

VICENTE TUAZON, PETITIONER, VS. HERMOGENES REYES, JUDGE OF THE COURT OF FIRST INSTANCE OF PAMPANGA, AND ROBERTO SIOCHI, RESPONDENTS.*G. R. No. 25039. March 02, 1926*

Ponente: OSTRAND, J.

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This is a petition for a writ of certiorari upon the following facts: In an action brought by Roberto Siochi against Petronilo David et al. for the partition of a tract of land, this court, in a decision promulgated January 8, 1919, ordered the partition in equal shares between the plaintiff and the defendant Petronilo David of some 15 hectares of the land and the case was ordered returned to the Court of First Instance for further proceedings in accordance with sections 184 et seq. of the Code of Civil Procedure.[1]

Commissioners of partition were thereupon appointed, but for reasons which do not clearly appear, they did not take immediate action in the matter and in the meantime, Petronilo David obtained Torrens certificates of title for the land in cadastral case No. 10 of the Province of Pampanga and, on July 30, 1921, sold the land to the petitioner herein, Vicente Tuazon, the deed containing a recital to the effect that of the land so sold, an area of 7 hectares and 50 ares was in dispute between the vendor and Roberto Siochi and that the purchaser Vicente 'Riazon was merely subrogated to the rights and obligations of the vendor in relation to said disputed portion, and that said vendor did not warrant the title to the same. Thereafter transfer certificates of title were issued in favor of Vicente Tuazon on March 8, 1923, but through the negligence of the register of deeds, the reservation made in regard to the land in dispute with Siochi was not entered upon the certificates of title.

Thereafter, on December 26, 1923, Tuazon presented to the Court of First Instance of Pampanga a written protest against the partition on the ground that he held Torrens certificates of title to all of the land and by reason of said protest, the Honorable Guillermo Guevara, Judge of that court, after requiring the production in court of the petitioner's transfer certificates of title, set aside the order of partition and revoked the appointment of the commissioners in an order dated February 4, 1924. A motion for reconsideration was filed by Siochi and, on July 7, 1924, the herein respondent, the Honorable Hermogenes Reyes, then Judge of the Court of First Instance of Pampanga, revoked the order of his predecessor and ordered the commissioners to execute the partition of the land. In compliance with the order of Judge Reyes, the commissioners presented their report adjudicating to Siochi his share of the land in dispute which report was duly approved by said judge, Tuazon refused to deliver possession to Siochi of the land awarded the latter and, on April 1, 1925, the respondent judge issued an order directing that Siochi be placed in possession of the land adjudicated to him.

This action was thereupon brought, the petitioner maintaining that not being a party to the original action, his title was not affected by the partition proceedings and that therefore the order of April 1, 1925, directing that Siochi be placed in possession of the portion adjudicated to him in said proceedings was beyond the jurisdiction of the court.

A purchaser of registered land who takes a certificate of title for value in good faith holds an indefeasible title to the land and, if such was the case here, the petitioner's contention would be perfectly valid. But here the element of good faith is lacking. The defendant acquired his title while the partition proceedings were pending and his title is therefore subject to the incidents and results of the pending litigation and is no better than that of the vendor in whose shoes he now stands. In these circumstances, the petitioner's transfer certificates of title can afford him no special protection. The deed under which the title was acquired expressly recites that the land was in dispute and that as to the disputed portion only the interest of the vendor was conveyed. In ordering the execution of the judgment of partition, the respondent judge did therefore not exceed his jurisdiction and a writ of certiorari will not lie.

During the pendency of this action, the respondent Siochi appears to have executed a deed for the land in question in favor of Rafael and Felipe David who have now filed a petition for intervention. In view of the present decision, such intervention is unnecessary and the petition therefor is denied, but upon cancellation of the transfer certificates of title Nos. 617 and 618, now held by the petitioner Vicente Tuazon, and upon presentation to the register of deeds of the deed executed by Siochi in favor of Rafael and Felipe David, together with a technical description of the segregated portion of the land approved by the General Land Registration Office, transfer certificate of title may be issued direct to said Rafael and Felipe David in accordance with the deed without previous issuance of such certificate to Roberto Siochi. If, as the record indicates, the land awarded to Siochi in the partition proceedings embraces portions of two cadastral lots, Nos. 4166 and 4173, it will be necessary to subdivide said lots in conformity with the provisions of section 6 of Act No. 2259.

For the reasons stated, the petition for a writ of certiorari is hereby denied with the costs against the petitioner.

The preliminary injunction herein-before issued is dissolved without prejudice to the respondent Siochi's claim for damages suffered by virtue of the issuance of said injunction. Let transfer certificates of title Nos. 617 and 618 of the registry of deeds of the Province of Pampanga be detached from the record and forwarded to the register of deeds for cancellation and issuance of new certificates with properly approved technical description in accordance with the result of the partition proceedings. So ordered.

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

[1] R. 6. No. 13057, not reported.

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