

**EUGENIA LLABAN Y CATALAN, LUCIA BARBANERA JURBAN,
MARTIN LLABAN, BEATRIZ BARBANERA JURBAN, LUIS LLABAN
NACUA, SERGIO LLABAN NA-CUA MANUEL LLABAN NACUA,
EULALIA LLABAN ABELLA, EP...**

G.R. No. 63226. December 20, 1991

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

Principally involved in this petition for review on certiorari under Rule 45 of the Rules of Court is the jurisdiction of the then Court of First Instance (now Regional Trial Court) of Cebu, sitting as a cadastral court, to modify or amend a 1916 decision in a cadastral case by directing the issuance of a final decree in the names of parties who are not the original adjudicatees of a cadastral lot.

From the pleadings of the parties, the following facts are not controverted:

In a decision rendered on 13 September 1916 in Cadastral Case No. 12 (LRC Rec. No. 9468), the then Court of First Instance of Cebu rendered a decision adjudicating Lot No. 6017 of the Cebu Cadastre as follows:

“POR LAS RAZONES EXPUESTAS, el Juscado adjudica todo el Lote 6017 in la forma siguiente; una octava parte a favor de Juliana y Faustina apellidadas Pacana; una octava parte a favor de Marcela, Laureana, Mariano, Santiago, Ariste, Calixto, Marcelo, Bibiano y Antonia apellidados Llaban; una octava parte a favor de Rita y Julian apellidados de la Serna; una octava parte a favor de Antonia y Maxima apellidados Dacula; una octava parte a favor de Maximo Llaban; una octava parte a favor de Mamerto, Atanasia, Francisco y Crispina apellidados Llaban; una octava parte a favor de Esteban, Mateo, Natalio, Felipe, Fernando, Apolonia, Bibiano, Ciriaca y Juana apellidados Cavan; y una octava parte a favor de Tomas y Bibiana apellidados Llaban. Se sobresee la contestación presentada por Juan L. Orbeta;”[1]

In its Auto of 3 March 1925, the cadastral court issued an order reinstating the above decision.[2]

Upon motions of the spouses Filemon Sotto and Carmen Rallos de Sotto, who claimed to have purchased the shares of some of the adjudicatees of the lot or their heirs, the cadastral court, on 1 March 1932, issued an Auto, the pertinent portion of which reads:

“3. Que despues de dictada dicha sentencia, ciertos adjudicatarios o herederos de adjudicatarios del Lote No. 6017, vendieron su respectiva participación en el mencionado terreno a lós esposos Carmen Rallos de Sotto y Filemón Sotto, a saber:

Francisco Llaban (hijo de

Ariste Llaban - - - - - 1/64 parte

Bibiana Llaban

(alias Flaviana) - - - - - 1/64 “

Vicenta Jaban (hija de
 Antonia Llaban - - - - - 1/64 “
 Teodoro Llaban (hijo de
 Santiago Llaban - - - - - 1/64 “
 Juliana de la Serna - - - - - 1/16 “
 Marcela Pacaña (hija de Faustina
 de la Serna que es hermana
 de Julian de la Serna - - - - - 1/16 “
 Julian de la Serna - - - - - 1/16 “
 Marcela Llaban - - - - - 1/64 “
 Vicenta Fernandez (abuela de
 Tomas y Bibiana Llaban,
 los cuales ya no tienen
 madre ni padre ni tampoco
 hijos) - - - - - 1/8 “
 Antonia Dacula - - - - - 1/16 “
 Basilia Daclan (hija de Maxima
 Dacula hermana èsta de
 Antonia Dacula - - - - - 1/16 “
 Apolonia Cavan - - - - - 1/48 “
 Rita de la Serna - - - - - 1/16 “
 Matea Cavan - - - - - 1/48 “
 Marcelo Llaban - - - - - 1/64 “

4. Que al llamarse a vista las dos mocións arriba mencionadas, ninguna oposición se ha presentado, no obstante al hicho de haber sido notificadas todas las partes interesadas en el Lote No. 6017; por el contrario, Apolonia Cavan estaba presente en el acto de la vista de las repetidas mociones y no manifestó oposición alguna.

En vista de todo cuanto antecede, el Juzgado adjudica a los esposos Carmen Rallos de Sotto y Filemón Sotto, vecinos del municipio de Cebú, (calle Colón No. 410) provincia de Cebú, y ciudadanos filipinos, las porciones o participaciones del Lote No. 6017 que corresponden a los adjudicatarios o herederos de adjudicatarios, tales como ellos están numbrados en el pàrrafo tres (3) presento Auto.”[3]

No party appealed from the 13 September 1916 decision as modified by the above Auto of 1 March 1932. Neither was any decree issued pursuant thereto.

Forty-two (42) years later, specifically on 7 March 1974, some claimants (private respondents herein), represented

by Atty. Paul Gorres, filed a petition for the issuance of a decree of registration over the aforesaid lot. Acting on the petition; then vacation Judge Francisco R. Burgos issued an Order directing the Commissioner of Land Registration to issue a decree in favor of the adjudicatees based on the dispositive portions of the decision of 13 September 1916 and the Auto of 1 March 1932.[4] Complying with the Order, the Commissioner submitted a Report dated 5 August 1977[5] which quoted the dispositive portions adverted to and contained the following pertinent observations:

“2. That as gleaned from the above?quoted portion of the decision, the civil status of the adjudicatees was inadvertently omitted which is necessary in the preparation of the final decree of registration of Lot No. 6017 as provided for under Section 40 of Act. 496;

x x x

4. That this Commission entertains a doubt which portions of said lot were adjudicated to spouses Carmen Rallos de Sotto and Filemon Sotto and which share of the adjudicatees mentioned in the decision dated September 13, 1916 were affected thereof (sic);

5. That it is imperative that the tracing cloth or print copy of plan Psd-17733 be submitted to this Commission prior to the issuance of the decree of registration;

6. That the said plan and its technical descriptions should be approved by the Court and the same should be in conformity with the decision dated September 13, 1916 and Order dated March 1, 1932.”

The Commissioner then recommended that:

“WHEREFORE, it is most respectfully recommended to the Honorable Court that --

1. This Commission be furnished the tracing cloth or print copy of plan Psd-17733;
2. Plan Psd-17733 and its technical descriptions be duly approved by the Court;
3. The civil status of the adjudicatees be indicated pursuant to Section 40 of Act 496; and
4. Clarifications be made as to the portions of the lot which were adjudicated to spouses Carmen Rallos de Sotto and Filemon Sotto and which share of the adjudicatees were affected thereof (sic).”

On 14 May 1979, herein private respondent Jose G. Paulin, one of the claimants, in his own behalf and on behalf of his co-claimants, filed a petition,[6] hereinafter referred to as the Paulin petition, which sought to submit to the court a certified xerox copy of Subdivision Plan Psd-17733 of Lot No. 6017 which indicates subdivision Lots Nos. 6017-A to 6017-H, inclusive, pursuant to the request of the Land Registration Commission. The certification made by one Roman Mataverde, OIC of the Survey Division, Bureau of Lands, stated that the names and civil status of the claimants to the respective sublots are indicated in “the petition.” It is shown in the plan that the land was originally surveyed from December 1910 to February 1912 and that the subdivision plan is based on the Order of 1 March 1932 and was approved by the then Director of Lands, Hon. Jose Gil, on 12 November 1940.

The Paulin petition further enumerates the subdivided lots corresponding to the following parties:

“(a) For Lot No. 6017-A to Gerardo Panogalinog, single, Filipino, of legal age, and resident of 234 V-Rama Avenue, Cebu City;

(b) For Lot No. 6017-B to Apolonia Cavan, married to Mamerto Tablada, of legal ages, Filipinos, residents of 236 V. Rama Avenue, Cebu City;

(c) For Lot No. 6017-C, in lieu of Marcos Nacua, to Jose G. Paulin, single, of legal age, Filipino, resident of 238 V. Rama Avenue, Cebu City;

(d) For Lot No. 6017-D to Ceferino Gabutan, married to Guillerma Baculi, Filipinos, of legal ages, residents of 238-1-A V. Rama Avenue, Cebu City;

(e) For Lot No. 6017-E to Serapio Alcoseba, married to Basilia Minoza, Filipinos, of legal ages, residents of 238-1-B V. Rama Avenue, Cebu City;

(f) For Lot 6017-F to Ciriaco Bacatan, married to Fortunata Guba, Filipinos, of legal ages, residents of 238-1 C V. Rama Avenue, Cebu City;

(g) For Lot No. 6017-G, to Trinidad Lim, single, Filipino, of legal age, and resident of 238 V. Rama Avenue, Cebu City; and

(h) For Lot No. 6017-H to Filemon Sotto, married to Carmen Rallos, Filipinos, of legal ages, and residents of F. Ramos St., Cebu City;"

Claimants Paulin, et al., then pray that the court issue an order approving Psd-17733 and its technical description as recommended by the Land Registration Commission and directing the latter to issue the corresponding decree of registration for Lot No. 6017 pursuant to the decision of 16 September 1916 as supplemented by the Order of 1 March 1932.

Subsequently, on 30 July 1979, Eugenia Llaban y Catalan, one of the heirs of the adjudicatees, filed through Atty. Bienvenido P. Jaban[7] a petition for the issuance of a decree of registration for Lot No. 6017 on the basis of the 13 September 1916 decision as "affirmed and further enforced by this Honorable Court in its order of March 3, 1925." [8] The petition enumerates the legal heirs of the adjudicatees of the lot who have not sold, relinquished or transferred their rights, interests and participation therein to the parties. Attached thereto is the technical description of the lot. This petition was granted by the court, per Judge Jose Ramolete, in its Order of 7 August 1979; the Commissioner of Land Registration was then directed to issue a decree of registration on the basis of the Order of 3 March 1925 and the decision of 13 September 1916 in favor of the adjudicatees and/or their legal heirs.[9]

On 5 May 1980, Jose G. Paulin filed another petition (supplementing his previous petition) wherein he attached a certified micro-film copy of Plan Psd-17733; the technical descriptions of the subdivision lots nos. 6017-A to 6017-H, inclusive and a certified true copy of a deed of absolute sale executed in Paulin's favor by the spouses Marcos Nacua and Benita Seno over Lot No. 6017-C. For and in behalf of his clients, Atty. Jaban filed an opposition to the petition[10] alleging therein that the Order of the court of 7 August 1979 directing the issuance of a decree based on the 16 September 1916 decision and the 3 March 1925 Order had already become final and that the Paulin, et al., claims can be ventilated only upon the partition of the lot by the heirs of the adjudicatees and the issuance of the certificate of title since Paulin, et al., are not themselves adjudicatees or heirs of the latter.

In his reply to the opposition, Paulin et al., contend that the decision of 13 September 1916 was amended by the 1 March 1932 order, and hence prays that the Order of 7 August 1979 should be set aside. Atty. Jaban, in a rejoinder, insists that since the 13 September 1916 decision, as reinstated by the order of 3 March 1925, had long become final, the court has no jurisdiction to set it aside. No hearing was had on the aforesaid Paulin petitions and the opposition thereto.

In its Order of 16 February 1981, the court, through Judge Jose Ramolete, finding the opposition of Atty. Jaban to be devoid of merit, ruled:

"x x x The order of March 1, 1932 which is (sic) never questioned up to the present, superseded and/or amended the decision of September 13, 1916 as reinstated in the order of March 3, 1925.

It is a rule that so long as a decree of registration has not been issued registration proceedings is (sic) still

pending for the purposes of pre-Commonwealth Act 3110, and, when lost or destroyed, must be reconstituted in conformity with said Act (*Villegas vs. Fernando*; *Sampedro vs. Director of Lands*, 27 SCRA 1119).

There being transfers of ownership by way of sales by the adjudicatees or their heirs of their participations in Lot No. 6017 awarded to them in the decision dated September 13, 1916 as reinstated in the order of March 3, 1925, the Court acted well within its jurisdiction as a Cadastral Court to issue (sic) the order of March 1, 1932 to reflect the changes of ownership in the participations of the adjudicatees in favor of the vendee-spouses pending the issuance of the decree of registration. The petition of the claimants at bar who acquired their respective interest in or portions of Lot No. 6017 subsequent to the order of March 1, 1932 while the issuance of the decree still depends must necessarily be also in order.”

and then granted the Paulin petitions by approving the subdivision plan Psd-17733 and the technical descriptions of Lots Nos. 6017-A to 6017-H, inclusive, ordering that the subdivided lots be respectively awarded to the parties enumerated in the 14 May 1979 petition and directing the Land Registration Commissioner to issue, upon the finality of the Order, a decree of registration of the subdivision lots in favor of each of the claimants enumerated in said petition.[11]

Their motion for the reconsideration of the above order, based on the ground that the court acted without or in excess of jurisdiction in issuing a second decree of registration in favor of parties who are not the adjudicatees mentioned in the 13 September 1916 decision or the 3 March 1925 Order having been denied in the Order of 4 August 1981, oppositors filed with the Court of Appeals a petition for certiorari alleging lack of jurisdiction and/or grave abuse of discretion on the part of Judge Ramolete to issue the orders of 16 February 1981 and 4 August 1981.

In its decision promulgated on 29 September 1982, the Court of Appeals denied the petition on the ground that:

“x x x the issues raised herein could not be resolved without passing upon the merits of the case. Inasmuch as the function of certiorari is to determine only whether or not the lower court abused its discretion or acted in excess of its jurisdiction in its judgment without consideration of the actual merits of the case, We are therefore, denying this petition without prejudice to the filing of the proper remedy with the courts, if still possible.”[12]

Unable to accept said decision, petitioners filed with this Court on 15 February 1983 the instant petition raising the following issues:

- a) lack of jurisdiction of the lower court, sitting as a cadastral court, to rule and decide on the controversy, or to pass upon the validity of the claim, sale or transfer in favor of the private respondents, alleging that such matters could only be ventilated in an ordinary civil action;
- b) grave abuse of discretion on the part of Judge Ramolete in adjudicating and issuing an order declaring private respondents as the new owners of Lot No. 6017 over the opposition of petitioners without trial, without the presentation of evidence and without giving the contending parties the opportunity to prove their claims, but solely on the basis of the allegations in the motion of private respondents and the annexes attached thereto; and
- c) the ruling of the Court of Appeals as above quoted is confusing, erroneous, strange, ridiculous and absurd.

They likewise allege that the Order of 1 March 1932 was issued without any notice to them; they were never given a chance to be heard and that they did not receive a copy of said order; they came to know about it only in the middle part of 1980; and granting that it was in fact issued, such was done in excess of and/or without jurisdiction.[13]

In their Comment filed on 21 June 1983 in compliance with the Resolution of 16 May 1983, private respondents

claim that the predecessors-in-interest of the petitioners had sold the lot in question to the spouses Filemon Sotto and Carmen Rallos, now both deceased; petitioners have nothing then to inherit; and that they cannot now re-open the cadastral proceeding because the Order of 1 March 1932 constitutes *res judicata*.^[14]

We gave due course to the petition and required the parties to submit simultaneous memoranda which petitioners complied with on 10 September 1983 and the private respondents on 26 August 1983.

It plainly appears to this Court that while respondent Court of Appeals evaded the fundamental issues raised before it by petitioners under the pretext that “the function of certiorari is to determine only whether or not the lower court abused its discretion or acted in excess of its jurisdiction in its judgment without consideration of the actual merits of the case,” it says in the same breath that “the issues raised herein could not be resolved without passing upon the merits of the case.”^[15] There is thus vagueness and patent self-contradiction. In any case, the resolution of the issues raised does not require a determination of the “merits of the case in the sense of the legal rights of the parties in the case.

A careful scrutiny of the factual and procedural moorings of this case leads Us to agree with the main thesis of petitioners that the lower court, sitting as a cadastral court, had no jurisdiction to amend or modify the 13 September 1916 decision and that Judge Ramolete acted without jurisdiction or with grave abuse of discretion in issuing the Order of 16 February 1981. We are, however, unable to agree with their postulation that said Judge likewise committed grave abuse of discretion in practically setting aside the Order of 7 August 1979 by promulgating the 16 February 1981 order.

The 13 September 1916 decision, as amended by the Auto of 1 March 1932, had long become final as there is no showing at all that any affected party appealed therefrom within the reglementary period of thirty (30) days prescribed by the then governing law on procedure, Act No. 190.^[16] Section 11 of the Cadastral Act expressly provides that trials in cadastral cases shall be conducted in the same manner as ordinary trial, and proceedings in the Court of First Instance shall be governed by the same rules and that all provisions of the Land Registration Act,^[17] as amended, except as otherwise provided in the former, shall be applicable to proceedings in cadastral cases. Sections 38 and 41 of the Land Registration Act tell us when decisions become final.^[18] Even if they are erroneous, but such errors are not jurisdictional, correction could only be done by a regular appeal within the reglementary period, the failure of which could lead to the decisions becoming final. As this Court stated in *Daquis vs. Bustos, et al.*:^[19]

“x x x Decisions, erroneous or not, become final after the period fixed by law; litigations would be endless; no questions would be finally settled; and titles to property would become precarious if the losing party were allowed to reopen them at any time in the future.”

The failure to issue a final decree does not, as seems to be the suggestion of the lower court and the theory presented by the private respondents, prevent the decision from attaining finality. Precisely, final decree can only issue after the decision shall have become final. The final decree must state the name of the party adjudged in the decision to be owner of a cadastral lot.^[20]

It follows that in the instant case, in view of the finality of the decision of 13 September 1916, as amended by the Auto of 1 March 1932, the final decree which can be validly issued is one which must be in full conformity with said decision, as amended.

From the Paulin petition of 14 May 1979, it is quite clear that, except for the spouses Filemon Sotto and Carmen Rallos, the alleged claimants in whose favor the subdivided lots are to be adjudicated are not the adjudicatees in the 13 September 1916 decision, as amended by the 1 March 1932 Auto. And, except in the case of Paulin himself, who claims to be a vendee, there is no indication whatsoever of the relationships of the claimants with

the original adjudicatees that could serve as basis for their claims. In reality then, the petition is not just for the issuance of a final decree, but for the amendment or modification of the final decision. In light of the above disquisition, the lower court has no jurisdiction to grant such relief and Judge Ramolete clearly acted without any jurisdiction or with grave abuse of discretion in giving due course to the petition by approving the Subdivision Plan Psd-17733, the technical descriptions of Lots Nos. 6017-A to 6017-H, inclusive, and directing the Land Registration Commissioner to issue the final decree of registration of the subdivision lots in favor of each of the claimants named in the 14 May 1979 (Paulin) petition. Aggravating such action is his obvious disregard for due process. There was no formal hearing on the Paulin petition. Paulin and his co-claimants presented no witness, marked no exhibit and offered no evidence. It is true that certain documents were attached as Annexes to the petition; but Paulin, et al., went no further. Until identified, formally offered in evidence and admitted by the court, the annexes were but mere scraps of paper. Section 34, Rule 132 of the Rules of Court is quite explicit: "The court shall consider no evidence which has not been formally offered." The offer is necessary because it is the duty of a judge to rest his findings of facts and his judgment only and strictly upon the evidence offered by the parties and the trial.[21] That such a hearing and offer of evidence are necessary is evident from the fact that substitution of adjudicatees, approval of subdivision plan and technical descriptions of subdivision lots were asked for. In view of the opposition of petitioners, the matter became controverted and issues were thus joined necessitating a trial for its resolution. But this is not to suggest that the lower court should have conducted a hearing on the petition, for as already indicated above, the court had no jurisdiction to amend the decision.

This Court notices from the allegations in the questioned Paulin petition that Subdivision Plan Psd-17733 was executed by a private land surveyor pursuant to the Auto of 1 March 1932, in relation to the 13 September 1916 Order, and that the same was approved by the Director of Lands. These suggest that there was an attempt to partition Lot No. 6017. Such partition was allowed under the Cadastral Law, provided that there was compliance with Sections 6 and 19 to 24 thereof.[22] Unfortunately, Paulin, et al., failed to explore and raise this matter.

The lower court, however, correctly set aside the Order of 7 August 1979. The contention of petitioners that the same had become final and therefore cannot be set aside is untenable. There is nothing on record to support it. Indisputably, Atty. Jaban knew, or ought to have known, at the time he filed on 30 July 1979 a petition for issuance of final decree, that other parties have existing claims on Lot No. 6017; insofar as the records Cadastral Case No. 12 are concerned, two (2) prior petitions for the issuance of decree had been filed -- that of 7 March 1974 and that of 14 May 1979. In a manner of speaking, the property has become a contested lot. Petitioners failed to show that private respondents were furnished with copies of his petition and of the 7 August 1979 Order. In the absence of proof that they received a copy of the Order, no conclusion may be drawn that it has become final as against them. Besides, the order has no valid basis. It failed to consider the Auto of 1 March 1932 which amended the original decision of 13 September 1916. Hence, no valid decree can be issued exclusively on the basis of the latter.

WHEREFORE, the Petition is GRANTED. The decision of the Court of Appeals in C.A.-G.R. No. 13091-SP, promulgated on 29 September 1982 and the Orders of the lower court of 16 February 1981 and 4 August 1981 are hereby REVERSED and SET ASIDE.

No pronouncement as to costs.

IT IS SO ORDERED.

Gutierrez, Jr., (Chairman), Feliciano, and Romero, JJ., concur.

Bidin, J., in the result.

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- [1] Annex “1” of Respondent’s Memorandum; Rollo, 106-110.
- [2] Annex “B” of Petition; Id., 30-31.
- [3] Annex “2” of Private Respondents’ Memorandum; Rollo, 111- 113.
- [4] Annex “G” of Petition; Id., 55.
- [5] Annex “J” of Petition; Id., p. 67-68.
- [6] Annex “F” of Petition, Id., 49.
- [7] Counsel for petitioners.
- [8] Annex “C” of Petition; Rollo, 32.
- [9] Annex “D” of Petition; Id., 45.
- [10] Annex “E” of Petition; Rollo, 46.
- [11] Annex “G” of Petition; Rollo, 55, et seq.
- [12] Annex “H” of Petition; Rollo, 61.
- [13] Rollo, 123, 133-134.
- [14] Id., 78.
- [15] Rollo, 64.
- [16] Director of Lands vs. Sanz, et al., 45 Phil. 117.
- [17] Act No. 496.
- [18] Likewise, Section 38 in relation to Section 30 of P.D. No. 1529 (The Property Registration Decree), which took effect on 11 June 1978, provides that the decision in cadastral cases becomes final upon expiration of thirty (30) days from notice and appeal may be taken therefrom as in ordinary civil cases.
- [19] 94 Phil. 913.
- [20] See Sections 40 and 41, Act No. 496 and Section 31, P.D. No. 1529.
- [21] MORAN, Comments on the Rules of Court, vol. 6, 1980 ed., 123, citing U.S. vs. Solano, 33 Phil. 582; Dayrit vs. Gonzalez, 7 Phil. 182.
- [22] Government of the Philippine Islands vs. Gabutan, et al., 68 Phil. 254.

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