

JOSE CASTILLO, PLAINTIFF AND APPELLEE, VS. ESTEBAN VALDEZ ET AL., DEFENDANTS AND APPELLANTS.*G.R. No. 29448. March 27, 1929*

Ponente: STREET, J.

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This action was instituted in the Court of First Instance of Pangasinan by Jose Castillo against Esteban Valdez and others, for the purpose of quieting title to a parcel of land covered by transfer certificate of title No. 2483, containing an area of 39,432 square meters, and located in the municipality of Rosales. At the time of the institution of the action the plaintiff obtained a preliminary injunction against the defendants to prevent them from disturbing the plaintiff's possession. The defendants answered with a general denial and special defense, and, by way of counter-claim, alleged that the plaintiff's Torrens certificate of title is a nullity and asked that the title to said land be declared to be in the estate of Francisca Valdez, deceased, with damages. Upon hearing the cause the trial court gave judgment in favor of the plaintiff, reaffirming plaintiff's title and declaring the preliminary injunction against the defendants permanent, without costs.

The land which is the subject of this action formerly belonged to Francisca Valdez, who on October 5, 1923, applied for the registration of this parcel in connection with three others. The proceedings followed the usual course, but on June 21, 1924, the applicant Francisca Valdez died. The final decree for registration of the property in her name was issued two days after her death, or on June 23, 1924; and thereafter, on July 16, 1924, the certificate of title No. 27521 was issued in her name pursuant to said decree. Meanwhile, on February 6, 1924, or about four and a half months before she died, Francisca Valdez appears to have executed a deed of conveyance in favor of Ulpiano Zambrano, for the parcel of land in question, including two others. On March 7, 1924, Zambrano filed this deed for record under the provisions of Act No. 2837. But Zambrano did not take any immediate step in the way of intervening in the land registration proceedings; and, as we have already shown, the certificate of registration was issued in the name of Francisca Valdez on July 16, 1924. As Zambrano's deed was executed while the proceedings for registration were pending, he was unable, after the certificate had been issued in favor of Francisca Valdez, to obtain the transfer of the title without resorting to the court. Accordingly, on October 27, 1924, he filed a petition in the expediente in which the registration had been effected, asking the court to direct the register of deeds to record his conveyance from Francisca Valdez and to issue a transfer certificate of title in his name. On November 1, 1924, the court denied this petition, for the reason that the record did not show that notice of the petition had been served on the heirs of Francisca Valdez. Two days thereafter Zambrano filed an amended petition, asking for the same relief and, on November 14, thereafter, he filed in support of his petition an affidavit stating that his wife Rufina Abaya was, in his belief, the only heir of Francisca Valdez. In response to this second petition and the affidavit as stated, the court, on November 15, 1924, allowed the petition of Zambrano and ordered the registration of the deed from Francisca Valdez and the issuance of a transfer certificate of title to Zambrano. On the same day the register of deeds issued transfer certificate No. 2205 in favor of Zambrano, and about eight months thereafter Zambrano sold the parcel covered by the certificate to the plaintiff herein, Jose Castillo. The trial court found—and the point appears not to be seriously questioned—that the plaintiff, Jose

Castillo, was a bona fide purchaser for value upon the faith of the Torrens title. But his ownership is now questioned by the defendants on the ground that the wife of Ulpiano Zambrano is not the only heir of Francisca Valdez. On the contrary, her proper heirs appear to be two brothers and a sister bearing the surname of Valdez. The affidavit filed on November 14, 1924, by Ulpiano Zambrano was therefore false in purporting to show that Zambrano's wife was the only heir of Francisca Valdez. For this reason it is insisted that the order of the court of November 16, 1924, granting the petition of Zambrano and ordering the issuance of the certificate of title to him is void, because made without jurisdiction on the part of the court.

The petition which Zambrano first filed on October 27, 1924, and later renewed on November 3, 1924, asking for the issuance of transfer certificate of title in his own name, based upon the deed executed by Francisca Valdez, was evidently filed pursuant to section 112 of the Land Registration Act, which gives the court, among other things, jurisdiction to hear and determine any matter relative to the title arising or created pending the proceedings by which the property is sought to be registered. But the provision granting this power is qualified by the expression "after notice to all parties in interest." The contention made by the attorneys for the appellants is based principally upon the force of these words; and the reasoning is that, inasmuch as notice of the petition was not given to the proper heirs of Francisca Valdez, the court had no power to grant the petition.

We are of the opinion that this contention is unsound. In dealing with changes in interest pending registration proceedings, the court exercises a quasi-administrative faculty, analogous to that which the register of deeds exercises with respect to transfers effected after registration takes place; and we are of the opinion that, upon an affidavit showing that Zambrano's wife was the only heir of Francisca Valdez, the court had jurisdiction to authorize the transfer of the certificate without requiring other persons, of whose existence the court was not aware, to be served with notice. And, at any rate, it must be borne in mind that the transfer was effected by the court, which is the functionary clothed with the duty of recognizing the transfer and authorizing the issuance of a new certificate. A purchaser for value, who takes property upon the faith of the certificate so issued, acquires a good title. Any other conclusion would be wholly inconsistent with the spirit and purposes of the Land Registration Law. Of course, so long as the property remains in the hands of the person who has acquired title irregularly, he can be made to surrender the certificate to be cancelled. But it is not so with an innocent purchaser for value, as the trial court found the plaintiff in this case to be.

For the reasons stated the judgment appealed from will be affirmed, and it is so ordered, with costs against the appellants.

Johnson, Malcolm, Ostrand, Romualdez and Villa-Real, JJ., concur.

DISSENTING

JOHNS, J.:

As the majority opinion says, the law expressly provides that petitions like the one in question shall be heard by the court "after notice to all parties in interest." In the instant case, there is no claim or pretense that any notice was ever given to any one of the filing of the petition in question. It is admitted that it was at first based upon an ex parte motion, which was then denied, and later it was supplemented by the affidavit to the effect that the wife of the petitioner was the only heir, and that upon the making and filing of that affidavit the court, without notice to any one, then made the order in question, and the record is conclusive that the affidavit upon which the court based its order is false.

In other words, the order of the court was made without notice to any one, and is based on a false affidavit, and it

was by such an order that the majority opinion says that the plaintiff was deprived of valuable property rights and is left without any redress.

For such reasons, I am forced to dissent.

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