

JUANA GARCIA, PETITIONER, VS. HONORABLE HERMOGENES REYES, JUDGE OF THE COURT OF FIRST INSTANCE OF PAMPANGA, ET AL., RESPONDENTS.*G.R. No. 28675. January 26, 1928*

Ponente: VILLA-REAL, J.

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This is an extraordinary proceeding of certiorari instituted by Juana Garcia against the Honorable Hermogenes Reyes, Judge of the Court of First Instance of Pampanga, and others, in which, for the facts therein alleged, she prays that after the proper proceedings the order of the Court of First Instance of Pampanga of October 19, 1927, granting the motion to amend the decree of registration issued in registration proceeding No. 495 (G. L. R. O. No. 20966) and the proper certificate of title No. 11585 be declared null and of no effect, with the costs. In that proceeding the respondent Tomasa Galang appears as the only registered owner of the two parcels of land described therein.

From the stipulation of facts submitted by both parties, the following facts appear:

On February 29, 1922, Eutiquiano Garcia, as attorney for Tomasa Galang, filed a petition in the latter's name for the registration of two parcels of land situated in the barrio of San Agustin, municipality of Santa Ana, Province of Pampanga. After the proper proceedings the court rendered judgment on July 14, 1922, adjudicating said two parcels of land, together with the improvements thereon, to Tomasa Galang and decreeing the registration thereof in her name, subject to an encumbrance consisting of a sale with pacto de retro in the sum of P2,500, executed by the applicant on November 22, 1921, in favor of Juana Garcia for the term of five years. On August 24, 1922, the proper order for the issuance of the decree was entered and on October 28, 1922, the proper decree of registration, as well as the original certificate of title No. 11585, was issued. The following encumbrances appear on the back of the original certificate of title: A mortgage on the registered lands for the sum of P4,600 dated July 3, 1923, executed by Tomasa Galang in favor of Juana Garcia; a lease on the same lands dated July 3, 1923, in favor of Juana Garcia; a second mortgage in favor of the said Juana Garcia executed on August 19, 1923, for the sum of P600; another mortgage in favor of Juana Garcia dated November 23, 1925, for the sum of P10,000; a notice of an execution sale dated March 7, 1927, in favor of Maria Hizon; a motion of Valeriano Galang et al., dated October 3, 1927, praying that the decree of registration and the proper certificate of title be amended, and a certificate of adjudication of a sale to Juana Garcia, dated October 11, 1927, for the sum of P3,403.79.

In the motion of Valeriano Galang et al., noted on the certificate of title, as has been said, they prayed for the amendment of the decree of registration as well as of the proper original certificate of title No. 11585 issued to Tomasa Galang.

On October 8, 1927, Juana Garcia, as mortgage creditor of Tomasa Galang, filed an opposition to said motion.

On October 29, 1927, the respondent judge issued an order overruling Juana Garcia's opposition, granting the motion of Valeriano Galang et al., and ordering that a day be set for the introduction of evidence.

The only registered owner, the respondent Tomasa Galang, was agreeable to the amendment prayed for.

In view of the facts just mentioned the question raised is whether or not the respondent judge had jurisdiction to order the amendment of the decree of registration and the proper certificate of title five years after the issuance thereof, the amendment consisting of the inclusion of coheirs as coowners of the registered property and their existing mortgage liens, with the consent of the original registered owner but against the opposition of the mortgage creditor.

The respondent judge so understood it in granting the motion to amend and ordering the petitioners to introduce evidence upon their alleged hereditary rights under the provisions of section 112 of Act No. 496, which reads as follows:

"SEC. 112. No erasure, alteration, or amendment shall be made upon the registration book after the entry of a certificate of title or of a memorandum thereon and the attestation of the same by the clerk or any register of deeds, except by order of the court. Any registered owner or other person in interest may at any time apply by petition to the court, upon the ground that registered interests of any description, whether vested, contingent, expectant, or inchoate, have terminated and ceased; or that new interests have arisen or been created which do not appear upon the certificate; or that any error, omission, or mistake was made in entering a certificate or any memorandum thereon, or on any duplicate certificate; or that the name of any person on the certificate has been changed; or that the registered owner has been married; or, if registered as married, that the marriage has been terminated; or that a corporation which owned registered land and has been dissolved has not conveyed the same within three years after its dissolution; or upon any other reasonable ground; and the court shall have jurisdiction to hear and determine the petition after notice to all parties in interest, and may order the entry of a new certificate, the entry or cancellation of a memorandum upon a certificate, or grant any other relief upon such terms and conditions, requiring security if necessary, as it may deem proper: Provided, however, That this section shall not be construed to give the court authority to open the original decree of registration, and that nothing shall be done or ordered by the court which shall impair the title or other interest of a purchaser holding a certificate for value and in good faith, or his heirs or assigns, without his or their written consent.

"Any petition filed under this section and all petitions and motions filed under the provisions of this Act after original registration shall be filed and entitled in the original case in which the decree of registration was entered."

The amendment prayed for in the motion is none of those enumerated in said section. It is not sought to state the extinguishment of any real right, or to have the creation of new real rights not appearing in the certificate noted; nor is it sought to correct any error or supply any omission made in entering the certificate, a memorandum, or any respective copy thereof; it is not sought to have the fact that the registered owner has contracted marriage noted, or that the marriage has been dissolved, or that a corporation has not made a transfer of its registered property within three years after its dissolution. The amendment dealt with in the motion consists in the inclusion of other owners and the proportional distribution of the registered property between them and the original registered owner in the decree of registration and the proper certificate of title; in other words, it is sought to review the decree of registration and the proper certificate of title, which is precisely what is strictly prohibited in the section quoted and in section 38 of the same Act, after the expiration of one year from the issuance of the decree of registration.

In granting the motion for amendment, the respondent judge took into consideration the consent of the original registered owner and the allegation that the mortgage liens are fraudulent. Even then, there being a legal prohibition that a decree of registration be reviewed after the expiration of one year from the issuance thereof for any reason whatsoever, neither the consent of the originally registered owner, nor the fact that some of the encumbrances were obtained by fraud, can authorize such revision. The procedure to be followed, when a

registered owner is agreeable to including other coowners in his title, is to have the portion or portions assigned to the coowners transferred in accordance with the provisions of the law and the transfer registered in the registry of deeds and noted on the proper certificate of title and a new title issued immediately, provided, of course, that there are no encumbrances noted on the original certificate of title. If any encumbrance exists, even if it was obtained fraudulently, such amendment cannot be made without the consent of the mortgagee, for the annulment of the mortgage in so far as it affects the rights of the coowners.

Moreover, the prohibition contained in section 112 of Act No. 496, above cited, that nothing be done to injure the title or any other rights of the purchaser or mortgagee who may hold a certificate by onerous title and in good faith—the purchaser and mortgagee are synonymous according to section 38 of said Act No. 496—does not necessarily imply that when the mortgage lien was fraudulently obtained such amendment can be made; because it is contrary to the prohibition contained in said sections 38 and 112 of Act No. 496, and deprives the mortgagee of a part of his security without giving him an opportunity to be heard in his own defense, thus violating his constitutional right of not being deprived of any property right without due process of law.

The respondent judge, then, in granting the motion to amend the decree of registration issued to Tomasa Galang in proceeding No. 495 (G. R. L. O. Record No. 20966) and the proper certificate of title No. 11585, filed by the respondents Valeriano Galang, Aurelio Galang, Ambrosio Medina y Galang and Perpetua Galang y Garcia, as alleged coheirs of Tomasa Galang, five years after the issuance of said decree of registration and certificate of title over the objection of the petitioner Juana Garcia, as registered mortgage creditor of the only registered owner Tomasa Galang, although with the consent of the latter, exceeded his jurisdiction, violating the conclusive provisions of sections 38 and 112 of Act No. 496, which prohibit the revision of a decree of registration after the period of one year from the time of its issuance.

There being no other plain, speedy and adequate remedy in law other than the writ of certiorari for the correction of said error, the remedy prayed for must be, as it is hereby, granted, declaring the order of the respondent judge of October 19, 1927, null, void and of no effect, whereby he granted the above-mentioned motion, with the costs against the respondents, with the exception of the Judge of the Court of First Instance of Pampanga, the Honorable Hermogenes Reyes. So ordered.

Johnson, Street, Malcolm, Ostrand, Johns, and Romualdez, JJ., concur.

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