

**PATRICIA CASILDO CACHERO AND THE HEIRS OF TOMAS CACHERO
(ALEJANDRIA CACHERO-ESTILONG, LOLITA CACHERO-TEODORO,
SEVERA CACHERO-SIMPLINAM, BERNARDO CACHERO, AND
LUZVIMINDA CACHERO-...**

G.R. No. 53768. May 06, 1991

Ponente: NARVASA, J.

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NARVASA, J.:

The Spouses Tomas Cachero and Patricia Casildo brought suit in the Court of First Instance of La Union against Bernardino Marzan, Julian Marzan and Cipriano Pulido for recovery of possession and ownership of two (2) adjoining parcels of land having an aggregate area of some fifteen (15) hectares, located in Barrio Basca, Aringay, La Union. In that action, docketed as Civil Case No. 384, judgment was rendered declaring the plaintiff spouses "owners of the nine hectares piece of land described in the complaint." [1] The judgment became final and executory.

About seven (7) years later, [2] the Cachero Spouses instituted proceedings for the registration under the Torrens Act of the parcels of land subject of Civil Case No. 384, supra - identified as Lot No. 6860 of the Cadastral Survey of Aringay, La Union, with an area of 109,480 square meters - and another parcel of land - identified as Lot No. 6859 of the same Cadastral Survey, measuring 50,412 square meters, both lots being situated in Sitio Iriw, Basca (now Barrio San Antonio), Aringay, La Union. In said case, docketed as Land Registration Case No. N-824 separate oppositions were filed by Atty. Agaton Yaranon, Jr. in behalf of five individuals, namely:

- 1) Bernardino Marzan, claiming 10,000 square meters on the northeastern portion of lot No. 6860;
- 2) Cipriano Pulido, claiming 50,412 square meters of Lot No. 6859;
- 3) Hilario Marzan, claiming 39,480 square meters on the western portion of Lot No. 6860;
- 4) Magno Marzan, claiming 30,000 square meters on the southeastern portion of Lot No. 6860; and
- 5) Guillermo Hipol, claiming the eastern central portion of the same Lot No. 6860.

Note that two of the five oppositors, the first two above named, were parties in the aforementioned Civil Case No. 384 which, as already mentioned, was decided some seven years earlier.

The Registration Court thereafter issued an Order to the effect that "excepting Bernardino Marzan, Cipriano Pulido, Magno Marzan, Hilario Marzan and the Bureau of Lands, a special entry of default is declared against the whole world." [3]

Tomas Cachero died before judgment and was substituted by his children. The registration proceedings culminated in a verdict favorable to the applicant spouses. The Court found that the applicant spouses and their predecessors-in-interest had been in continuous and notorious possession of Lots Numbered 6859 and 6860 for

more than sixty (60) years in concept of owners, to the exclusion of others, except for a one-hectare portion of Lot No. 6860 which the Cacheros had sold to Bernardino Marzan; that Tomas Cachero had inherited said lots from his late father, Simeon Cachero; and that the applicant spouses had been religiously paying the realty taxes on the parcels of land as owners thereof. The Court's judgment[4] made the following disposition, to wit:

"IN VIEW OF THE FOREGOING, the Court hereby grants the application and orders that the two adjoining lots, namely, Lots No. 6859 and 6860, which are described in plan (LRC) SWO-7861, Exh. 'A' and plan (LRC) SWO-4204, Exh. 'D,' respectively, and the technical descriptions, Exhs. 'b' and 'E,' respectively, be registered in the name of Patricia Casildo, widow, Alejandria Cachero, married to Estilong, Lolita Cachero, married to Fidel Teodoro; Severa Cachero, married to Hilario Simplina; Bernardo Cachero, married to Aniceta Rumbaoa; and Luzviminda Cachero, married to Abraham Balinag, all Filipinos, of legal age, and residents of Alicia, Isabela, excepting the one hectare portion of Lot No. 6860 which now belongs to Nicolas Abejona. Once this decision has become final, let the corresponding decree be issued."

The oppositors' counsel, Atty. Yaranon, filed a motion for reconsideration of the judgment on the ground that the Court had no jurisdiction over the subject-matter, the lands in question having earlier been subject of cadastral proceedings in which, as shown by the records, neither the Cacheros nor their predecessors--in-interest had ever entered a claim for either lot. The Cacheros opposed the motion. They argued that by the time the motion for reconsideration was filed, the judgment sought to be reconsidered had already become final, more than thirty (30) days having elapsed from the time that the oppositors' counsel was served with notice thereof.[5] The motion was denied.[6]

About seven (7) months after the filing of the oppositors' aforesaid motion for reconsideration,[7] persons not parties to the registration proceedings filed a "petition for review of judgment and/or decree." They were Paulina Nodo and the spouses Felix Genova and Adelina Pulido Genova, residents of Alicia, Isabela. They were represented by the same attorney who represented the oppositors in the registration case, Atty. Agaton Yaranon, Jr. They alleged that they -- not the Cacheros, or any of the original oppositors (the Marzans, Pulido, Hipol) represented by their own lawyer, Atty. Yaranon -- were the owners of the land designated as Lot No. 6859, having purchased the same sometime in 1929 and having been in continuous possession thereof since then; that the Cacheros fraudulently omitted to give them notice of their application for registration; and (echoing the same theory on which the oppositors' motion for reconsideration was based) that in the earlier cadastral survey, Lots Numbered 6859 and 6860 had been declared public land for lack of any original claimant, and at the cadastral hearing only the Director of Lands, the Director of Forestry, and they (Nodo and the Genova Spouses) had filed "cadastral answers," but not Tomas Cachero or his predecessors-in-interest. The petition prayed for the re-opening, review and setting aside of the judgment and for the accord to them of an opportunity to prove their asserted contentions.

This petition for review was denied. In its order of denial,[8] the Registration Court cited the report of the chief surveyor of the Land Registration Commission stating that no decree of registration had been issued as regards lots 6859 and 6860 and no decision had been furnished the Commission. The Court also ruled that the movants had failed to show fraud on the Cacheros' part, that "lack of actual notice or knowledge of pendency of the proceeding does not in itself establish fraud," and that there had been "due publication in accordance with law, .. (the) proceedings being an action in rem," apart from the fact that "said movants are represented by Atty. Yaranon, who also is the lawyer for the oppositor(s) who presented a written opposition to the application."

Paulina Nodo and Felix Genova subsequently died. Felix Genova was substituted by his heirs, Adelina P. Vda. de Genova, and Cornelio, Juanito, Magdalena, Herminia, Carmelita, Josefina and Margarita, all surnamed Genova. Paulina Nodo was substituted by her heir, Adelina P. Vda. de Genova.

These heirs, the Genovas, then submitted through Atty. Yaranon, Jr., an "amended petition for declaration of nullity of the judgment and/or review of the decree," reiterating and expatiating on the averments of the "petition for review of judgment and/or decree" earlier filed by the same Atty. Yaranon, Jr.

The amended petition for declaration of nullity, etc. suffered the same fate as the original petition. It was denied by the Registration Court,[9] which pointed out that the petitioners were "total strangers" who had "no personality to contest the legality of the decision which has become final," that they failed to file any "timely opposition to the registration proceedings," or to show that they had "been denied or deprived of their day in Court." The Genovas thereupon appealed to the Court of Appeals, upon the following assignment of errors:

I

THE TRIAL COURT ERRED IN NOT DECLARING THE DECISION DATED NOVEMBER 15, 1972 NULL AND VOID, FOR WANT OR LACK OF JURISDICTION OVER LOT NOS. 6859 AND 6860 OF THE ARINGAY (LA UNION) CADASTRAL SURVEY, B.I. CASE NO. 106, CAD. CASE NO. 6, G.L.R.O. CAD. REC. NO. 249, (1) LOT 6859 HAVING BEEN SURVEYED AS PUBLIC LAND, AND/OR (2) INASMUCH AS UNDER THE PROVISIONS OF THE CADASTRAL ACT (ACT NO. 2259), THE PETITION FOR THE STATEMENT AND ADJUDICATION OF THE TITLE TO THE SAID LOTS AND OTHER LOTS INVOLVED IN SAID CADASTRAL SURVEY HAD LONG BEEN AUTHORIZED, DIRECTED, PRESENTED, AND IN FACT TRIAL HAD COMMENCED, ORDER OF DEFAULT ISSUED AND/OR ADJUDICATION BEEN MADE, BEFORE THE CADASTRAL COURT OF FIRST INSTANCE OF LA UNION, LONG BEFORE THE OUTBREAK OF THE LAST PACIFIC WAR IN 1941, AND/OR THE FAILURE OF THE APPLICANTS TO FILE THEIR PETITION UNDER PERTINENT REGISTRATION FOR RE-OPENING OF CADASTRAL PROCEEDING;

II

THE TRIAL COURT ERRED IN NOT DECLARING THE DECISION DATED NOVEMBER 15, 1972 NULL AND VOID FOR FATAL INFIRMITY THEREOF;

III

THE TRIAL COURT ERRED IN NOT GIVING DUE COURSE TO THE PETITION FOR REVIEW OF THE DECREE.

After the parties' briefs were filed and duly considered, the Appellate Court promulgated a Resolution forwarding the case to this Court; it opined that it had no appellate jurisdiction over the appeal since only "purely legal questions" were involved therein.[10] In its Resolution, the Appellate Court declared that the appellants (the Genovas) "are not the oppositors in the proceedings below but are third persons who came into the case, through a petition for review of judgment, later amended as a petition for nullity of judgment, after the decision of the lower Court had become final and executory;" that the purely legal issues involved are:

- 1) whether or not "persons declared in default by an entry of special default because they did not file any answer after publication of the notice of hearing (may) still file a petition for review of judgment and/or decree on grounds that the decision is null and void for want of jurisdiction;" and
- 2) whether or not "a Court of First Instance (may) acquire jurisdiction over voluntary land registration proceedings covering lots that are already subject to a pending cadastral proceeding instituted by the Director of Lands;" stated otherwise - "once a Cadastral Court has acquired jurisdiction over all lots in a given cadastre - e.g.,

the Aringay, La Union Cadastre - and all holders claimants, possessors, and occupants of said lots have been required to show their interests or rights to the end that titles of all lands in the cadastral area may be settled and adjudicated" - whether or not "that cadastral jurisdiction" excludes or bars "voluntary land registration proceedings in court or even administrative concessions such as homesteads, free patents and sales patents," or, stated in still another manner, whether or not persons who "wish to assert rights of ownership or to acquire titles to any lots covered by the cadastral survey are . . . limited to pursuing their causes of action before the cadastral court," and "other modes of acquiring title (will) have to wait until after the cadastral proceeding is closed;" and if "this requirement (is) jurisdictional."

The Genovas' contention that the earlier cadastral proceedings should be deemed a bar to the institution by the Cacheros of registration proceedings, if not indeed to the acquisition of jurisdiction over these later proceedings by the Court of First Instance, is without merit.

The fact that, as claimed by the Genovas, the Cacheros, by failing to intervene in the aforementioned cadastral case commenced before the outbreak of the Pacific War, had been comprehended in the order of general default therein entered and forever barred from substantiating any claims to the areas therein involved, is inconsequential. For it is clear from the record, in fact it is admitted on all sides, that at least as far as the parcels of land involved in the appeal at bar are concerned -- Lots No. 6859 and No. 6860 -- the cadastral proceedings had been abandoned, had not been continued or resumed after the war, and had never eventuated in any adjudication of any sort.[11] Of no little significance in this connection is that although the Director of Lands had presented an opposition to the Cacheros' application for registration of their title over Lots No. 6859 and No. 6860, (a) his opposition contains no reference whatever to the earlier cadastral proceedings or any challenge, on account thereof, to the jurisdiction of the Court of First Instance over the subject matter of the Cacheros' application, and (b) no appeal had been taken by him from the judgment declaring the Cacheros owners of the land in question and decreeing the issuance of title to them.

Hence, said compulsory cadastral proceedings under Act 2259 (the Cadastral Act) cannot be invoked and set up as a bar to the registration proceedings under Act 496 (the Torrens Act) initiated more than twenty years later by the Cacheros. Indeed, when the latter registration case was begun, the cadastral proceedings had long been discontinued and abandoned and, to all intents and purposes, had ceased to exist. In any event, it is undisputed that the cadastral proceedings had resulted in no judgment or final order affecting the lands now in question. There having been no final adjudication in the cadastral proceedings at all, there is no occasion whatever to refer to the familiar doctrine of *res adjudicata* -- which this Court applied, for instance, in *Republic v. Vera* (1983), in pronouncing a Court of First Instance to be without jurisdiction over lands subject of voluntary registration proceedings under Act No. 496 (the Torrens Act), it appearing that many, many years earlier, the same property had been declared public land by a decision handed down by the Cadastral Court in compulsory registration proceedings under Act 2259 (the Cadastral Act) and which decision had become "final and conclusive." [12] The conclusion here reached renders unnecessary adjudgment of the other questions posed by the Court of Appeals in its Resolution of April 14, 1980 referring the case at bar to this Court for the reason that only "purely legal questions" were involved.

Of no little significance, too, is that the Cacheros and their children had succeeded in establishing and vindicating their ownership over Lots No. 6859 and No. 6860 in no less than two (2) appropriate judicial proceedings in both of which the judgments rendered had become final and executory. In Civil Case No. 384, mentioned in this opinion's opening paragraph, the Spouses Tomas Cachero and Patricia Casildo were declared by final judgment of the Court of First Instance of La Union to be the owners of the parcels of land in question, in an action instituted by them against Bernardino Marzan, Julian Marzan and Cipriano Pulido. And in Land Registration Case No.

N-824 -- where oppositions were submitted by five persons two of whom were parties-defendant in Civil Case No. 384, and whence the present appeal proceedings emanated -- -Mrs. Cacheros and her children (her late husband's heirs) were similarly declared owners of the same property. Surely, these judicial pronouncements should not be set aside except for the gravest and most compelling causes. No such cause has been presented by the Genovas.

All the Genovas have done, to repeat, is to claim that the compulsory cadastral proceedings instituted before the Pacific War, involving among others Lots No. 6859 and 6860, constituted an insuperable obstacle to the acquisition by the Court of First Instance of jurisdiction over the voluntary registration proceedings involving the same lots, initiated some twenty (20) years later by the Cacheros -- a claim singularly lacking in merit, as already pointed out.

Moreover, the Genovas were and are bound by the order of default issued in Land Reg. Case No. N-824, a proceeding undoubtedly in rem in character. That default order was entered "against the whole world," with the exception only of the parties who had appeared and filed pleadings in the registration case, namely: Bernardino Marzan, Cipriano Pulido, Magno Marzan, Hilario Marzan and the Bureau of Lands. The Genovas were charged with knowledge of the Cacheros' application since notice of the application had been published in accordance with law. They could and should have taken part in the case to assert and prove their rights over the property subject thereof. The fact that they did not cannot operate to exclude them from the binding effects of the in rem judgment rendered in the proceedings. Their claim that they were precluded from doing so by fraud perpetrated by the Cacheros has not been substantiated, and was not found by the Court of Appeals to be a proper issue in their appeal, since it declared that the only issues were "purely legal" ones. Besides, that unsubstantiated claim of fraud does not at all explain why they should not be bound by the published notices of the Cacheros' application, accomplished in accordance with law and by direction of the Registration Court.

WHEREFORE, the appeal of the petitioners-appellants -- ADELINA PULIDO GENOVA, and the HEIRS OF PAULINA NUDO AND FELIX GENOVA (Cornelio Genova, Herminia Genova, Carmelita Genova, Josefina Genova and Margarita Genova) -- is DISMISSED for lack of merit, and the judgment of the Court in Land Registration Case No. N-824 entitled "In Re Application for Land Registration under Act 496: Tomas Cachero & Patricia Casildo (Spouses)," rendered on November 15, 1972 is AFFIRMED in toto, without pronouncement as to costs.

SO ORDERED.

Cruz, Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] The judgment was rendered on October 30, 1958

[2] More specifically, on May 26, 1965

[3] Rendered on August 17, 1966

[4] Rendered on November 15, 1972 by Hon. Jose P. Flores

[5] There is some ambiguity in the record about the actual date of filing of the motion for reconsideration, the oppositors stating in their record on appeal that the motion was filed on January 23, 1973, and the applicants stating in their opposition to the motion that it had been filed on January 19, 1973. The fact is that whichever date is considered as the correct one, the motion was tardily presented, since notice of the judgment was served on the oppositors on December 19, 1972 and therefore they had only until January 18, 1973 within which to file the

motion in accordance with the rule then in force.

[6] By Orders of Aug. 11, 1973 and Jan. 13, 1976

[7] July 3, 1975

[8] Rendered Jan. 9, 1975

[9] Order, April 4, 1977

[10] The Resolution, dated April 14, 1980, was written for the Eleventh Division by Gutierrez, H.E., J. (now an Associate Justice of the Supreme Court), with whom concurred Cenzon and Patajo, JJ.

[11] See footnote 8 and related text, *supra*; and par. 10 of the Genovas' "amended petition for declaration of nullity of judgment and/or review of the decree." pp. 71-72, Record on Appeal (rollo, p. 20)

[12] 120 SCRA 210. This Court declared (at p. 217) that the applicants (private respondents) were "barred by prior judgment to assert their rights over the subject land, under the doctrine of *res judicata*. A cadastral proceeding is one in rem and binds the whole world. Under this doctrine, parties are precluded from re-litigating the same issues already determined by final judgment."

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