

EUGENIO TESTA, PETITIONER, VS. C. A. VILLAREAL, JUDGE OF FIRST INSTANCE OF BULACAN, AND MAXIMO DE VERA, ANDRES ROJAS AND JOSE TEODORO, RESPONDENTS.

G. R. No. 44861. September 08, 1936

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

This is a petition for a writ of certiorari which seeks to annul certain proceedings had in case No. 4453 of the Court of First Instance of Bulacan, wherein the petitioner and his wife were the plaintiffs and the respondent was the defendant. That case concerned the ownership of a piece of t land and after the proper proceedings, the court, on January 12, 1933, rendered a decision the pertinent part of which reads as follows:

"Re-afirmando que el Certificado de Transferencia de Titulo No. 5708 (Exhibit A), expedido a favor de los demandantes, ha sido obtenido correctamente y ellos son los que deben ser reconocidos propietarios absolutos de dicho lote 6; que, como duenos de este lote, tienen derecho a recobrarlo, indemnizando previamente al demandado el valor de la edificacion que en ha hecho, con derecho a retenerlo esta mientras no se le abone por aquellos dicha mejora necesaria y util, o en caso contrario pague el demandado a los demandantes el precio del terreno abarcado por la edification, haeiendose dueno legitimo del mismo.

"Sin especial pronunciamiento sobre las costas."

Upon an appeal taken by the petitioner and his wife, this court on June 26, 1934^[1], affirmed the judgment rendered by the Court of First Instance of Bulacan. The pertinent part of the decision of this court reads as follows:

"The trial court in case No. 4453 confirmed the said certificate of transfer of title No. 5708 in favor of the plaintiffs Testa and wife and declared them to be the absolute owners of said lot 6 and entitled to the possession of the same, first indemnifying however the defendant for the value of the improvement which he has made or, applying article 361 of the Civil Code, authorizing the defendant upon payment of the value of the ground occupied by his improvements to acquire the title to the same. The court in case No. 4450 dismissed the action.

"Upon the whole case we think the judgment of the court is correct and just and the same is hereby affirmed without special pronouncement of costs. Case No. 4453 (G. R. No. 40109) is remanded for further proceedings in conformity with this decision."

Pursuant to this decision the case was remanded to the court below. Thereafter, upon petition of the parties, that court appointed three commissioners to fix the value of the land in question and the building erected thereon by the defendant in that case, the respondent herein. On October 12, 1934, the majority of the commissioners submitted their report; and on October 30, 1934, the court entered the following order:

"Visto el informe de los Comisionados Jose Teodoro y Andres Roxas de fecha octubre 12, 1934, no se encuentran motivos suficientes para rechazar del todo dicho informe suscrito por la mayoria de los

comisionados, no jconstando siquiera la disidencia del otro Comisionado Dalmacio Ferrer. Sin embargo, considerando todas las circunstancias del caso, creese que se debe rebajar el precio del edificio grande a P2,000 y el de la tienda, a P500.

"En cumplimiento de la decision de la Corte Suprema, el Juzgado ordena que los demandantes Testa y su esposa tengan derecho a la posesion y goce exclusivos del lote No. 6, indemnizando al demandado Maximo de Vera en la suma de P2,500 por el edificio grande y la tienda; asimismo, que el demandado Maximo de Vera tenga derecho a adquirir el titulo, dominio y posesion exclusivo del referido lote, pagando a los demandantes la suma de P432 como su valor. La parte que deposite antes en la escribania de este Juzgado la suma con que debe indemnizar a la otra, tendra derecho al titulo, dominio y posesion del lote No. 6 con sus mejoras; y en el caso que ambas partes depositaren al mismo tiempo las cantidades correspondientes, se dara preferencia al demandado, por la razon de que dichos edificios valen mas que el terreno, y la adjudication de la finca con sus mejoras a el supone, menor transmision de derecho."

On November 6, 1934, the respondent deposited with the clerk of the Court of First Instance of Bulacan the sum of P434.16 to cover the value of the land in question, lot No. 6, as fixed by the court, and also the fees for the deposit. The petitioner and his wife did not make any deposit whatever neither did they appeal from the order of the court of October 30, 1934.

On October 22, 1935, the respondent filed in G. L. R. O. Record No. 3878, wherein the title to lot No. 6 was decreed, a motion praying that the proper certificate of title be issued in his name and that of his wife. To this motion the petitioner and his wife filed an objection which was, however, later withdrawn; but they asked the court to order the payment to them of the money deposited with the clerk to cover the value of their land.

On December 23, 1935, the court ordered the register of deeds of Bulacan to issue a new certificate of title in the name of the respondent and his wife covering lot No. 6.

Without going into an extended discussion of the subject, it seems clear that upon the facts disclosed by the record the petition for a writ of certiorari must be denied. In the final analysis, the question raised by the pleadings is whether the order of the Court of First Instance of Bulacan of October 30, 1934, should be set aside and all proceedings taken thereunder declared null and void. While that order might have been erroneous, the error could have been cured by appeal. Not only did the petitioner fail to avail himself of that remedy,' but he has been guilty of laches in the assertion of his rights. Certiorari will not lie to correct errors of law which do not go into the jurisdiction of the court. (*Ello vs. Judge of First Instance of Antique and Valdevin*, 49 Phil., 152.)

The petition for a writ of certiorari is, therefore, denied. So ordered.

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

[1] *Testa vs. De Vera* (60 Phil. 1020, 1021).

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