

**THE DIRECTOR OF LANDS (REPUBLIC OF THE PHILIPPINES),
PETITIONER, VS. HON. COURT OF FIRST INSTANCE OF MISAMIS
ORIENTAL, BRANCH I, CAGAYAN DE ORO CITY; PROVINCIAL
SHERIFF, MISAMIS...**

G.R. No. 58823. March 18, 1985

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

The Director of Lands in his petition for certiorari, prohibition with preliminary injunction ex-parte prays that:

"After due hearing, judgment be rendered: (a) declaring null and void the proceedings in Land Registration Case No. N-531, LRC Cad Rec. No. 1561, Lot No. 2821, Cagayan de Oro Cadastre; (b) cancelling original certificate of Title (OCT) No. 0662; and (c) issuing the writs of certiorari and prohibition, prayed for against aforementioned respondents; and making the writ of injunction permanent." (Rollo, p. 21.)

The factual background is as follows:

In Land Registration Case No. 17 of the defunct Court of First Instance of Misamis Oriental, Graciano B. Neri, Jr., et al. applied for judicial confirmation of their title to a piece of land situated in Cagayan de Oro City. The application was later amended by adding the addresses of the two persons who were said to be legal occupants of the land in the concept of tenants.

In an Order dated September 5, 1975, the land registration court said in part:

"It appearing that the only ground relied upon by the oppositors in their opposition to the application of Graciano B. Neri, Jr., et al., is that the same is a public land and it likewise appear that the Bureau of Lands has not filed any opposition in the above-entitled petition the opposition of the oppositors represented by Attorneys Benjamin Tabique and Borja is hereby dismissed." (Rollo, p. 46.)

Subsequently, the court rendered a decision dated February 5, 1976, the dispositive portion of which reads as follows:

"WHEREFORE, retifying and confirming herein the order of general default entered in this case, and applicants having conclusively established to the satisfaction of this court their ownership of the parcel of land subject matter of this application, and that the opposition being not substantial, Lot No. 2821 of the Cagayan Cadastre should be as it is hereby adjudicated in equal shares to the following, to wit: JOSEFINA B. VDA. DE NERI, a widow; GRACIANO B. NERI, JR., married to Victoria Babiera; VICTORIA NERI, married to Mario P. Fernandez; RAMON B. NERI, single; and TERESA NERI, married to Alberto Yrastorza, all of legal age, Filipinos and residents of the City of Cagayan de Oro, subject, however, to road-rights-of-way in favor of the City of Cagayan de Oro." (Rollo, p. 48.)

On August 20, 1976, Decree No. N-161749 was issued by the Commissioner of Land Registration. And on September 26, 1976, the Register of Deeds of Misamis Oriental issued Original Certificate of Title No. 0662 in

favor of the applicants.

In a Motion dated October 16, 1976, the registered owners (Graciano B. Neri, Jr., et al.) alleged that squatters who had built shacks before the issuance of the decree refused to vacate the land for which reason they prayed for the issuance of a writ of possession and a writ of demolition. The court granted the motion in an Order dated October 22, 1976. (Rollo, pp. 49-52.) After several motions for reconsideration, the court issued an Order dated August 8, 1980, the dispositive portion of which reads:

"WHEREFORE, as stated by the applicants, there is no more legal obstacle for the issuance of the writ of possession and demolition. Let a writ of possession and a writ of demolition issue in the case." (Rollo, p. 69.)

On August 18, 1980, the writ of possession and demolition was actually issued. (Rollo, p. 69.) However, on October 22, 1980, Petronilo R. Bullecer as President of the Taguanao Settlers Association asked for a 90-day stay in the enforcement of the writ. (Rollo, pp. 71-72.) The Director of Lands, thru the Solicitor General also asked that the execution of the writ "be stayed or held in abeyance pending the result of the Annulment proceedings which this Office is filing with the proper court." (Rollo, pp. 73-76.)

The motions to stay execution of the writ were opposed by the registered owners. (Rollo, p. 80.) On January 20, 1981, the court denied the motions to stay "for lack of indubitable merit." (Rollo, p. 81.) On January 23, 1981, the court issued an Order which reads: "Resolution of the motion for issuance of an alias writ is hereby deferred after the Order of January 20, 1981 has become final." (Rollo, p. 82.) The Director of Lands on July 10, 1981, moved to reconsider, i.e. for a stay in the enforcement of the writ. (Rollo, pp. 83-92.) The record does not show the action taken on the Motion.

In the meantime, to be precise on January 5, 1981, the Director of Lands filed Civil Case No. 7514 in the Court of First Instance of Misamis Oriental for annulment of Original Certificate of Title No. 0662 and reversion. The defendants are the private respondents in the instant petition. (Rollo, pp. 94-100.)

The instant petition was filed on November 19, 1981, long after the filing of Civil Case No. 7514. The prayer in the instant petition as stated above is similar to the prayer in Civil Case No. 7514 which reads:

"1. Declaring as null and void the decision rendered by the court in Land Registration Case No. N-531, which adjudicating the land surveyed as plan (LRC) Swo-150, Cagayan de Oro City, in favor of the private defendants;

"2. Declaring as null and void the corresponding Decree No. N-361749 and Original Certificate of Title No. 0662 issued by the same court in favor of the private defendants;

"3. Ordering the Register of Deeds of Cagayan de Oro City to cancel Original Certificate of Title No. 0662 issued in the name of the private defendants;

"4. Ordering the reversion of the land covered by Original Certificate of Title No. 0662 to the State and declaring the same as owned and belonging to the latter; and

"5. Awarding such further reliefs and remedies as may be just and equitable in the premises." (Rollo, pp. 98-99.)

The cause of action in both the instant petition and in Civil Case No. 7514 is that the land registration court lacked jurisdiction to adjudicate title to the land in question for lack of (a) notices to the person affected; and (b) compliance with other legal requirements.

To summarize: in the instant petition and in Civil Case No. 7514 which was previously instituted, there is substantial identity of parties, cause of action and relief.

The petition at bar has to be denied for the following reasons:

1. Original Certificate of Title No. 0662 was issued on September 20, 1976; it cannot be collaterally attacked in a petition filed on November 19, 1981. (See *Magay vs. Estiandan*, L-28975, Feb. 27, 1976, 69 SCRA 456.)
2. The issue in respect of the validity of OCT No. 0662 has been previously and directly raised in Civil Case No. 7514 which is the proper action. Resolution of the same issue in this Court will displace a tribunal which can best ascertain the veracity of the factual allegations and which first acquired jurisdiction over an action which exclusively pertains to it. There should be no multiplicity of suits.

WHEREFORE, the petition is hereby dismissed for lack of merit. The temporary restraining order issued in this case is hereby lifted. No costs.

SO ORDERED.

Makasiar, (Chairman), Aquino, Concepcion, Jr., Escolin, and Cuevas, JJ., concur.

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