

FELIX SEPAGAN, APPLICANT AND APPELLEE, VS. PAULINO DACILLO, OPPOSITOR AND APPELLANT.*G. R. No. 43206. September 09, 1936*

Ponente: DIAZ, J.

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On April 10, 1931, Felix Sepagan applied for the confirmation and registration in his name in the registry of deeds, pursuant to the provisions of Act No. 496, of his alleged title or right to the two parcels of land situated in the municipalities of Bula and Nabua of the Province of Camarines Sur, described in his application and more particularly in his plans Exhibits A and B, and in the technical description sheet attached thereto.

After the publication of the notices required by said Act, and also after the issuance of the order of December 15, 1931, declaring in default all those persons who, pretending to have an interest in the lands claimed by Felix Sepagan to belong to him, failed to appear to file their opposition to said application, the Court of First Instance of Camarines Sur, after due hearing, rendered its decision and judgment on March 10, 1932, decreeing the adjudication and registration of the parcels of land in question in the registry of deeds, in the name of Felix Sepagan. The final decree of registration in the registry was issued by the Chief of the General Land Registration Office on December 23, 1932.

Two years later, or on August 7, 1934, the applicant asked for the issuance of the corresponding writ of possession in his favor and his petition was granted in the orders of September 10th and 12th of said year. Before the writ authorized by said two orders could be executed, Paulino Dacillo, who claimed to be one of the twenty occupants of one of the parcels of land in question (land in Bula, parcel 1, plan Exhibit A), filed a motion in the lower court on October 22, 1934, praying: (1) That he be not ejected from the portion of the land in Bula where, according to him, his house is built and where he has been exercising acts of possession under claim of ownership continuously for more than twenty-seven years, and (2) that the provincial sheriff be restrained from executing the writ of possession in question to his prejudice. He alleged in his motion that he had not been a party to the registration proceedings instituted by the applicant; that said applicant did not notify him of the filing of his application, notwithstanding the fact that they had met several times, and that for said reasons he was informed of the proceedings had in this case only a few days before the filing of his motion in question.

The lower court, after hearing the reasons invoked by Paulino Dacillo and those invoked, in turn, by the applicant, decided to deny the former's motion in an order of November 3, 1934, issued to that effect, which reads as follows:

"There has been filed by Paulino Dacillo a motion praying that the petitioner be not ejected from the parcel of land which is the subject matter of the application for registration, upon a mere writ of possession issued by this court in favor of the applicant Felix Sepagan, and that the provincial sheriff be restrained from executing said writ of possession against the petitioner. It is admitted in the motion of Paulino Dacillo as well as in the answer of the attorney for the applicant Felix Sepagan to said motion, that the petitioner was in possession of the land sought to be registered long before the filing of the application and long before the issuance of the

decree of registration. The record shows that the notices of the hearing of Felix Sepagan's application were posted on the land involved in these proceedings, and if the oppositor was in possession of the land he should have appeared and filed his opposition to said application, if he believed himself to be the owner of all or part of the land.

"Not having done so, he is estopped from opposing the writ of possession sought by the applicant, and for these reasons the court denies the petitioner's motion and the writ of possession issued by this court remains in force.

On December 12, 1934, Paulino Dacillo asked for the reconsideration of the order in question, invoking therefor the doctrine laid down in the case of Manuel vs. Rosauro (56 Phil., 365). His petition was denied on the 15th of said month and year and, not agreeing to both orders, he appealed therefrom and now contends that the lower court erred: (1) In authorizing the issuance of the writ of possession applied for by the applicant, against him, for the reason that he was never a party to this case; (2) in denying his motion, it being in fact without jurisdiction to order his ejectment from a property which was his, not having been defeated in a lawsuit by the applicant; (3) in depriving him of his property without due process of law, and (4) in denying his motion for reconsideration.

The parties do not dispute the fact that, before the order of general default and the decision and judgment which it was attempted to carry out by means of the writ of possession in question were rendered, it was proven that all the requisites of the law relative to the publication in the Official Gazette and in the customary public places, particularly on the same parcels of land sought to be registered, of the necessary notices to the effect that Felix Sepagan had filed his application giving rise to this case, were complied with. Notwithstanding the fact that the name of Paulino Dacillo is not expressly mentioned in the notices in question, there appears therein the injunction to the whole world for all those who believe themselves entitled or having cause to oppose Sepagan's application, to appear and oppose it, warning them that should they fail to do so on the date and at the hour therein specified, they would be declared in default and would not later be permitted to impugn the application of said Sepagan or any decree that may be issued in said case.

Knowing the foregoing facts, let us now proceed to consider the question raised by the appellant, which may be summarized as follows: Was the appellant a party to these registration proceedings or not? and if he was, Can he now prevent the carrying out of the writ of possession issued?

This question is not new because it has already been held over and over again that land registration proceedings are proceedings in rem, not in personam, and therefore it is not necessary to give personal notice to the owners or claimants of the land or lands sought to be registered, to give the courts jurisdiction or authority to pass upon the questions arising from the actions whereby said right is exercised (Roxas vs. Enriquez, 29 Phil., 31; Grey Alba vs. De la Cruz, 17 Phil., 49).

In the case of Roxas vs. Enriquez, supra, it was said:

"The requirement that personal notice shall be a pre-requisite to the validity of registration would absolutely prohibit the foreclosure of unknown claims, for the reason that personal notice could never be given to 'unknown claimants'. The great difficulty in land titles arises from the existence of possible unknown claimants. Known claimants can be dealt with. They furnish no valid impediment, in fact, to the transfer of titles. Courts have held that in actions in rem, personal notice to owners of a res is not necessary to give the courts jurisdiction to deal with and to dispose of the res. * * *" (29 Phil., 31.)

In the case of Grey Alba vs. De la Cruz, supra, it appears that although the appellee was not expressly mentioned as one of those who had an interest in the land questioned therein, he was joined as a party to the case by virtue of the general notice or summons to the effect that all those who wished to oppose the application must appear at the

trial in order to do so. The court, well informed of said facts, held in said case that the decree issued therein was conclusive against the appellee as well as all the world, considering him necessarily included in the last phrase "all the world", or, using the same language of the notice: all whom it may concern". It was said in said case:

The proceedings for the registration of land, under Act No. 496, are in rem, and not in personam. A proceeding in rem, dealing with a tangible res, may be instituted and carried to judgment without personal service upon the claimants within the State or notice by name to those outside of it. Jurisdiction is secured by the power of the court over the res. Such a proceeding would be impossible were this not so, for it would hardly do to make a distinction between the constitutional rights of claimants who were known and those who were not known to the plaintiff, when the proceeding is to bar all." (17 Phil., 49.)

In the case of *Lopez Castelo vs. Director of Lands* (48 Phil., 589), it was held:

"A land registration proceeding is in the nature of a suit in rem; the decree entered therein operates directly on the land and, in the absence of fraud, is 'conclusive upon and against all persons' (sec. 1, Act No. 496) though they may not have received actual notice of the proceedings."

If it is true that the appellant, as affirmed by him in his motions of October 22, 1934, and December 12th of said year, was occupying the land which he claims to have belonged to him for about twenty-seven years, and that he has been actually living there because he built a house thereon, he and his family must have necessarily seen the notices posted thereon, inasmuch as the evidence, particularly the return made by the sheriff appearing on page 20 of the record, shows that the notices in question had really been posted on the land. If he saw them, and yet he refused to take action by appearing, as was required of him, in order to file his objections to the confirmation and registration applied for, he now has no cause to complain against anybody. He is to blame for his carelessness and negligence.

After the issuance of a decree in conformity with the provisions of Act No. 496, which is in accordance with the Torrens system, and after the lapse of the period of one year fixed by law (sec. 38), to question the validity of said decree in a review proceeding, the title becomes perfect and unimpeachable, because if it were not so, there would be no end to litigations (*Reyes and Nadres vs. Borbon and Director of Lands*, 50 Phil., 791; *Director of Lands vs. Gutierrez David*, 50 Phil., 797). The veiled purpose of the appellant's motion, which was denied by the lower court in its order from which the appeal now under consideration was taken, is no other than to reopen the case in order to give him a chance to prove that the land claimed by him is really his; that his own house is built thereon, and that the appellee succeeded in registering it in his name fraudulently and behind his back.

The ruling invoked by the appellant in support of his contention is not applicable to the case at bar because Pedro Manuel, the petitioner in said case of *Manuel vs. Rosauo*, supra, did not begin to exercise acts of possession over the land in question until long after the issuance of the decree of adjudication and registration in favor of Jeronimo de Leon, and the possession of said petitioner thereafter continued uninterruptedly for eleven years. It was only after the lapse of these eleven years that when Pedro de Leon, Jeronimo de Leon's successor in interest, sought the issuance of a writ of possession in his favor. From this it naturally follows that Pedro Manuel was really not a party to the registration proceeding wherein the writ of possession was issued because while said proceeding was pending he did not yet have any interest or right in the land in question. This case is different. According to his own allegations, Paulino Dacillo began to possess the land claimed by him many years before this case was instituted by the applicant. Under such circumstances it cannot be denied that he was a party thereto.

Having arrived at this conclusion, we hold that the errors attributed to the lower court by the appellant are not true and that his appeal is unfounded.

Wherefore, after overruling the appellant's appeal, the two orders appealed from are hereby affirmed, without

prejudice, however, to whatever right he may have arising after the judgment of adjudication had been rendered, with the costs of this instance to the appellant. So ordered.

Avanceña, C. J., Villa-Real, Abad Santos, Imperial, Recto, and Laurel, JJ., concur

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