

**EMILIANO GAWARAN, MAGDALENA GAWARAN, DELFIN GAWARAN,
FERNANDO GAWARAN, AUGUSTO GAWARAN AND VIRGINIA
GAWARAN, IN THEIR BEHALF AND IN SUBSTITUTION OF THE
DECEASED OPPOSITOR, FELIC...**

G.R. No. 72721. June 16, 1988

Ponente: YAP, C.J.

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YAP, C.J.:

This is an appeal from the decision of the then Intermediate Appellate Court, promulgated on July 17, 1985, dismissing the special civil action for certiorari and prohibition filed by petitioners against respondents docketed as AC-G.R. Sp. No. 06092, as well as the resolution of October 22, 1985, denying petitioners' motion for reconsideration of said decision.

What petitioners sought from the Intermediate Appellate Court was the annulment of the writ of possession with a special order of demolition issued by the Regional Trial Court, Branch 16, Cavite City, dated March 19, 1985. Petitioners were the oppositors to an application for registration and confirmation of title over Lot 2, PSU-173975, situated in Digman, Bacoor, Cavite, filed by herein private respondents in 1959. The application covered four lots; no opposition was filed with respect to three lots, but only with respect to Lot No. 2, on which petitioners had their residential house and a "camarin."

After trial, the trial court awarded Lot No. 2 to the oppositors (herein petitioners). The applicants (herein private respondents) appealed to the Court of Appeals which reversed the decision of the trial court and confirmed the ownership of said Lot No. 2 in the names of private respondents. The petitioners appealed to this Court in G.R. No. 56312, but the petition was dismissed, and entry of judgment was made on May 24, 1982. On January 13, 1984, an order for the issuance of a decree in favor of private respondents was issued, and pursuant thereto, Original Certificate of Title No. 0-2123 was issued in the names of private respondents, which included Lot No. 2.

The petitioners, however, managed to continue their possession over Lot No. 2. Accordingly, on motion of private respondents, the respondent Regional Trial Court, on March 19, 1985, issued the questioned writ of possession with the complimentary directive for the oppositors to dismantle and remove their building and or structure from Lot No. 2 under pain of demolition and to vacate the premises in favor of private respondents within thirty (30) days.

Petitioners questioned the above order in a petition for certiorari and prohibition with the then Intermediate Appellate Court. However, on July 17, 1985, the respondent appellate court dismissed the petition, and on October 22, 1985, denied petitioners' motion for reconsideration. Hence, this petition, in which petitioners allege that the respondent appellate court erred:

1) In holding that in a land registration case, the declaration and adjudication of ownership include the right of possession over the property in question; and

2) In dismissing the petition, thereby allowing the private respondents to dismantle and demolish petitioners' residential house, "camarin" and other improvements built in good faith, in violation of petitioners' substantial rights under existing laws and without being reimbursed or indemnified.

We find the petition to be without merit. The respondent appellate court committed no reversible error in holding that the writ of possession issued by the trial court "is a necessary consequence of the adjudication of ownership and the corresponding issuance of the Original Certificate of Title." As we held in *Avila vs. Court of Appeals*, 145 SCRA 541, 548:

"x x x in a registration case, the judgment confirming the title of the applicant and ordering its registration in his name necessarily carries with it the delivery of possession which is an inherent element of the right of ownership (*Abulocion, et al. vs. CFI of Iloilo, et al.*, 100 Phil. 553 [1956]). Hence, a writ of possession may be issued not only against the person who has been defeated in a registration case, but also against any one unlawfully and adversely occupying the land or any portion thereof during the registration proceedings up to the issuance of the final decree. It is the duty of the registration court to issue said writ when asked for by the successful party."

Neither can the losing party claim the right granted by the law to possessors in good faith to justify their right of retention as builders in good faith in accordance with Article 2148 of the Civil Code. The claim of petitioners that they are builders in good faith can not be sustained, considering that the Court of Appeals, in the registration proceedings (CA-G.R. No. 54221-R) in rejecting the petitioners' claim of ownership over the land, stated as follows:

"x x x. On the other hand, appellees (herein petitioners) presented no documentary proof that prior to the start of the court case in 1959, they or their predecessors have established claims of ownership over the land on which their house stands.

x x x

x x x

x x x

"Although Pedro Guinto testified that Cesario Gawaran (herein petitioners' deceased father), his wife, and children (herein petitioners), possessed Lot No. 2 in the "concept of owner," there appears to be no factual basis for the witness to arrive at such conclusion."

In *Baltazar, et al. vs. Caridad, et al.*, 17 SCRA 460, we held that "good faith must rest on a colorable right in the builder, beyond a mere stubborn belief in one's title despite judicial adjudication."

ACCORDINGLY, we hold that the respondent Court of Appeals committed no reversible error in dismissing the petition, AC-G.R. SP No. 06092.

SO ORDERED.

Melencio-Herrera, Paras, Padilla, and Sarmiento, JJ., concur.

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