

**MIGUEL LANZONA (DECEASED) AND ILUMINADA E. LANZONA,
PETITIONERS, VS. HON. INTERMEDIATE APPELLATE COURT AND
EMILIO ALVAREZ, RESPONDENTS.**

G.R. No. 66344. July 02, 1990

Ponente: GRINO-AQUINO, J.

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GRINO-AQUINO, J.:

This is a petition for review of the decision dated June 16, 1982 of the Intermediate Appellate Court (now Court of Appeals) in CA-G.R. No. 52469-R, entitled:

EL DIRECTOR DE TERRENOS,

Peticionario,

- contra -

TIMOTEO ABARCA, ET AL.,

Reclamantes,

MIGUEL N. LANZONA and

ILUMINADA E. LANZONA,

Petitioners-Appellees,

- versus -

EMILIO ALVAREZ,

Respondent-Appellant

reversing the order dated August 26, 1972 of the Court of First Instance of Davao (now Regional Trial Court), in Cadastral Case No. 1, G.L.R.O. Cad. Rec. No. 317, Lot No. 384 which set aside its own earlier decision dated October 1, 1940 in the same case (but penned by the previous incumbent, Judge Enrique Fernandez), declaring Constancio Guzman (predecessor-in-interest of herein respondent Emilio Alvarez), to be the owner of Lot 384. The trial court annulled the decree of registration and O.C.T. No. Q-217 issued to Guzman and ordered the issuance of a new title in the names of the petitioners, Miguel N. Lanzona and Iluminada Lanzona.

The antecedent facts are:

On October 1, 1940, the Court of First Instance of Davao, presided over by Judge Enrique Fernandez, rendered a decision adjudicating Lot No. 384, to Constancio Guzman in which it mentioned an earlier decision of the Supreme Court thus:

"x x x en la decision dictada en esta causa, el Tribunal Suprema, no ha hecho mencion sobre la propiedad de las mejores dentro de este terreno, no obstante, admite que Ines Labarca entre en el mismo hacia el año 1819

decision marcada exhibitio 'B' - C. Guzman; que Ines Labarca es dueña de las mejores existentes dentro del Lote 384, consistentes en 2,100 grupos de abaca, 250 arbustos de coco, 118 arbutos de cafe, 100 grupos del platanos, 25 arbutos de bongga, 3 ponos de durian y un pono de macupa avalocados en P2,230.00, declaracion de propiedad, marcada Exhibitio '1' - Lotes Nos. 383 y 384 - Ines Labarca; que Constancio Bolcan es dueño de 98 arbustos de coco, 100 grupos de abaca y 20 ponos de platanos sembrado dentro del mismo Lote No. 384, declaracion de propiedad marcado Exhibitio '1', Lote No. 384 C. Bolcan." (p. 45, Rollo.)

Constancio Bolcan appealed Judge Fernandez's decision to the Court of Appeals but upon the outbreak of the war, all the records of the case were destroyed, both in the Court of First Instance of Davao and in the Appellate Court. The records of the case were never reconstituted.

On December 15, 1967, a decree of registration and Original Certificate of Title No. Q-217 were issued by the Land Registration Commission and the Register of Deeds for Davao City, respectively, in favor of Guzman.

The petitioners Lanzona who had allegedly acquired the rights over the land and improvements existing thereon from Constancio Bolcan since 1942 and allegedly had been in possession of the said land for a period of more than twenty-five (25) years as exclusive owners, filed a petition for review of the decree of registration on the ground of fraud in its issuance.

On March 4, 1968, the private respondent, Emilio Alvarez, as successor-in-interest of Guzman, opposed the petition for review. He alleged that Judge Fernandez's decision, dated October 1, 1940, had long become final and executory, hence, it could no longer be set aside or reviewed; that Original Certificate of Title No. Q-217 in favor of Constancio Guzman was validly issued based on existing records of the Land Registration Commission (p. 48, Rollo).

As previously stated, the Court of First Instance of Davao, acting as a land registration court, ruled in favor of the petitioners.

However, in its decision dated June 10, 1982, the Appellate Court reversed the appealed judgment as follows:

"WHEREFORE, finding the trial court committed the errors imputed to it by appellant, the decision appealed from is hereby reversed and another one entered dismissing the petition for review of the decree of registration for lack of merit - thus by this pronouncement, Decree No. N-118060 and Original Certificate of Title No. Q-217 of the Registry of Deeds of Davao City in the name of Constancio Guzman issued pursuant to the said decree are declared legal and valid for all intents and purposes. Without pronouncement as to costs.

"SO ORDERED." (p. 62, Rollo.)

A petition for review was filed in due time in this Court by Lanzona.

The question to be determined is whether the Court of Appeals erred in holding for respondent Alvarez and in finding that there was no fraud in the issuance of the decree of registration for Lot No. 384 and of Certificate of Title No. Q-217, in the name of Constancio Guzman, Alvarez's predecessor-in-interest, based on the unreconstituted pre-war decision of Judge Enrique Fernandez in his favor.

The petition is devoid of merit.

Whether or not fraud exists is a factual issue which we may not review under Rule 45. In any event, the respondent Court of Appeals did not commit a reversible error in finding that there was no fraud in the rendition of Judge Fernandez's decision although he relied, among other evidences in the records, on a decision of the Supreme Court which was not certified to be true and correct. The appellate court correctly ruled that:

"x x x the argument that because the decision of the Supreme Court which was relied upon by the trial court in

granting registration was not certified to be true and correct, fraud was committed justifying the petition for the review of the decree of registration, is plainly an error of judgment or at the most error in the appreciation and the admission of an evidence. There is no fraud, much less the fraud contemplated by Section 38 of Act 496, as ground for the petition for a review of the decree." (p. 51, Rollo.)

On the finality of Judge Fernandez's unreconstituted pre-war decision, we also agree with the finding of the Court of Appeals that:

"Anent the status of the decision dated October 1, 1940 of the late Judge Enrique Fernandez, after going over the evidence in this case, We are of the considered opinion that the same has become final. The allegation that the same was duly appealed to Us and the appeal perfected was not satisfactorily substantiated. At any rate, even admitting that the decision was appealed, as unfortunately the records were destroyed during the last World War, the duty to reconstitute the appeal falls on the appellant (the predecessor-in-interest of the appellees) and the appellees themselves in behalf of their predecessor-in-interest. The failure to institute the reconstitution proceedings by the party most interested to up-end the decision should be interpreted as an abandonment of the appeal and a clear indication of lack of interest and this abandonment made the decision final. This being the case, a copy of the decision having been shown to exist, reconstitution of the decision is not necessary or, otherwise stated, it was error for the trial court to hold that the decision of October 1, 1940 has lost its force and effect and that said decision should be reconstituted by means of an authentic copy and, if this cannot be done, the trial court is empowered to make a new decision. We again have to agree with the appellant in his argument that Rule 39, Section 6 of the Rules of Court is not applicable to land registration proceedings x x x." (p. 52, Rollo.)

The petitioners' claim of ownership by acquisitive prescription or by virtue of alleged continuous and undisturbed possession of the disputed lot, clearly raises factual issues. The finding of the appellate court that "the evidence of the petitioners do not show that the parcel of land which they purchased from Constancio Bolcan is the same Lot No. 384 covered by O.C.T. Q-217" is a factual finding which is binding on us, especially because the Court discussed the evidence supporting it. It is not the function of the Supreme Court to analyze or weigh such evidence all over again, its jurisdiction being limited to reviewing errors of law that might have been committed by the lower court (*Evangelista & Co. v. Abad Santos*, 51 SCRA 416).

WHEREFORE, the petition for review is DENIED for lack of merit. The decision of the Intermediate Appellate Court in CA G.R. No. 52469-R is affirmed in toto.

SO ORDERED.

Narvasa, Acting C.J., Cruz, Gancayco, and Medialdea, JJ., concur.

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