

THE GOVERNMENT OF THE PHILIPPINE ISLANDS, PETITIONER AND APPELLANT, VS. MARTINO TOMBIS TRIÑO, CLAIMANT AND APPELLEE.

G.R. No. 26849. September 21, 1927

Ponente: MALCOLM, J.

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MALCOLM, J.:

This is an appeal from an order of the Court of First Instance of Occidental Negros denying two petitions presented on behalf of the Government, one dated August 9, 1923, and the other dated June 29, 1926, supplemented by another dated July 16, 1926, having for their purpose the reopening and annulment of the proceedings in the Sagay cadastral case with respect to a parcel of land known in the record as lot No. 1429.

STATEMENT OF THE CASE AND OF THE FACTS

On June 13, 1921, the Government of the Philippine Islands initiated the "Sagay cadastre, B. L. No. 127" (Bill of Exceptions, p. 1). At the time of the filing of the cadastral petition, the sole claimant to lot No. 1429 was the Government, for under the column "claimant" the lot was listed as "Public land" (B. E., p. 3). The usual notification of the pendency of the cadastral proceeding was made in English and Spanish on December 16, 1921. Among the persons thus notified was "Martino T. Triño." By the notices any interested party was cited to appear before the Court of First Instance of Occidental Negros on the 13th day of February, 1922, to present his claim, with the alternative that unless he did appear, at the time and place aforesaid, default would be recorded and the title to the land adjudicated (B. E., pp. 4, 5). Before the date announced in the notice, the only claim made to lot No. 1429 was as public lands by the Director of Lands in representation of the Government of the Philippine Islands, on January 31, 1922 (B. E., pp. 5, 6). The trial set for February 13, 1922, could not be had for the lack of a presiding judge, but nevertheless the case was called on that date by the clerk of the court, and as no one appeared except the deputy provincial fiscal, a decree of general default against the whole world was entered, with the exception of the Director of Lands, the Director of Forestry, and other claimants (B. E., p. 11).

The cadastral case was eventually called for hearing in the barrio of Fabrica, municipality of Sagay, Province of Occidental Negros, on May 31, 1923 (B. E., p. 11). Thereafter, on June 5, 1923, one "Martino Tombis Triño" appeared and filed an answer. He declared "That I am the owner of lot No. parte del lote 1429 as indicated on the cadastral plan of the municipality of Sagay, Province of Occidental Negros, P. I." The land claimed by Triño was loosely described as bounded "on the north by terreno publico 1429; on the east by 987—Martino T. Triño, H. A. 40443; on the south by terreno publico 1429; and on the west by terreno publico 1429." In other words, the portion of the lot for which Triño asked title was somewhere within the public land lot No. 1429, and was connected with Triño's homestead application 40443. (B. E., pp. 7,8.)

On the afternoon of the same date that Triño presented his claim, the case was heard with reference to lot No. 1429. There were technically present the judge, the provincial fiscal, the deputy clerk, the interpreter, and the stenographer. No evidence was submitted regarding the lot by any one. The record merely discloses under the

columns "Lotes," "Reclamantes," and "Comparecencias" the following: "1429: Martino Tombis Triño," and under "Juzgado (orden o decision)" the following: "Adjudicado." The words "1429: Martino Tombis Triño" were pronounced by the interpreter, Mr. Cazcarro, and the word "Adjudicado" was pronounced by the trial judge (stenographic record, p. 1; B. E., pp. 8, 9).

The next step taken in the cadastral case consisted of the promulgation on December 3, 1925, of a "Decision adjudicando Lotes No Controvertidos y Orden" (Decision Adjudicating Lots Not Controverted and Order). In the decision the statement was made that as a "result of the evidence presented and proven, the various lots of land that below are mentioned have been possessed and occupied during the time and in the manner prescribed in section 45 (6) of Act No. 2874 * * * by the persons whose names appear in the continuation of the numbers of the respective lots by themselves or by means of their predecessors," an incorrect statement insofar as it concerns lot No. 1429, for as to this lot it is admitted by all that no evidence was offered. With special reference to the said lot, the decision said this: "Lote No. 1429, con sus mejoras, a Martino Tombis Triño, de 51 años, casado con Juana Corteza. (Junio 5, 1923.)" (Lot No. 1429, with its improvements, to Martino Tombis Triño, 51 years, married to Juana Corteza. [June 5, 1923.] (Exhibit 3; B. E., pp. 10-13.) The corresponding decree for lot No. 1429 was issued to "Martino Tombis Triño" on June 25, 1926 (B. E., pp. 13, 14).

Before the decree was issued, one "Martino Tumbis" had, on April 22, 1926, conveyed the lot to Cristeta Ibañez for P1,000 (Exhibit 1; B. E., p. 20). On June 9, 1926, Cristeta Ibañez, through Esteban Vazquez her attorney-in-fact, entered into an agreement with the Negros Philippine Lumber Corporation whereby the corporation was given an option to cruise and purchase timber on lot No. 429 (Exhibit 2). On July 7, 1926, Esteban Vazquez sold the lot for Cristeta Ibanez to Leopoldo Escalante for P30,000. (B. E., pp. 20, 21.) Transfer certificates of title in the names of Cristeta Ibañez and Leopoldo Escalante are of record (Exhibits 4, 6). A notice of lis pendens was filed by the provincial fiscal with the office of the register of deeds of Occidental Negros on June 29, 1926, but has not been noted by the register of deeds on the certificates of title (B. E., pp., 22, 23).

The Government twice took steps to correct the anomaly. On August 9, 1923, the deputy provincial fiscal presented a motion which literally reads:

"MOTION

"Now comes the undersigned fiscal on behalf of the Director of Lands in the above-entitled case and to this Honorable Court respectfully states:

"1. That the undersigned, not having yet received the necessary data from the Government surveyor when the hearing relative to lot No. 1429 was called, was unable to enter his appearance on behalf of the Director of Lands, and, therefore, said lot was adjudicated in favor of Martino Quimbos.

"2. That Martino Quimbos is a homesteader, and he so alleges in his answer.

"3. That up to the present said homesteader has not yet acquired nor perfected any title upon said lot and, therefore, the same is public land.

"For all the foregoing, the undersigned requests this Honorable Court to reconsider its decision and to order that said adjudication in favor of the said Martino Quimbos be set aside, and to decree, after the necessary legal proceedings, that the said lot No. 1429 is public land, subject, however, to the possession of Martino Quimbos for the purposes of his homestead.

"Bacolod, Occidental Negros, August 9, 1923.

"Respectfully submitted,

"For the Provincial Fiscal:

(Sgd.) "SIMEON BITANGA

"Deputy Provincial Fiscal

"Subscribed and sworn to before me this 9th day of August, 1923, by the Deputy Provincial Fiscal, having exhibited his cedula No. F-1081116, issued in Bacolod, Occidental Negros, on January 6, 1923.

(Sgd.) "ENRIQUE C. VICENTE

"Deputy Clerk, Court of First Instance
of Occidental Negros, Twenty-
second Judicial District"

"NOTICE

"MR. MARTINO QUIMBOS

"Sagay, Occidental Negros

"SIR: Please take notice that on August 25th, at 8 a. m., or as soon as possible, I will submit to the consideration of the Honorable Court the attached motion, for proper proceedings.

(Sgd.) "SIMEON BITANGA

"Deputy Provincial Fiscal

"NOTE.—This motion was forwarded to Mr. Martino Quimbos at Sagay, Occidental Negros, by registered mail, on this date.

(Sgd.) "SIMEON BITANGA

(B. E., pp. 9, 10.) "Deputy Provincial Fiscal"

Of the above motion the interested parties seem to have had no knowledge. It was not actually considered on the date announced. It was only specifically brought to the attention of the court through another motion of the Deputy Provincial Fiscal filed on June 29, 1926.

The motion last mentioned is as follows:

"Comes now the undersigned in the above-entitled case in representation of the petitioner and to this Honorable Court respectfully alleges:

"1. That on December 3, 1925, this Honorable Court rendered a decision, adjudicating lot No. 1429 of the Sagay cadastre with its betterment in favor of Martino Tombis Triño, 51 years of age, married to Juana Corteza.

"2. That the office of the provincial fiscal received a copy of the aforesaid decision on December 21, 1925.

"3. That the said lot No. 1429 is a public land and, therefore, belongs to the petitioner.

"4. That the claimant Martino Tombis Triño obtained the said lot No. 1429 by fraud in that, in his answer, he claimed only a small portion of the said lot but in the hearing of the case, he claimed all the total area of the lot. A copy of his answer is herewith attached and marked as Exhibit A.

"5. That in view of the fraud committed by Martino Tombis Triño, the then deputy provincial fiscal, Mr. Simeon Bitanga, filed a motion for a reconsideration and the interested parties were duly notified. A copy of the said motion is herewith attached and marked as Exhibit B.

"6. That due to some causes unknown to the undersigned, said motion was not acted upon by this Honorable Court.

"Wherefore, it is respectfully prayed that the motion presented by the provincial fiscal on August 9, 1923, be considered and in the event that said motion fails, the petitioner invokes the provisions of section 38 of Act No. 496 of the revision of the decree of title of lot No. 1429 of the above-entitled case.

"Bacolod, Occidental Negros, June 29, 1926.

"Respectfully submitted,

"For the Provincial Fiscal:

(Sgd.) "JOSE R. QUERUBIN

(B. E., pp. 14, 15.) "Deputy Provincial Fiscal"

The provincial fiscal supplemented this motion on July 16, 1926, by the following:

"Comes now the undersigned in the above-entitled case in representation of the petitioner and to this Honorable Court respectfully begs leave to file additional allegations to his motion dated June 29, 1926.

"That it does not appear in the records of the Attorney-General that the Bureau of Lands and the Bureau of Forestry were notified of the hearing of the lot in question in spite of the fact that the said lot appears in the list of claimants as public land and not claimed by any private individual.

"That the provincial fiscal did not deem it necessary to appear in representation of the Director of Lands because the claimant Martino Tombis Triño claimed only a small portion of lot No. 1429, which portion is covered by his homestead application.

"That Martino Tombis Triño, being a homesteader, was always favored by the Bureau of Lands in his claim, hence the Government did not file any opposition with regards to the small portion claimed by him and covered by his homestead application.

"Bacolod, Occidental Negros, July 16, 1926.

"For the Provincial Fiscal:

(Sgd.) "JOSE R. QUERUBIN

(B. E., pp. 18, 19.) "Deputy Provincial Fiscal"

Opposition to the granting of the motions was made by counsel for Martino Tombis Triño (B. E., pp. 17, 18). On the motions of the fiscal and the opposition of Triño, a hearing was had. After which an order was promulgated in which the trial judge in effect sustained the point of view of Triño by denying the motions of the fiscal (B. E., pp. 24-28).

From the adverse decision above-mentioned, the Government of the Philippine Islands has appealed. The Government relies on the following assignment of errors:

"1. The lower court erred in not holding that the adjudication of lot No. 1429 to the respondent, Martino Tombis Triño, and each and every decree, transfer, negotiation and notation made subsequent thereto, with respect to said lot were null and void ab initio.

"2. The lower court erred in not holding that by the motion of the provincial fiscal, dated August 9, 1923, the Director of Lands is entitled to the benefits of section 113 of the Code of Civil Procedure.

"3. The lower court erred in holding that no fraud was committed in the adjudication and registration of the lot in question in the name of Martino Tombis Triño.

"4. The lower court erred in denying the two motions of the provincial fiscal, dated August 9, 1923, and June 29, 1926, respectively."

In amplification of the assigned errors, extensive briefs have been submitted, while three sets of lawyers have been permitted to appear as amici curiae.

OPINION

The statement of the case and of the facts, which has been attempted, is believed to conform exactly to the record. Indeed, there need be no real dispute on any essential point. Most of the facts are stipulated. The remainder relate principally either to pleadings or documents. The claimant and appellee is variously described as "Martino T. Triño," "Martino Tombis Triño," "Martino Quimbos," and "Martino Tumbis." He is sufficiently identified as one and the same person.

The legal deductions flowing from the facts are not so easily arrived at. While the mind is left with no uncertainty as to what has been done, the problem is to find a legal foundation for what should be done.

The first possibility is suggested by the equitable provisions of section 113 of the Code of Civil Procedure. But the motion of 1923 furnishes a very flimsy legal support. As counsel for the appellee points out, it referred to the wrong party, it failed to mention the portion of the law under which it was offered, it was filed without the opposing party receiving proper notice, and it was abandoned by failure of the provincial fiscal to press it for close to three years, or until after a decision was handed down and a decree issued. The second possibility is provided by the later motions of 1926 which contain averments intended to invoke the provisions of section 38 of the Land Registration Law (Act No. 496). But fraud as there used in the law means actual fraud proved as of a time on or prior to judicial action and not subsequent thereto. A judicial error was committed. Actual fraud is not shown. The two are not synonymous. But the portions of the Code of Civil Procedure and the Land Registration Law abovementioned do not exhaust the possibilities. On reflection, we have resolved to permit the three combined motions to be made the basis of the argument challenging the jurisdiction of the court and the legality of the judgment pronounced by the court.

We will assume responsibility for the broad statement that the judgment entered in this case with reference to lot No. 1429 is null and void ab initio because of lack of jurisdiction of the court to render it. Both the facts and the law are overwhelmingly demonstrative of the proposition. We will bring forth a few of the more salient features of the case.

Martino Tombis Triño did not file any claim to lot No. 1429 on or before the date when a general default was entered, although cited to appear. Notwithstanding that lot No. 1429 was subsequently contested by the Director of Lands and Triño, it was adjudicated as an uncontested lot to Triño, without notice, without a trial, and without the presence of either a representative of the Director of Lands or Triño. In the haste attendant on the dispatch of cadastral cases, the trial judge was misled into thinking that lot No. 1429 was not contested, was not informed that Triño only claimed a part of it, and so without more ado orally adjudicated the lot to Triño, and erroneously confirmed the judicial mistake in a decision relating to lots not contested. Then to fortify a shaky title, a decree was obtained for "Martino Tombis Triño." And so as to establish the fiction of an "innocent purchaser for value," "Martino Tumbis" in a deed executed in different handwriting sold the land to a third party who in turn conveyed it to a fourth party.

The law is equally convincing. The Land Registration Law in section 38 provides: "If the court after hearing" (here there was no hearing) "finds that the applicant has title as stated in his application" (here the description of the land was vague), "and proper for registration" (here it was not shown to be agricultural land, and, therefore, was not registrable under the law), "a decree of confirmation and registration shall be entered" (here there was no

valid decree—As the primary purpose of registration proceedings is to confirm title and not to give the owner any better title than he has, Triño could at most have asked for only a part of lot No. 1429 and must now rely on the perpetration of an error to retain the whole). Likewise section 11 of the Cadastral Act (Act No. 2259), as recently amended by Act No. 3080; requires a hearing for it provides "That in deciding a cadastral case, the court shall set aside from the cadastral proceeding all lots that have not been contested" (here the lot was contested) "and shall award such lots to the claimants in a decision which shall become final thirty days after the rendition of the same, without prejudice to going on with the proceeding as regards the contested lots" (which should have been done in this instance).

In a cadastral proceeding, a court has no jurisdiction to decree a lot to one who has put in no claim to it. The written declaration claiming certain described property is the very basis of jurisdiction to render a judgment. In a cadastral proceeding, under an opposition claiming an undefined portion of a certain lot, a court has no jurisdiction to make an award of the whole lot. Such an opposition is void for vagueness and uncertainty and cannot serve as a basis of award. Also in a cadastral proceeding, a court has no jurisdiction to decree a lot as not contested when it is contested, and to proceed to adjudication without giving the opposing parties an opportunity to be heard. That would be violative of the most rudimentary legal principles.

There is no force in the contention that Ibanez and Escalante were innocent purchasers for value. Ibañez received the land before the decree was forthcoming. Escalante executed the conveyance when, he had notice of the status of the land.

We are not quite certain as to whether this case is a splendid example of criminal carelessness on the part of the Government, or whether it is a boldly executed steal on the part of private individuals. We rather incline to think that the scheme originated in an error which was cleverly seized upon to cheat the Government out of an extremely valuable piece of property. Lot No. 1429 of the Sagay cadastre is within the "Northern Negros Forest Reserve" and forms part of the timber concession granted The Insular Lumber Corporation in 1906. It contains an area of approximately 1,116 hectares and is said to bear about 70,000,000 board feet of merchantable or commercial timber easily worth over P3,000,000, with P350,000 forest charges. This is the land which it is now attempted to defraud the Government out of without notice, without claim, without trial, "and without title. We do not propose to be the instruments to legalize artful knavery. We do propose to annul this travesty on justice.

JUDGMENT

Agreeable to the foregoing, the order appealed from shall be reversed; so much of the decision in the Sagay cadastral case of Occidental Negros as concerns lot No. 1429 shall be set aside; the decree issued to Martino Tombis Triño and the transfer certificates of title issued to Cristeta Ibañez and Leopoldo Escalante shall be cancelled, and the record shall be returned to the court of origin for a new trial to settle title to the said lot, without prejudice to the right of Leopoldo Escalante to seek reimbursement from Cristeta Ibanez for the sum of thirty thousand pesos (P30,000), and of Cristeta Ibañez to seek reimbursement from Martino Tumbis for the sum of one thousand pesos (P1,000). It is so ordered, without costs.

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

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