

MARCIANO ROMASANTA ET AL., PETITIONERS, VS. SERVILIANO PLATON, ACTING JUDGE OF THE COURT OF FIRST INSTANCE OF BATANGAS, TWELFTH JUDICIAL DISTRICT, RESPONDENT.

G. R. No. 44663. January 15, 1936

Ponente: RECTO, J.

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RECTO, J.:

This is a petition for a writ of prohibition filed by Marciano Romasanta et al., against the Hon. Serviliano Platon, acting Judge of the Court of First Instance of Batangas, Twelfth Judicial District.

It appears that in case No. 752 (G. L. R. O. Record No. 40170) of the Court of First Instance of Batangas, entitled, "Colegio de San Jose, Inc., applicant, vs. Director of Lands, Francisco Lejano et al., oppositors," for the registration of land, judgment was entered by said court on March 2, 1932, couched in the following language:

"Wherefore, the court finds that the parcels of land, in contention in this application, belong to the Colegio de San Jose, Inc., and hereby confirms its title thereto and orders the registration and inscription thereof in the name of the applicant, a corporation sole duly organized in accordance with the laws of the Philippine Islands, with residence in the City of Manila, Philippine Islands.

"In accordance with the stipulation between the applicant, Colegio de San Jose, Inc., and the oppositor, Ayala & Co., the applicant is hereby ordered, within thirty (30) days from receipt of copy of this decision, to present an amended plan segregating from the parcels applied for the portion included in the plan decreed in case No. 4163 of the Hacienda de Calatagan, under the terms of the stipulation between the said parties, and let the corresponding decree issue after the amended plan is approved by this court and the decision has become final."

It is also a matter of record that after the aforesaid judgment had become final, the corresponding decree was issued on April 17, 1934, and thereafter the certificate of title in the name of the applicant corporation "Colegio de San Jose, Inc.," covering the lands adjudicated in its favor; that on November 26, 1934, the herein petitioners filed a petition with the court for the revision of the decree issued in said case, which, after proper proceedings, was denied in the court's order of August 27, 1935; that the herein petitioners appealed from this order and presented the corresponding bill of exceptions, which has not yet been acted upon by the court which tried the registration case; and that on October 10, 1935, while petitioners' bill of exceptions was pending approval, the respondent judge entered an order in the registration case announcing that he would issue the corresponding writ of possession covering the lands the inscription, registration, and title of which had been decreed in favor of the applicant corporation "Colegio de San Jose, Inc.," unless each of the petitioners puts up a bond in the sum of P100 within thirty days; and that the order of the respondent judge announcing that he would issue the writ of possession was issued, not by virtue of the order which denied the petition for review, but by virtue of the judgment and decree entered and issued in the registration case. It appears further that the allegations of paragraphs 9 to 14 of the petition, assuming that they are true, would imply at most errors of judgment in the findings of fact or in the application of the law, and by no means lack of jurisdiction or excess in its exercise. In

the petition at hand it is alleged that the respondent judge acted without jurisdiction in announcing that he would issue the writ of possession notwithstanding the presentation of petitioners' bill of exceptions for the purpose of appealing from the order of August 27, 1935, which denied their petition to review the decree. The respondent judge has appeared and answered the petition, denying that he acted without jurisdiction or in excess thereof when he issued the order of October 10, 1935.

The judgment entered in the registration case in question became final and executory, and the petition for review filed by the herein petitioners did not have the effect of setting aside either the aforesaid judgment or the decree issued thereunder, especially in view of the denial of the petition for review by the court which heard the said case. While section 17 of Act No. 496, in its original form, has been repealed by the Administrative Code, section 5 of Act No. 1108 amending the former by including in the power of the Court of Land Registration to compel obedience to its judgments and decrees the issuance of writs of possession, and section 3 of Act No. 1680, which has re-amended by substitution said section 17 of Act No. 496, have not been repealed and are, therefore, in force, on the principle of statutory construction that "An amendment to a section or statute is not necessarily repealed by a repeal of the section or statute amended." (State vs. Young, 30 S. C., 399; 9 S. E., 355, 358; Sutherland on Statutes and Statutory Construction, vol. I, p. 574.)

Section 10 of Act No. 2347 has conferred upon Courts of First Instance all the jurisdiction and powers possessed by the defunct Court of Land Registration, and has provided, further, that the provisions of the Code of Civil Procedure are applicable to land registration cases in all matters not provided in Act No. 496. Among the powers of the Courts of First Instance is "to compel obedience to its judgments, * * *" (section 11, paragraph 3, Code of Civil Procedure), and that "Independent of any statutory provision, every court has inherent power to do all things reasonably necessary for the administration of justice within the scope of its jurisdiction." (Shioji vs. Harvey, 43 Phil., 333.) "The party in whose favor judgment is given, may, * * * have a writ of execution issued for its enforcement, ? * *" (Code of Civil Procedure, section 443), and that "If it (the judgment is) be for the delivery of the possession of real or personal property, it must require the governor (now the sheriff), or his deputy, to deliver the possession of the same, * * * to the party entitled thereto" (Code of Civil Procedure, section 444, paragraph 5), which, otherwise stated, means the issuance of a writ of possession. In cases for the registration of land, the judgment adjudicating ownership thereof and decreeing its inscription and title in the name of a person, impliedly carries with it the delivery of possession, if he is deprived thereof, because the right of possession, is inherent in that of ownership. The writ of possession, therefore, the issuance of which was announced in the respondent judge's order of October 10, 1935, finds sanction both in the existing statutory provisions in this jurisdiction and in the generally accepted principles upon which the administration of justice rests.

While the provisions of section 144 of the Code of Civil Procedure requiring, among other things, that "the filing of a bill of exceptions shall of itself stay execution until the final determination of the action," are applicable to land registration "cases, it is to be noted, however, that the writ of possession oft-referred to will not be issued by the respondent judge for the purpose of executing the order from which the petitioners have appealed by bill of exceptions, but by virtue of the judgment entered and the decree issued in the aforesaid land registration case. The respondent judge, on issuing the writ of possession, will accordingly act neither without jurisdiction nor in excess thereof.

Wherefore, we must hold, as we do hereby, that the petition be dismissed and the writ of preliminary injunction issued by this court be dissolved, with costs to the petitioners.

Avanceña, C. J., Abad Santos, Hull, Vickers, and Diaz, JJ., concur.

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