

EXEQUIEL LISING AND LORETA VIOLA, PETITIONERS, VS. HONORABLE ANDRES PLAN, MAMERTO

G.R. No. 50107. November 14, 1984

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

This is a Petition for Mandamus filed by petitioner-spouses Exequiel Lising and Loreta Viola (the LISINGS, for short) to compel respondent Judge to issue a Writ of Execution in Civil Case No. Br. 11-428 and Civil Case No. Br. 11-765 of the Court of First Instance of Isabela, against respondent spouses Vicente Garcia and Estrella Magal (the GARCIAS, for short).

The LISINGS were the original registered owners of Lot 1729 consisting of 23.1420 hectares located at Santiago, Isabela, covered by Original Certificate of Title 1-7262 pursuant to a Homestead Patent dated May 1, 1944 (the Disputed Property).

The Disputed Property became the subject of four civil suits, all decided by the Court of First Instance of Isabela.

Civil Case No. 65 (Exequiel Lising vs. Caspar Aquino, or the LISING-AQUINO Case)

On January 11, 1949, a Decision was rendered by the Court of First Instance of Isabela in the above-entitled case on the basis of a compromise agreement declaring AQUINO the owner of the southwestern portion of the Disputed Property, with an area of 5.1420 hectares, and ordering said portion to be segregated (the AQUINO Lot).

On August 14, 1954, the LISINGS sold the entire lot to private respondent Mamerto LICUANAN for P10,000.00. OCT No. 1-7262 was cancelled and TCT No. T-5713 was issued in the name of LICUANAN. Subsequently, the LISINGS offered to repurchase the lot pursuant to Section 119 of the Public Land Act (CA No. 141), but LICUANAN refused.

Civil Case No. II-428 (Exequiel and Loreta Lising vs. Mamerto Licuanan, or the LISING-LICUANAN Case)

On October 30, 1958, the LISINGS sued for the repurchase of the Disputed Property at the original purchase price of P10,000.00 before the Court of First Instance of Isabela.

LICUANAN traversed the material allegations of the Complaint alleging that for the first time his lawyer was informed that a portion of 5 hectares sold to him did not belong to the LISINGS but to AQUINO; that because the latter refused to give up his possession, the LISINGS entered into a compromise agreement with LICUANAN whereby the latter waived his right to the five hectares of AQUINO and, in turn, the LISINGS waived their right to repurchase the remaining 18 hectares; that relying upon the good faith of the LISINGS, he cleared and cultivated the Disputed Property and spent more than P20,000.00.

On September 7, 1959, the LISINGS filed a notice of lis pendens^[1] before the Register of Deeds of Isabela, which was annotated on the LICUANAN title.

On June 26, 1959, the Trial Court rendered a summary judgment declaring the LISINGS entitled to repurchase, and ordering LICUANAN to resell and reconvey to them the Disputed Property, but set to another date the fixing of the repurchase price.

On June 30, 1964, or five years later, after a series of Motions and countervailing pleadings, the Trial Court issued an Order^[2] fixing the purchase price at P 10,000.00.

LICUANAN did not appeal.

Civil Case No. 11-765 (Mamerto Licuanan vs. Exequiel Using and Loreta Viola, or the LICUANAN-LISING Case)

On August 26, 1965, LICUANAN filed a Complaint for Quieting of Title, praying for a declaration that his ownership of the Disputed Property is absolute and irrevocable, and for the cancellation of the lis pendens annotated on his title.

In their Answer,^[3] the LISINGS stated that the Us pendens could be cancelled since the LISING-LICUANAN Case had already been terminated; that LICUANAN could exercise acts of ownership, including the right to mortgage, but with their right of repurchase annotated in every transaction; and prayed for the dismissal of the Complaint on the grounds that the action was barred by prior judgment and for lack of cause of action.

On January 14, 1966, judgment ^[4] was rendered declaring that:

- "1. the herein defendants have sold their right to repurchase to the plaintiff;
2. the defendants have no longer right to repurchase their homestead;
3. Upon presentation of a certified copy of this decision, the Register of Deeds of Isabela, upon payment of the legal fees, is ordered to cancel forthwith the annotation of lis pendens of Civil Case No. Br. II-428, annotated on Transfer Certificate No. T-5713 in the name of the plaintiff, Mamerto Licuanan; and
4. that the absolute ownership in fee simple of the plaintiff over the land described in the said TCT No. T-5713 is now irrevocable, free from any lien, claim or right of Exequiel Lising and Loreta Viola."

The LISINGS appealed to the then Court of Appeals in CA-G.R. No. 40653-R (the LISING Appeal), which on September 18, 1975, reversed the Trial Court judgment, sustained the LISINGS' right to repurchase, and held:

"Since the right of defendants-appellants to enforce the right to repurchase was still subsisting when the complaint in the instant suit to quiet title was filed and the title or ownership of the homestead in question had not yet consolidated in the plaintiff-vendees, the latter had no cause of action for filing suit.

"WHEREFORE, the judgment appealed from is accordingly set aside and the complaint in the instant case is hereby dismissed, without pronouncement as to costs." [

Meanwhile, LICUANAN sold the Disputed Property to respondent spouses Vicente GARCIA and Estrella Magat (the GARCIAS), which sale was registered on November 19, 1969. TCT No. T-5713 in the name of LICUANAN was cancelled and TCT No. T-45232 was issued in favor of the GARCIAS.

Civil Case No. Br. 11-891 (Vicente Garcia vs. Caspar Aquino, or the GARCIA-AQUINO Case)

On January 5, 1970, the GARCIAS filed suit against Caspar AQUINO for recovery of possession of the Aquino Lot.

In his Answer, AQUINO claimed ownership over said lot by virtue of the judgment in the LISING-AQUINO Case (Civil Case No. 65).

On December 15, 1970, the Trial Court dismissed the GARCIA Complaint after finding that he was a buyer in bad faith for failure to make a thorough investigation of the real condition of the Disputed Property; that he had bought the land in spite of knowledge of the LISING-LICUANAN and the LICUANAN-LISING Cases; and that AQUINO was in actual possession of the Aquino Lot. [6]

GARCIA appealed to the then Court of Appeals (CA-G.R. No. 48664-R), which affirmed the aforesaid judgment in its Decision promulgated on July 17, 1978. [7]

The Writ of Execution

On February 27, 1976, the LISINGS filed a Motion for Execution in the LISING-LICUANAN Case, which had adjudged them entitled to repurchase (Civil Case No. Br. 11-428), and in the LICUANAN- LISING Case for Quieting of Title (Civil Case No. Br. II-765.[8] LICUANAN opposed execution[9] urging that since judgment of the Trial Court in the LISING-LICUANAN Case for Repurchase (Civil Case No. Br. II-428) had become final and executory in July, 1964, it could no longer be enforced by mere motion since the five-year period had already lapsed; and that as said case was simply dismissed on appeal, the judgment of the Appellate Court did not grant any specific relief to the LISINGS and there was nothing to execute.

On May 3, 1976, respondent Judge issued an Order[10] directing the issuance of a Writ of Execution in the aforementioned two cases. LICUANAN moved for reconsideration, but the same was denied.

After discovering that the notice of lis pendens they had caused to be annotated had been cancelled by virtue of a Court Order, the LISINGS filed another Motion for the inclusion of the GARC1AS in the Writ of Execution. The GARC1AS opposed the Motion since they were not parties and alleged that a separate civil action was the appropriate remedy so that all parties could be accorded due process of law.

On July 14, 1978, respondent Judge issued the challenged Order,[11] denying the Motion for the inclusion of the GARC1AS in the Writ of Execution for the reason that they were not parties in the LISING-L1CUANAN and in the LICUANAN-LISING Cases, and that a separate civil action was necessary so that the GARCIA'S could ventilate their defenses.

Reconsideration urged by the LISINGS met with denial. Resolution of the Issue

The question to be resolved is whether, under the environmental circumstances, execution may be enforced even as against the GARC1AS.

We rule in the affirmative.

There is no question as to the LISINGS' right to repurchase. That was the final judgment in the LISING-LICUANAN Case for repurchase (Civil Case No. 11-428) and further confirmed by the Appellate Court in the LICUANAN-LIS1NG Case for quieting of title (Civil Case No. 11-765), which reversed the judgment of the Trial Court denying said right to the LISINGS.

In the GARCIA-AQUINO Case (Civil Case No. 11-891), wherein the GARC1AS sought recovery of possession of the Aquino Lot premised on their ownership of the entirety of the Disputed Property, the Trial Court, affirmed by the Appellate Court (in CA-G.R. No. 48664-R), held that the GARC1AS were purchasers in bad faith and, consequently, were bereft of any right of ownership. That judgment definitively established their non- entitlement to the Disputed Property so that any separate civil action for the determination of their rights is rendered unnecessary.

The cancellation of the lis pendens on the LICUANAN title prior to the purchase by the GARC1AS need not alter the foregoing conclusion as it was prematurely done while the appeal in the LICUANAN-LISING Case was still

with the Appellate Court. Having been aware of the pendency of the LISING-LICUANAN and the LICUANAN-LISING Cases,[12] the GARCIAS should have intervened in those suits for the protection of their alleged rights. Having failed to do so, they are bound by the results.

WHEREFORE, the Court renders judgment SETTING ASIDE the challenged Order of respondent Judge, dated July 14, 1978, and, granting Mandamus, directs respondent Judge, or his successor-in-office to include respondent spouses, Vicente Garcia and Estrella Magat, in the Writ of Execution that has been issued.

Petitioners, Exequiel Lising and Loreta Viola, are hereby ordered to cause the subdivision of Lot 1729, after which, the Register of Deeds of Isabela is hereby directed to cancel Transfer Certificate of Title No. T-45232 in the name of Vicente Garcia and to issue title to eighteen (18) hectares of said lot in favor of petitioner-spouses, and another title to the 5.1420 hectare-portion in the name of Gaspar Aquino.

No pronouncement as to costs.

SO ORDERED.

Teehankee, Actg. C.J., Plana, Relova, Gutierrez, Jr., and de la Fuente, JJ., concur.

[1] Rollo,, p. 16.

[2] Ibid., pp. 23-25.

[3] Ibid., pp. 29-31.

[4] Ibid., pp. 32-41.

[5] Ibid., p. 63.

[6] Ibid., pp. 68-77.

[7] Ibid., pp. 78-87.

[8] Ibid., pp. 88-91.

[9] Ibid., p. 92.

[10] Ibid., pp. 93-96.

[11] Ibid., p. 120.

[12] Ibid., p. 81.

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