

THE DIRECTOR OF LANDS, APPLICANT, VS. EUSTAQUIO ABEJAS ET AL., CLAIMANTS. ARSENIO VALINO ET AL., CLAIMANTS AND APPELLEES. TIBURCIO BALAGTAS AND PBOCESO FRANCISCO, CLAIMANTS AND ...

G. R. No. 42111. July 06, 1937

Ponente: LAUREL, J.

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LAUREL, J.:

In the cadastral proceedings for the compulsory registration of land in the municipality of Talavera, Province of Nueva Ecija, conflicting decisions were rendered adjudicating one and the same lot No. 855 (now subdivided lots 1889-A and 1889-B) included in the cadastre to two opposing groups of claimants.

In the year 1915, Pedro Valino filed an application under the provisions of the Land Registration Law, Act No. 496, for the confirmation and registration of his title to parcels of land among which was a parcel later known as lot No. 855 of the cadastre of the municipality of Talavera, Nueva Ecija. An order of general default was entered in said case. This was in 1917. But as in that year cadastral proceedings were impending or in progress in Talavera, the court suspended the hearing of the application of Pedro Valino in order that his claim might be taken up in the cadastral hearing together with the other lots involved. In these cadastral proceedings, Tiburcio Balagtas filed an answer with respect to lot No. 855 on November 7, 1921. This lot was adjudicated to him by decision of the Court of First instance of Nueva Ecija promulgated on November 29, 1921. On January 17, 1922, Arsenio Valino and his coclaimants filed an answer with respect to lots Nos. 495 and 855. At the trial, the Valinos agreed to the adjudication of the southern portion of lot No. 495 with an area of two hectares in favor of the spouses Saturnino Arenas and Marcosa San Pedro, and on February 18, 1922, the Court of First Instance of Nueva Ecija rendered a decision adjudicating lot No. 855 and the remaining portion of lot No. 495 in favor of Arsenio Valino and his co-claimants and ordering the subdivision of the two lots in question, the two hectares awarded to the spouses Saturnino Arenas and Marcosa San Pedro to be known as lot No. 495, and the remainder of lot No. 495 together with lot No. 855 to be designated as lot No. 855 proper.

Upon an ex parte petition filed by counsel for Tiburcio Balagtas and Proceso Francisco on December 15, 1930, alleging that Tiburcio Balagtas had sold the northern portion of lot No. 855, now lot No. 1889, to Proceso Francisco and that the subdivision of lot No. 1889 into lots Nos. 1889-A and 1889-B had already been approved by the Director of Lands, the Court of First Instance of Nueva Ecija, on December 23, 1930, ordered the issuance of the corresponding decree of registration in favor of Proceso Francisco with respect to lot No. 1889-A and in favor of Tiburcio Balagtas with respect to lot No. 1889-B.

On February 6, 1931, the chief surveyor of the General Land Registration Office called the attention of the court to the two conflicting decisions with respect to lot No. 1889 which is the new designation of lot No. 855 combined with the remaining portion of lot No. 495 as ordered in the decision of February 18, 1922. In view thereof, the court on February 26, 1931 ordered that the case be set for further proceedings for the proper

determination of the ownership of lot No. 855, now lot No. 1889. The order of December 23, 1930 referred to in the next preceding paragraph hereof appears to have been set aside by the court on March 30, 1932.

Upon agreement of the parties, the trial court on November 17, 1931, appointed deputy clerk of court Honorio U. Cruz as referee to receive evidence as to the ownership of the lot in question and to report his findings to the court. On March 12, 1932, counsel for Tiburcio Balagtas and Proceso Francisco filed a motion with the court alleging that the decision of November 29, 1921 had already become final and executory, and praying for the issuance of the corresponding titles in their favor and the dismissal of the proceedings on the ground that the court had already lost jurisdiction over the same. This motion was denied by the court on March 30, 1932. Evidence as to the ownership of the lot in controversy was presented before the referee who submitted a report on June 22, 1933, recommending as follows:

"In view of the foregoing facts, it is respectfully recommended to the Honorable Court: (1) That the decision dated November 29, 1921, adjudicating lot No. 855 to Tiburcio Balagtas, as well as the order of this court dated December 23, 1930, approving the subdivision plan Bsd887 of lots 1889-A and 1889-B (formerly lot No. 855) and ordering the issuance of the decrees corresponding to said lots, be declared null and without effect (ab initio); and (2,) that the other decision of said lot No. 855, dated February 18, 1922, adjudicating the same to Arsenio Valino and others (heirs of the late Pedro Valino) be considered valid, binding and in full force and effect."

On January 31, 1934, the Court of First Instance of Nueva Ecija rendered judgment the dispositive part of which is as follows:

"Por tanto, se desestima la reclamacion de Tiburcio Balagtas, y ordena la subdivision de este lote como sigue: Una porcion de dos hectareas, al lado Sur del lote 495, se adjudica a los esposos Saturnino Arenas y Marcosa San Pedro, cuya porcion se conocera como lote No. 495, y el resto de este lote, juntamente con el lote 855, formando con este un solo lote que se conocera definitivamente como lote No. 855, se adjudica en partes iguales y pro indiviso UNA mitad a los hermanos Arsenio Valino de 34 afios de edad, casado con Ricarda de los Santos, Fidel Valino de 28 afios de edad, soltero, Gumersindo Valino de 25 afios de edad, casado con Maria Socorro Payumo, Victorino Valino de 20 afios de edad, soltero, Adriano Valino de 21 afios de edad, casado con Lucia Alejandro, Natividad Valino, de 18 afios de edad, soltera, y Luisa Valino de 17 afios de edad, tambien soltera, hijos del finado Pedro Valino en primeras nupcias, y la OTRA mitad en partes iguales y tambiSn pro indiviso a los mismos herederos de Pedro Valino arriba nombrados y sus dos hermanos en segundas nupcias, Pilar Valino de 16 afios de edad, soltera, y Sergio Valino de 15 afios de edad,' soltero, todos residentes en Cabanatuan, Nueva Ecija.

"Una vez firme esta decision, expidase el decreto correspondiente.

"Se ordena la subdivision de dicho lote en la forma arriba indkada. Asi se ordena."

Tiburcio Balagtas and Proceso Francisco now appeal from said decision of the lower court, assigning the following errors:

"I. The court a quo erred in denying appellants' motion of March 12, 1934 (should be March 12, 1932; B. of E., pp. 11, 12), and in reopening the whole case and receiving evidence as to the ownership of the land object of these proceedings.

"II. The court a quo erred in declaring the appellees the owners of the land in question. (B. of E., pp. 14-18.)

"III. The court a quo erred in not granting appellants' motion for new trial."

This case does not involve double registration as no final decree of registration and confirmation of title has yet been issued or entered in favor of any claimant. Rather, it involves a conflict of decisions. The Court of First

Instance of Nueva Ecija, has rendered three decisions respecting lot No. 855 of the Talavera cadastre, the first on November 29, 1921 adjudicating the lot to Tiburcio C. Balagtas; the second, on February 18, 1922, adjudicating the same lot to the Valino brothers; and the third, on January 31, 1932, virtually confirming the adjudication made in favor of the Valino brothers, after consideration of the evidence presented before a referee appointed by the court. The issues presented in this case may be reduced to one single proposition, namely, which decision should be upheld? As stated, the first decision was rendered on November 29, 1921. This decision became final thirty days thereafter (sec. 11, Cadastral Law, Act No. 2259; *Government of the Philippine Islands vs. Abural*, 39 Phil., 996, 1003). When the answer filed on November 7, 1931 by Tiburcio C. Balagtas was heard no other claimant appeared. Even considering the lot claimed by Balagtas as contested in view of the application previously filed by Pedro Valino, predecessor in interest of the appellees herein, and the action of the court in postponing the adjudication of the said lot, it does not appear that when that lot was adjudicated to Balagtas on February 18, 1922 Pedro Valino had not been notified and in the absence of any evidence to the contrary we must presume that official duty has been regularly performed (sec. 334, par. 14, Code of Civil Procedure). The first decision complies with the requirement of section 11 of the Cadastral Law. It is plain that the Court of First Instance rendered its second decision when its first decision had already become final. No appeal appears to have been taken from the first decision; nor have the aggrieved parties availed themselves of the remedy afforded by section 113 or 513 of the Code of Civil Procedure. The third decision was rendered more than twelve years after the first.

The law affords various remedies to persons who have been deprived of their lands or interest therein by virtue of the operation of the land registration system. Upon proper and timely application, relief may be obtained under section 113 or 513 of the Code of Civil Procedure, both sections having been held applicable in registration proceedings (*Elvifia vs. Filamor and Domingo*, 56 Phil., 305, 309; *Caballes vs. Director of Lands and Court of First Instance of Laguna*, 41 Phil., 357, 362). Relief may also be obtained on the ground of fraud under section 38 of the Land Registration Act provided one year has not yet elapsed from the entry of a final decree of registration. In appropriate cases, an action for reconveyance may be maintained (*Clemente and Pichay vs. Lukban and Domingo*, 53 Phil., 931), and recourse may be had to the assurance fund (sec. 103, Act No. 496; *Estrellado and Alcantara vs. Martinez*, 48 Phil., 256, 260). In the present case, altho it appears that the Valinos have lost the right to appeal or to secure relief under section 113 or 513 of the Code of Civil Procedure, the remedy provided in section 38 of Act No. 496 is still open to them. As a matter of fact, we have held that a petition for review under section 38 aforementioned may be filed at any time after the rendition of the court's decision and before the expiration of one year from the entry of the final decree of registration (*Rivera vs. Moran*, 48 Phil., 836, 840; *Villados vs. San Pedro*, 49 Phil., 596, 600).

We are much impressed with the evidence tending to show ownership of the Valinos of the lot in question and that the appellant, Tiburcio Balagtas, was well aware of this fact, and while the provisions of laws affecting procedure should be liberally construed in order to promote justice and assist the parties in speedily obtaining it (sec. 2, Code of Civil Procedure), the law is clear and we cannot overemphasize the fact that adherence thereto and to well-settled rules is necessary in the interest of well-ordered administration of justice. The judgment in favor of the appellants having been validly rendered and the same having become final and it appearing that the law affords ample remedy, the judgment of the lower court is hereby reversed with the reservation in favor of the claimants-appellees to file the corresponding petition for review under section 38 of the Land Registration Law. Without pronouncement as to costs. So ordered.

Avancena, C. J., Villa-Real, Abad Santos, and Diaz, JJ. concur.

DISSENTING**IMPERIAL, J.,**

Under the proven facts which are stated in the majority opinion, I am of the opinion that the decision of November 29, 1921, rendered in cadastral case No. 6 of Talavera, which ordered the registration of lot No. 855, with all the improvements thereon, in favor of Tiburcio C. Balagtas, married to Alejandra Umali, is null and void ab initio because it was rendered without notifying the Valinos, who claimed said lot, and without giving them the opportunity to be heard.

That the Valinos were not notified or heard and, consequently, were deprived of their right to present evidence, is shown by the brief decision of said date, the terms of which are those invariably used in adjudicating not contested lots within a cadastral proceeding. This practice, which is uniformly observed by the Courts of First Instance, has been followed in compliance with the last paragraph of section 11 of Act No. 2259, as amended by section 1 of Act No. 3080, which provides that in deciding a cadastral case, the court shall separate the lots that are not contested from the contested ones and shall render a decision which shall become final thirty (30) days after the rendition of the same.

Said section also provides that the court shall determine the rights of every person appearing and claiming lands included within the cadastre. Had the court, in rendering the first decision, taken into consideration Pedro Valino's application in registration proceeding No. 132 and his children's answer in the cadastral case, claiming said lot No. 855, there is no doubt that it would have made pronouncements against the rights alleged by the latter, inasmuch as it ordered the registration of the lot in favor of the other claimant, Balagtas.

A court lacks jurisdiction to try and decree a lot as not contested when it is really contested because it is claimed by several persons who hold antagonistic rights (*Government of the Philippine Islands vs. Tombis Trino*, 50 Phil., 708). The decision rendered in favor of Balagtas is absolutely null and void because the Valinos were thereby deprived of their property without due process of law (sec. 3 of the Act of Congress of August 29, 1916; Article III, section 1, paragraph 1, of the Constitution of the Philippines).

I consider it unnecessary to discuss the validity of the second decision rendered on January 17, 1922, in favor of the Valinos and the jurisdiction of the court to promulgate it because when the court set it aside, the Valinos neither opposed it nor excepted to the decision finally rendered, this being the reason why they have not appealed. As they are not appellants, there is no reason to discuss the power of the court to revoke said decision which, while favorable to them, was substituted by another one beneficial to them, rendered after a new trial to which they gave their consent and acquiescence.

I am satisfied that the facts stated as proven in the appealed decision are justified by the preponderance of the evidence presented by both parties, and for this reason, I am of the opinion that said decision in question should be affirmed.

DISSENTING**CONCEPCION, J.,**

With the greatest respect to the majority opinion, I am going to state the reasons prompting me to maintain an opposite view.

This is an appeal from a decision rendered in a cadastral proceeding on January 31, 1934, holding that of the two

decisions rendered on the same lot in favor of different applicants, one should prevail over the other.

The facts, in brief, are as follows: Pedro Valino applied, in accordance with the Land Registration Act, for the registration in his name of some parcels of land, among them being that which was later known as lot No. 855 of the cadastral proceeding of Talavera, Nueva Ecija. On November 19, 1917, the court ordered that said application be heard within the above-stated cadastral proceeding. In said proceeding, said lot was later adjudicated in favor of Tiburcio Balagtas, in a decision of the court dated November 29, 1921. Three months later, or more exactly, on February 18, 1922, the court rendered another decision adjudicating the same lot in favor of the heirs of Pedro Valino. On February 6, 1931, or approximately 9 years later, the chief surveyor of the General Land Registration Office, while comparing the subdivision plans presented by Balagtas and the Valinos, discovered that said two contradictory decisions had been rendered. Whereupon, the court, on February 26, 1931, summoned the two applicants to appear before it for the proper determination of the right of ownership of the lot in question. The herein appellant Balagtas agreed to the petition of Arsenio Valino et al. for the appointment by the court of a referee to hear the evidence and present his report. The hearing before the referee was begun. However, on March 12, 1932, the day set for the continuation of the hearing, appellants Tiburcio Balagtas and Proceso Francisco, who had acquired a portion of said lot No. 855 by purchase, filed a motion with the court alleging, for the first time, that the decision rendered in favor of Balagtas had become final and asking that the titles be ordered issued in favor of the petitioners. Said motion was denied in an order of March 30, 1932, without the appellants' having excepted to this order or to the order of February 26, 1931. After the presentation of the evidence by both parties, the appealed decision was rendered on January 31, 1934, overruling the claim of the appellant Tiburcio Balagtas and ordering the registration in favor of Arsenio Valino and brothers of the remainder of lot No. 495 together with lot No. 855, both to form only one lot to be known as lot No. 855.

Notwithstanding the fact that the majority, according to them, are very much impressed with the evidence tending to show the ownership of the Valinos of the lot in question, of which the appellant, Tiburcio Balagtas, was well aware, they reverse the appealed judgment, declaring the decision rendered in favor of Balagtas final and reserving to the appellees, the Valinos, the right to avail themselves of the remedy of review afforded by section 38 of Act No. 496.

I cannot agree to this decision of the majority and I regret to have to register my dissent.

The majority are of the opinion that the first decision, or the one rendered in favor of the appellant Balagtas, had become final when the court rendered the second decision in favor of the Valinos. They claim that no appeal was taken from the first decision and that the Valinos failed to avail themselves of the remedies afforded by sections 113 and 513 of the Code of Civil Procedure, and therefore, the former decision should prevail.

I do not believe so. I am of the opinion that the decision rendered in favor of Tiburcio Balagtas never became final for the reason that there is no evidence that the Valinos have been notified thereof. It cannot be presumed that they received notice of said decision as it cannot be presumed that Balagtas received notice of the decision rendered in favor of the Valinos. The facts coetaneous and subsequent to both decisions destroy such presumption. Had the Valinos and Balagtas received some notice, the conclusion is inevitable that they would not have been idle and they would have appealed or filed some motion to protect their respective rights. But nobody appealed or did anything for more than 9 years, which fact induces us to believe that they had no notice that the two contradictory decisions had been rendered. Another more evident token that they were in such ignorance is the fact that Balagtas and the Valinos presented their respective subdivision plans of lot No. 855, and it was then that the chief surveyor, examining said plans, discovered the existing conflict and informed the court thereof.

Therefore, when the court issued the order of February 26, 1931, summoning Balagtas and the Valinos for the

reopening of the case, none of the decisions had become final, and after the case had been reopened, there was no necessity for the Valinos to make use of the remedy of appeal or the one afforded by section 113 of the Code of Civil Procedure because the order of February 26, 1931, impliedly set aside the decision rendered in favor of Balagtas.

The question now to be decided is whether or not the court had jurisdiction to issue the order of February 26, 1931, and I am clearly of the opinion that it had, for the above-stated reason that at the time of the issuance thereof, none of the two conflicting decisions had become final for lack of notice to all the interested parties. Furthermore, even granting that they had become final, the court had jurisdiction to order what it ordered on February 26, 1931, according to the ruling of this court in the case of *Timbol vs. Diaz*, 44 Phil., 587. A writ of certiorari had been applied for against the court for having held in a cadastral proceeding that the title shown by the certificate of the respondent Liongson prevailed over the free patent certificate of title presented by the petitioner Timbol, and in a decision had adjudicated the land to the former. The petitioner Timbol alleged that the court had exceeded its jurisdiction in attempting, in a cadastral proceeding, to pass upon the title to land already registered and in ordering that a final decree of registration be issued for such land. This court said:

"The petition must be denied for two reasons. In the first place, the petitioner appeared in the cadastral case and had an adequate remedy by appeal. Under such circumstances, certiorari will not lie.

"In the second place, we do not think the court below exceeded its jurisdiction in undertaking, in a cadastral case, to determine the relative rank of the two certificates of title in question and, in its ultimate analysis, that is the effect of the court's action. * * * (Underscoring is mine.)

"The petitioner may have been misled by our statement in the case of *Pamintuan vs. San Agustin* (43 Phil., 558) that 'in cadastral cases the jurisdiction of the court over lands already registered is limited to the necessary correction of technical errors in the description of the lands, provided such corrections do not impair the substantial rights of the registered owner, and that such jurisdiction cannot operate to deprive a registered owner of his title.'

"This statement while in the main true is, perhaps, a little too broad in so far as it may be construed to exclude from the jurisdiction of the court the power to determine the priority of over-lapping or over-lying registered titles. An examination of the decision in which the statement occurs (*Pamintuan vs. San Agustin*, supra), will show that it is based on the self-evident proposition that when a title has been finally and definitely settled in a registration proceeding by a decree of a court of competent jurisdiction, the decree cannot be reopened in a cadastral case, a proceeding of the same general character. There is nothing in this proposition which militates against allowing the court in a cadastral case to determine which one of several conflicting registered titles shall prevail. This power would seem to be necessary for a complete settlement of the title to the land, the express purpose of cadastral proceedings, and must therefore be considered to be within the jurisdiction of the court in such proceedings. * * * (Underscoring is mine.) (*Timbol vs. Diaz*, 44 Phil., 587, 589, 590.)

If the court, in a cadastral case, as the one now under consideration, has jurisdiction to determine which one of several conflicting registered titles should prevail, should it not have jurisdiction to decide, not which one of two conflicting titles, but which one of two conflicting decisions should survive?

I am, therefore, of the opinion that the appealed decision should have been affirmed, with costs to the appellant, all the more so because according to the evidence, Manuel Balagtas, the appellant's father, was the original possessor under claim of ownership of lot No. 855, and on June 17, 1912, he sold it to Pedro Valino, father of the appellee Arsenio Valino and brothers. After the lot had already been sold to Valino, Tiburcio Balagtas was one of Valino's tenants in common and Valino, in return for the services of Balagtas as overseer of his lands, ceded him 2 hectares, a portion which Balagtas sold to the spouses Saturnino Arenas and Marcosa San Pedro. The court's

very correct conclusion is that the Valinos are the true owners of the lot in question and such is also the impression of the majority, as revealed in their decision. It may be inferred from all the foregoing that Tiburcio Balagtas, whose evidence was confined to his alleged possession, obtained the adjudication of the lot in question in his favor fraudulently and in bad faith.

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