

SANTOS, RITA, SOLEDAD, LAUREANO, AURELIA, MAXIMIANA, JOSE, ANTONIO, ELIZABETH, MERCEDITA, BONIFACIO, REYNALDO, RUBEN, JR., ROGELIO, CARMELITA, BIENVENIDO, BENJAMIN, ROSALINA, PU...*G.R. No. 75877. September 26, 1988*

Ponente: GRIÑO-AQUINO, J.

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This case involves two appeals by certiorari which were consolidated in this Court. The first is an appeal from the decision of the Court of Appeals; the second is a direct appeal, on a question of law, from a decision of the Regional Trial Court. Both appeals arose from the same order of the Regional Trial Court involving a parcel of land, Lot 4519 of the Parañaque Cadastre.

In 1959, Leonardo, Elena, Cipriano and Santos, all surnamed Bernardo, and Eladio de Leon y Bernardo filed a complaint in the Court of First Instance of Rizal against Agripina, Aurelia, Maxima, Ricardo, Francisco, Jimenez, and Rita, all surnamed Bernardo, and Antonio Hernandez, Benito Hernandez and Fortunato Jose, demanding the partition and annulment of the conveyance of two (2) parcels of unregistered riceland in Barrio Kay-Biga (or Quibiga) and one unregistered residential lot in Barrio San Dionisio, Parañaque, Rizal, formerly owned by the deceased spouses Miguel Bernardo and Lorenza Garcia, who were survived by their six (6) children named Ceferino, Bonifacio, Narciso, Justo, Gregoria, and Petronila, all surnamed Bernardo. The trial court dismissed the complaint, but, on appeal to the Court of Appeals, the latter, on January 11, 1967, declared the three (3) parcels of land (with a total area of 23,137 square meters) as community property of the parties in the proportion of 3/5 to the heirs of Ceferino, Bonifacio and Narciso, all surnamed Bernardo, and 2/5 to the heirs of Gregorio and Justo Bernardo. On appeal to this Court by the respondents, this Court on November 28, 1986 affirmed the decision of the Court of Appeals (Bernardo vs. Court of Appeals, 101 SCRA 351).

On February 22, 1979, an application for registration of Lot 4519 (51,263 square meters) of the Parañaque Cadastre, delineated in Plan No. Ap-11395, was filed by Elvira E. Reyes, Ely D. Cabangon, Pablo L. Verbo, Ramona H. Hernandez and Juan C. Redito in the Court of First Instance of Pasay City where it was docketed as LRC Case No. Pq-552-P and assigned to Branch XXIX, then presided over by Judge Manuel E. Valenzuela.

Oppositions to the application were filed by the Director of Lands and two groups of private oppositors, namely: (a) the group of Estanislao Tahisora, Teodorico Tabin, Modesto Zambrano, Roberto Zambrano, Regina Reyes, and Pedro Areza, and (b) a second group composed of Armando B. Zambrano, Francisco Sicuan, Rodrigo B. Malvar, Herminigildo Sicuan, and Antonina B. Fernandez.

After due publication of the notice of hearing, the application was heard on February 24, 1982. An order of general default was entered against the whole world with the exception of the Director of Lands and the aforementioned oppositors. The trial was set on April 22, 1982. Before the trial date, the applicants and the private oppositors executed on April 21, 1982 a Stipulation of Facts and Agreement allotting specific portions of the lot

to each of the parties. At the hearing on April 22, 1982, the court heard the parties' evidence. It approved the Stipulation of Facts and Agreement and rendered a decision on May 7, 1982 based thereon, adjudicating specific but undivided portions of the property to specific persons.

On September 10, 1982, a Decree of Registration No. N-186238 was issued. On March 22, 1983, Original Certificate of Title No. 212 was issued by the Register of Deeds of Pasay City to the private respondents.

On July 14, 1983, or within the statutory one (1) year period for review of the decree of registration, the petitioners filed a petition to set aside the said decree, as well as the decision of the trial court on the ground of fraud as the land had already been adjudicated to them by final judgment of this Court in *Bernardo vs. Court of Appeals*, 101 SCRA 351. (p. 53, Rollo, G.R. No. 75877.)

On October 11, 1983, the trial court denied the petition to set aside the decree. It held that Lot 4519 is not the same land that had been adjudicated to the Bernardos in the decision of this Court. It observed that Lot 4519 has a total area of 51,263 square meters and is situated in Barrio San Dionisio, Parañaque, Rizal. The three (3) parcels of unregistered land adjudicated to the petitioners in the decision of the Supreme Court in *G. R. No. L-30019* (*Bernardo vs. Court of Appeals*, 101 SCRA 351) consisted of two (2) parcels of riceland with an area of 22,705 square meters in Barrio Kay Biga, not in Barrio San Dionisio, and although the residential lot of 432 square meters is in Barrio San Dionisio, the petitioners do not claim that it is embraced in Lot 4519 (pp. 69-70, Rollo, G.R. No. 75877).

Instead of appealing the lower court's order, the petitioners filed a motion for leave to amend their petition for review, attaching the amended petition thereto (p. 78, Rollo, G.R. No. 75877). The private respondents opposed the motion (p. 80, Rollo, G.R. No. 75877). On November 23, 1983, the court denied the motion (p. 85, Rollo, G.R. No. 75877).

On November 28, 1983, the petitioners filed a notice of appeal (p. 87, Rollo, G.R. No. 75877). It was also opposed by the private respondents because the order of October 11, 1983 had become final and unappealable. On February 10, 1984, Judge Valenzuela dismissed the appeal (p. 92, Rollo, G.R. No. 75877).

Meanwhile, Lot No. 4519 was subdivided. On March 11, 1985, the registered owners sold a parcel of 5,534 square meters, designated as Lot 4519-B-2, to the respondent Saint Martin Management and Development Corporation ("SMMDC" for brevity). TCT No. 93192 was issued to SMMDC.

On July 3, 1985, SMMDC asked for a writ of possession against petitioner Benjamin Hernandez who was allegedly squatting on some 250 square meters of Lot No. 4519-B-2. Hernandez and the other petitioners opposed SMMDC's motion. On September 4, 1985, SMMDC compromised with Hernandez whom it paid P10,000 to vacate the property and recognize SMMDC as owner (p. 44, Rollo, G.R. No. 75877 & p. 105, Rollo, CA-G.R. No. 09605).

On November 25, 1985, the other petitioners moved to set aside the Compromise Agreement because they were not represented in the transaction and Hernandez was not authorized to compromise with SMMDC in their behalf (p. 107, Rollo, G.R. No. 75877). On December 6, 1985, Judge Baltazar Dizon set aside the compromise agreement (p. 111, Rollo, G.R. No. 75877).

On June 3, 1986, the petitioners filed an Omnibus Motion to cancel the titles of the private respondents Elvira Reyes et al. and to issue new titles in their own (petitioners') names because they had already been declared the owners of the property by final judgment of the Supreme Court (p. 133, Rollo, G.R. No. 75877).

At the instance of the petitioners, Judge Dizon, on June 9, 1986, ordered SMMDC and Elvira Reyes to

cease-and-desist from entering into any transaction involving Lot 4519. SMMDC filed a Motion to Set Aside that order and to expunge the Omnibus Motion of the Bernardos (p. 143, Rollo, G.R. No. 75877). On July 24, 1986, Judge Dizon denied the petitioners' omnibus motion. He suggested that "a separate action/petition for cancellation of private respondents' title to Lot 4519 would be more appropriate and proper" (p. 172, Rollo, G.R. No. 75877). However, the cease-and-desist order of June 9, 1986 was maintained. SMMDC sought a review of this part of the order by a petition for certiorari in the Court of Appeals (CA-G.R. No. 09605).

After unsuccessfully seeking a reconsideration of the same order insofar as it denied their Omnibus Motion to cancel the respondents' title to Lot 4519 (p. 172, Rollo, G.R. No. 75877) the petitioners filed a notice of appeal, on purely questions of law, to the Supreme Court (p. 185, Rollo, G.R. No. 75877). SMMDC opposed the appeal on the ground that no direct appeal from the Regional Trial Court to the Supreme Court is allowed by the Rules of Court except in certain criminal cases. Purely legal questions may be raised before the Supreme Court by a petition for certiorari, not by appeal (Rule 45, Rules of Court; Sec. 17, subpar. 4, Judiciary Act as amended; Sec. 25, Interim Rules and Guidelines).

On March 29, 1987, or nine (9) months after the court had issued the order of June 6, 1986, the petitioners filed an appeal by certiorari in this Court (G.R. No. 75877). Clearly, the appeal is late, hence, for that reason, if for no other, the petition in G.R. No. 75877 should be dismissed outright.

G. R. No. 77677 involves the petitioners' appeal by certiorari from the decision dated February 26, 1987 of the Court of Appeals in AC-G.R. No. 09605 annulling Judge Dizon's cease-and-desist orders of June 9, 1986 and July 24, 1986 and permanently enjoining him "from further entertaining pleadings or motions filed relative to private respondents' (Bernardos') petition for review of the decree of registration which has long been denied." (p. 17, Rollo, G.R. No. 77677.) Although this petition was seasonably filed, it should also be dismissed for the decree of registration is final and unalterable. The decree of registration was issued on September 10, 1982. On July 14, 1983, or ten (10) months and four (4) days after its issuance, the petitioners filed a petition to cancel or set it aside. That petition interrupted finality of the decree, leaving a balance of one (1) month and twenty-six (26) days to complete the one-year period. On February 10, 1984, the order denying the petition to set aside the decree of registration was declared final by Judge Valenzuela. Thereafter, the one-year period for the finality of the decree of registration resumed running and it was completed on April 6, 1984. On that date, the decree of registration became final and irrevocable (*Gitgano vs. Borromeo*, 133 SCRA 437).

The petitioners' attempt to reopen the decree of registration in the proceedings for the issuance of a writ of possession to the vendee SMMDC, was properly disallowed by the Court of Appeals. We find no reversible error in its decision.

WHEREFORE, both petitions for certiorari are dismissed for lack of merit. Costs against the petitioners.

SO ORDERED.

Narvasa, Cruz, Gancayco, and Medialdea, JJ., concur.

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