

CELERINA LACUESTA ET AL., APPLICANTS AND APPELLEES, VS. CORNELIO LESIDAN ET AL., OPPOSITORS AND APPELLANTS.

G.R. No. 47505. December 12, 1940

Ponente: LAUREL, J.

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LAUREL, J.:

This is an appeal from the decision of the Court of First Instance of Iloilo in Expediente No. 435, G. L. R. O. Record No. 46628, dated December 15, 1937, the dispositive part of which recites:

"Por tanto, se ordena al escribano de este Juzgado que expida mandamiento de posesion a favor de Julian Limor del lote No. 9 del piano Psu-56684, contra los recurridos Eusebio Lucigro, Sixto Lesidan y Cornelio Lesidan, residentes del municipio de Lambunao, Iloilo, Filipinas, sus agentes y mandatarios."

It appears that on November 10, 1932, Celerina Lacuesta and Cornelio Lesidan filed a petition in the Court of First Instance of Iloilo for the registration of certain parcels of land including lot No. 9 of plan Psu-56684. On January 19, 1933, Julian Limor entered his opposition, alleging that he was the lawful owner and in possession of the lot in question, and praying that registration be decreed in his name. In the meanwhile, Celerina Lacuesta renounced all her rights in favor of Cornelio Lesidan, thus leaving the latter the sole applicant. After a hearing, the court, on November 9, 1934, entered judgment denying the petition of Cornelio Lesidan and awarding the lot in favor of the oppositor. Subsequently, or on October 4, 1937, Julian Limor presented a motion for the issuance of a writ of possession against the occupants of the land, which, on December 15, 1937, was granted by the court. Hence, this appeal.

Oppositors-appellants contend:

"I. El Juzgado inferior erro al ordenar que se expida mandamiento de ,posesion a favor del recurrente Julian Limor, sin antes determinar la cuantia del gravamen que Cornelio Lesidan, uno de los recurridos, tiene sobre el lote No. 9 del piano Psu-56684, segiin decision del mismo Juzgado dictada en este expedients de fecha 8 de noviembre de 1934.

"II. El Juzgado inferior err6 al no declarar, que mientras no se pague el gravamen declarado en la decision del mismo Juzgado, y el valor de las mejoras utiles introducidas por el recurrido Cornelio Lesidan en el referido lote No. 9 este tiene derecho a retener dicho terreno.

"III. El Juzgado inferior erro al no declarar que los individuos Eusebio Lucigro y Sixto Lesidan, no habiendo tenido ninguna intervention en el procedimiento del registro del lote No. 9 del piano Psu-56684, objeto de este incidente, ni estaban en posesidn de dicho inmueble al tiempo de tramitarse su registro, no pueden ser expulsados del terreno por medio de un mandamiento de posesi6n s6lamente.

"IV. El Juzgado inferior err6 al denegar la moci6n de reconsideraci6n o de nueva vista presentada por los recurridos Eusebio Lucigro, Sixto Lesidan y Cornelio Lesidan."

Under the first and second assignments of errors, appellants take the position that the registration court may not

issue the writ of possession unless the extent and value of their lien, recognized by the court in its decision of November 8, 1934, is previously determined and paid. This theory may not be sustained. After the registration of a land is decreed in favor of the applicant, the latter has the right to the title and possession thereof, and to that end he may ask the court for the issuance of a writ of possession, provided the same has not been issued before. (Sec. 17 of Act No. 496, as amended by sec. 5 of Act No. 1108; *Maniapas vs. Llorente*, 48 Phil., 316.) As fittingly observed in the case of *Director of Lands vs. Court of First Instance of Tarlac* (51 Phil., 806), "public order and the interests of the parties demand that once a judgment of confirmation of title has been rendered the successful party's interests be protected from any damage which the defeated party may cause him by remaining in the possession to which said successful party is entitled by virtue of his title and of the court's decree confirming it." In other words, after registration has once been awarded, the granting of a writ of possession, while, for the most part, dependent on the factual circumstances, becomes a matter of expediency, and the mere fact that a charge or lien is previously acknowledged as binding the land should not militate against its immediate issuance. Here, the lien of appellant Cornelio Lesidan, described in the decision of November 8, 1934, as "las respectivas cantidades que representan los gastos proporcionales incurridos por dicho Cornelio Lesidan en este expediente de registro en relacion con la totalidad de este lote numero 9, desde el 10 de noviembre de 1932, en que se registro la solicitud hasta el 13 de julio de 1933, en que se llamo a vista por ultima vez este expediente, con exclusion de los honorarios de abogado y de los gastos personales de Cornelio Lesidan y de sus testigos," subsists and may, by motion filed in the original case, be annotated in the certificate of title, and the value thereof, upon proper petitions submitted, determined and adjudicated. (*Merchant vs. City of Manila*, 11 Phil., 116.) As to the improvements claimed by appellant Cornelio Lesidan, it is clear that the decision of November 8, 1934 adjudged them in favor of the herein appellee. (Bill of Exceptions, p. 18.)

Under the third assignment of error, appellants Eusebio Lucigro and Sixto Lesidan maintain that, as they were not parties to the original registration proceedings, and further that they occupied the land only after the final decree had been issued, they cannot be commanded to leave the premises by a mere writ of possession. (*Yuson and De Guzman vs. Diaz*, 42 Phil., 22; *Manuel vs. Rosaura*, 56 Phil., 365; and *Rodriguez vs. Tirona*, G. R. No. 45374, promulgated May 27, 1939.) We note that, although the appellants make these, allegations in their opposition dated October 28, 1937, the court below issued the writ of possession in favor of the registered owner and subsequently declared them in contempt for not vacating the premises as ordered. As we cannot speculate on the facts and, finding no proof in the record which forces conviction that the appellants commenced their possession only after the issuance of the decree, and Horrible of registration, the actuation of the lower court should not be disturbed.

The order appealed from is hereby affirmed, with costs against the oppositors-appellants. So ordered.

Avanceña, C.J., Imperial, Dialeno, JJ., concur.

Order affirmed.

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