occupied by Mrs. Leandra Manlapas becomes apparent. The land described in said lot B forms only a portion of the total area actually occupied by Mrs. Manlapas.

"With the aid of Estanislao Manuel and Canuto Tolentino, agents of Mrs. Manlapas, the survey of the land occupied by the latter was executed.

"Material and physical evidence which tend to prove that the land claimed by Mrs. Manlapas has been under continuous occupation and cultivation since the past generation are abundant. The size and aspect of the mango, santol and cineguelas trees and the bamboo clumps, which are found irregularly planted on the land, speak of old age. In the northern, western, and eastern central portions of the parcel are old fields devoted to the cultivation of upland rice. The age of these rice fields may be inferred from the appearance of the dikes.

"That Mrs. Leandra Manlapas is the open and exclusive possessor of the land actually claimed by her may be concluded from the fact that nobody, none of the adjoining owners, has introduced any improvements within the confine of her claim.

"Lines 1 to 16 of the parcel surveyed for Mrs. Manlapas fall along the dikes of the portion cultivated with upland rice; lines 23-27 follow the bamboo clumps owned by the San Francisco Estate; lines 27-28 follow the rice field dikes; lines 38-42 follow a line of old santol, tamarind and other trees; lines 42-45 follow an old

beaten trail; lines 45-67 follow an old fence of madre-cacao trees and bamboo clumps and lines 67-1 follow the bank of the San Francisco River.

"The relation between lot B of the plan designated G. L. R. O. No. 3563 and the land actually occupied by Mrs. Leandra Manlapas as well as the physical condition of the land may be seen on the plan prepared for this purpose.

"In this connection attention is invited to the apparent similarity in the general shape of the land described in lot B, G. L. R. O. No. 3563, and the parcel actually occupied and surveyed for Mrs. Leandra Manlapas. This similarity in shape, which could not be possible to have been done on the ground with a view of intentionally enlarging the land described in lot B, G. L. R. O. No. 3563, taking into consideration the size and irregularity of the boundary line of the parcel in controversy, is in the opinion of the undersigned the result of the erroneous method used in the survey and in the preparation of the plan of lot B, G. L. R. O. No. 3563. The undersigned is of the belief that lot B, G. L. R. O. No. 3563, is intended for the land now actually occupied and surveyed for Mrs. Manlapas but by the erroneous use of the scale a vastly different result is obtained.

"Very respectfully,

"QUIRICO C. FERIA

"Ass't. Survey Party No. 10"

On September 17, 1925, the lower court, after considering said report, denied the motion of the herein petitioners and ordered the immediate execution of the writ of possession, having imposed upon them the costs for making the survey (Exhibit I). The petitioners excepted to this order (Exhibit J).

From the foregoing, it results that the petitioners, who were and are occupying the land in question and had claimed it in the registration proceeding No. 3563, did not obtain the total exclusion of said land, but only a part thereof in accordance with the plan, Exhibit B, filed in said proceeding for the purposes of the decree; and that this partial and not total exclusion was due to an error committed in the survey of the property and the preparation of the plan, according to the report of the surveyor, Exhibit H, although, as asserted in said order of September 17, 1925 (Exhibit I), the plan wherein such error was committed, if it was an error at all, bears the conformity of the interested party, the herein petitioner Leandra Manlapas.

Said error, if it was at all, not having been corrected before the issuance of the decree, cannot now be corrected in the sense of amending said decree. Section 38 of Act No. 496 is conclusive:

"* * * 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 incumbrancer for value."

Said decree was issued in the year 1910 (on a date which does not appear in the record), that is to say, about 14 years ago. Besides, there is a purchaser by onerous title, the San Francisco del Monte, Inc., which is presumed innocent since the contrary does not appear. So that even if this proceeding were instituted within one year from the date of the issuance of said decree, there is no legal remedy for amending said decree, which has become and is completely indefeasible.

The respondent judge cannot, therefore, but respect such decree which is contained in the certificate of transfer upon which the San Francisco del Monte, Inc., applied for the writ of possession.

But the petitioners contend that the trial court had no jurisdiction to issue such writ, on the ground that the person now applying for it is not the applicant in the registration proceeding, that is, the "Corporacion Franciscana de la Provincia de San Gregorio Magno," but only a successor to said applicant, to wit, the San Francisco del Monte, Inc. They further allege that even supposing that the respondent corporation, not being the applicant in the registration case, may upon principle ask for a writ of possession, such a right has already prescribed.

As to whether or not the respondent corporation has the right to ask for the writ of possession, not being the applicant in the registration proceeding, we must bear in mind these important facts shown by the record: First, that the petitioner, Leandra Manlapas, was a party to the aforesaid registration proceeding as opponent; second, it does not appear that any writ of possession was ever issued to the appellant, "Corporacion Franciscana de la Provincia de San Gregorio Magno," predecessor in interest of the herein respondent; third, said applicant, therefore, has not yet entered upon the possession of the land in question, which Leandra Manlapas has been occupying. Now, said applicant had then, and its successor, the respondent corporation, now has, under the decree of registration, a perfect right not only to the title of the land, but also to its possession. Section 38 of Act No. 496, among other things, provides:

"* * * Every decree of registration shall bind the land, and quiet title thereto, subject only to the exceptions stated in the following. * * *"

It must be noted that the law does not say that these effects of the decree of registration cease to exist when the title is transferred to a successor.

As to the restrictions they are:

"Every applicant receiving a certificate of title in pursuance of a decree of registration, and every subsequent purchaser of registered land who takes a certificate of title for value in good faith, shall hold the same free of all incumbrance except those noted on said certificate, and any of the following incumbrances which may be subsisting, namely:

"First. Liens, claims, or rights arising or existing under the laws or Constitution of the United States or of the Philippine Islands which the statutes of the Philippine Islands cannot require to appear of record in the registry.

"Second. Taxes within two years after the same have become due and payable.

"Third. Any public highway, way, or private way established by law, where the certificate of title does not

state that the boundaries of such highway or way have been determined. But if there are easements or other rights appurtenant to a parcel of registered land which for any reason have failed to be registered, such easements or rights shall remain so appurtenant notwithstanding such failure, and shall be held to pass with the land until cut off or extinguished by the registration of the servient estate, or in any other manner." (Sec. 39, Act No. 496.)

As may be seen, the restrictions enumerated in the section above set out do not include the right which the petitioners allege to have over the land.

Under this section 39, as may also be seen, the subsequent purchaser, like the herein corporation, acquires the title of the vendor, that is, the title as defined in section 38, with all its effects upon the property, and the possession thereof.

And this right to the possession which the applicant and his successor acquire over the land by virtue of the decree of registration is by the law effective and enforceable, for which purpose the law has given the Court of Land Registration, and those exercising the jurisdiction of said court after its abolition authority to issue writ of possession (sec. 17, Act No. 496, as amended by section 5 of Act No. 1108, by section 4 of Act No. 1648 and by section 3 of Act No. 1680).

Our attention is called to the fact that this law, in speaking of writs of possession, makes express reference to the applicant, wherefrom it seems to follow that it is only the applicant, and not his successors, who can ask for the writ. In support of this, the decision of this court in the case of *Yuson and De Guzman vs. Diaz* (42 Phil., 22) is cited.

That case is different from the one before us. There before the petitioners *Yuson and De Guzman* had asked for a writ of possession against the respondents, one had already been issued in favor of *Saturnino Lopez*, applicant in the registration case and predecessor in interest of said petitioners, which writ of possession was directed against other possessors who were not the respondents therein, *Libunao, Hizon and Geronimo*, for the latter entered upon the possession of the land only after the issuance of the first writ of possession.

For this reason, it was held in that case that, a writ of possession having on a previous date been issued to the applicant *Lopez*, if afterwards he lost the physical possession of the land which he had obtained through said first writ, he or his successors could no longer ask for another writ of possession against the new possessors of the land.

In the instant case no writ of possession had been issued previous to the one here in question, and the possessors of the property did not enter the land after its registration, but were there before said registration and have been occupying it ever since.

There is, therefore, no legal reason why the writ should not be issued, whether it be considered from the standpoint of the one asking for it, namely, the respondent corporation which has the right to the possession, of the occupant *Leandra Manlapas*, who is not a new possessor, but the same one who was a party to the registration proceeding and who is directly and personally affected and reached by the decree.

The second point alleged by the petitioners has reference to the prescription of the rights of the respondent corporation to ask for a writ of possession.

The law has not made applicable to the writ of possession provided for in section 17 of Act No. 496 and its amendments, the provisions of the Code of Civil Procedure regarding execution of judgments.

It cannot be held to have been the intention of the law to permit after five years the reinstitution of a registration

proceeding, whether ordinary or cadastral, as the case may be, to revive a decree, which on the other hand, according to Act No. 496, is to exist forever, as provided in various sections of said Act, among which may be cited section 45 which says:

"The obtaining of a decree of registration and the entry of a certificate of title shall be regarded as an agreement running with the land, and binding upon the applicant and all successors in title that the land shall be and always remain registered land, and subject to the provisions of this Act and all Acts amendatory thereof."

Nor could the law make said provisions of the Code of Civil Procedure applicable to a decree of registration, since the property rights and possession of a registered owner would be nugatory when they are imprescriptible under the conclusive provisions of section 46 of said Act No. 496 which says:

"No title to registered land in derogation to that of the registered owner shall be acquired by prescription or adverse possession."

We hold that, in issuing the writ of execution in question, the respondent judge acted with jurisdiction and not in excess thereof.

For the purposes of this decision, it is not necessary to take up the other grounds of the demurrer which is hereby sustained.

And in view of the nature of the facts and questions presented in this case, it is deemed unnecessary to require the parties to prosecute it any further, and the same may and must be decided upon the merits, wherefore the writ applied for must be, as is hereby, denied, with the costs against the petitioners. So ordered.

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

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