

ATTY. JOSE S. GOMEZ, DELFINA GOMEZ ESTRADA, ENRIQUITA GOMEZ OXCIANO, BENITA GOMEZ GARLITOS, REYNALDO GOMEZ ESPEJO, ARMANDO GOMEZ, ERLINDA GOMEZ GUICO, EUGENIA GOMEZ CALICDAN, AZ...

G.R. No. 77770. December 15, 1988

Ponente: PADILLA, J.

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PADILLA, J.:

The present case originated with the filing by petitioners on 30 August 1968 in the Court of First Instance (now Regional Trial Court) of San Carlos City, Pangasinan, of an application for registration of several lots situated in Bayombong, Pangasinan.

The lots applied for were Lots Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 of Plan Psu-54792 Amd.-2. The lots were among those involved the case of Government of the Philippine Islands vs. Abran,[1] wherein this Court declared Consolacion M. Gomez owner of certain lots in Sitio Poponto, Bayombong, Pangasinan. Petitioners are the heirs of Teodoro Y. Gomez (father of Consolacion) who, together with Consolacion's son, Luis Lopez, inherited from her parcels of land when Consolacion Gomez died intestate. Petitioners alleged that after the death of Teodoro Y. Gomez, they became the absolute owners of the subject lots by virtue of a Quitclaim executed in their favor by Luis Lopez. The lots (formerly portions of Lots 15, 16, 34 and 41 covered by Plan Ipd-92) were subdivided into twelve lots - Lots Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12. The subdivision plan was duly approved by the Bureau of Lands on 30 November 1963. Petitioners agreed to allocate the lots among themselves.

After notice and publication, and there being no opposition to the application, the trial court issued an order of general default. On 5 August 1981, the court rendered its decision adjudicating the subject lots in petitioners' favor.[2]

On 6 October 1981, the trial court issued an order[3] expressly stating that the decision of 5 August 1981 had become final and directed the Chief of the General Land Registration Office to issue the corresponding decrees of registration over the lots adjudicated in the decision of 5 August 1981.

On 11 July 1984, respondent Silverio G. Perez, Chief of the Division of Original Registration Land Registration Commission (now known as the National Land Titles and Deeds Registration Administration), submitted a report to the court a quo stating that Lots 15, 16, 34 and 41 of Ipd-92 were already covered by homestead patents issued in 1928 and 1929 and registered under the Land Registration Act. He recommended that the decision of 5 August 1981, and the order of 6 October 1981 be set aside. Petitioners opposed the report pointing out that no opposition was raised by the Bureau of Lands during the registration proceedings and that the decision of 5 August 1981 should be implemented because it had long become final and executory.

After hearing, the lower court rendered a second decision on 25 March 1985 setting aside the decision dated 5 August 1981 and the order dated 6 October 1981 for the issuance of decrees.[4] Petitioners moved for

reconsideration but the motion was denied by respondent judge on 6 August 1985 for lack of merit.[5]

Petitioners filed a petition for certiorari and mandamus with this Court which in turn referred the petition to the Court of Appeals.[6]

On 17 September 1986, the appellate court judgment,[7] dismissing the petition and stating, among others, thus -

"In resume', prior to the issuance of the decree of registration, the respondent Judge has still the power and control over the decision he rendered. The finality of an adjudication of land in a registration or cadastral case takes place only after the expiration of the one-year period after entry of the final decree of registration (*Afalla vs. Rosauro*, 60 Phil. 622; *Valmonte vs. Nable*, 85 Phil. 256; *Capio vs. Capio*, 94 Phil. 113). When the respondent Judge amended his decision after the report of the respondent officials of the Land Registration office had shown that homestead patents had already been issued on some of the lots, respondents cannot be faulted because land already granted by homestead patent can no longer be the subject of another registration (*Manalo vs. Lukban, et al.*, 48 Phil. 973).

"WHEREFORE, in view of the foregoing, We resolve to DISMISS the petition for lack of merit.

"SO ORDERED."

Petitioners' motion for reconsideration was denied by the appellate court in its Resolution dated 10 March 1987.[8] Hence, this recourse.

Several issues are raised by petitioners in this petition. The more important issues before the Court are: (a) whether or not respondent Judge had jurisdiction to issue the decision of 25 March 1985 which set aside the lower court's earlier decision of 5 August 1981 and the order of 6 October 1981; (b) whether or not the respondents Acting Land Registration Commissioner and Engr. Silverio Perez, Chief, Division of Original Registration, Land Registration Commission, have no alternative but to issue the decrees of registration pursuant to the decision of 5 August 1981 and the order for issuance of decrees, dated 6 October 1981, their duty to do so being purely ministerial; (c) whether or not "the law of the case" is the decision in *Government of the Philippine Islands v. Abran*, supra, which held that the lands adjudicated to Consolacion Gomez were not public lands, and therefore they could not have been acquired by holders of homestead titles as against petitioners herein.

It is not disputed that the decision dated 5 August 1981 had become final and executory. Petitioners vigorously maintain that said decision having become final, it may no longer be re-opened, reviewed, much less, set aside. They anchor this claim on section 30 of P.D. No. 1529 (Property Registration Decree) which provides that, after judgment has become final and executory, the court shall forthwith issue an order to the Commissioner of Land Registration for the issuance of the decree of registration and certificate of title. Petitioners contend that section 30 should be read in relation to section 32 of P.D. 1529 in that, once the judgment becomes final and executory under section 30, the decree of registration must issue as a matter of course. This being the law, petitioners assert, when respondent Judge set aside in his decision, dated 25 March 1985, the decision of 5 August 1981 and the order of 6 October 1981, he clearly acted without jurisdiction.

Petitioners' contention is not correct. Unlike ordinary civil actions, the adjudication of land in a cadastral or land registration proceeding does not become final, in the sense of incontrovertibility until after the expiration of one (1) year after the entry of the final decree of registration.[9] This Court, in several decisions, has held that as long as a final decree has not been entered by the Land Registration Commission (now NLTDRA) and the period of one (1) year has not elapsed from date of entry of such decree, the title is not finally adjudicated and the decision in the registration proceeding continues to be under the control and sound discretion of the court rendering it.[10]

Petitioners contend that the report of respondent Silverio Perez should have been submitted to the court a quo

before its decision became final. But were we to sustain this argument, we would be pressuring respondent land registration officials to submit a report or study even if haphazardly prepared just to beat the reglementary deadline for the finality of the court decision. As said by this Court in *De los Reyes vs. de Villa*:^[11]

"Examining section 40, we find that the decrees of registration must be stated in convenient form for transcription upon the certificate of title and must contain an accurate technical description of the land. This requires technical men. Moreover, it frequently occurs that only portions of a parcel of land included in an application are ordered registered and that the limits of such portions can only be roughly indicated in the decision of the court. In such cases amendments of the plans and sometimes additional surveys become necessary before the final decree can be entered. That can hardly be done by the court itself; the law very wisely charges the Chief Surveyor of the General Land Registration Office with such duties (Administrative Code, section 177)."

Thus, the duty of respondent land registration officials to render reports is not limited to the period before the court's decision becomes final, but may extend even after its finality but not beyond the lapse of one (1) year from the entry of the decree.

Petitioners insist that the duty of the respondent land registration officials to issue the decree is purely ministerial. It is ministerial in the sense that they act under the orders of the court and the decree must be in conformity with the decision of the court and with the data found in the record, and they have no discretion in the matter. However, if they are in doubt upon any point in relation to the preparation and issuance of the decree, it is their duty to refer the matter to the court. They act, in this respect, as officials of the court and not as administrative officials, and their act is the act of the court.^[12] They are specifically called upon to "extend assistance to courts in ordinary and cadastral land registration proceedings."^[13]

The foregoing observations resolve the first two (2) issues raised by petitioners.

Petitioners next contend that "the law of the case" is found in *Government of the Philippine Islands vs. Abran, et al.*, supra, where it was decided by this Court that the lands of Consolacion M. Gomez, from whom petitioners derive their ownership over the lots in question, were not public lands. A reading of the pertinent and dispositive portions of the aforesaid decision will show, however, that the lots earlier covered by homestead patents were not included among the lands adjudicated to Consolacion M. Gomez. The decision states:

"With respect to the portions of land covered by homestead certificates of title, we are of opinion that such certificates are sufficient to prevent the title to such portion from going to appellants aforesaid, for they carry with them preponderating evidence that the respective homesteaders held adverse possession of such portions, dating back to 1919 or 1920, according to the evidence, and the said appellants failed to object to that possession in time." (*Italics supplied.*)

"Wherefore, modifying the judgment appealed from, it is hereby ordered that the lots respectively claimed by Agustin V. Gomez, Consolacion M. Gomez, and Julian Macaraeg, be registered in their name, with the exclusion of the portions covered by the homestead certificates x x x." (*Underscoring supplied.*)^[14]

The report of respondent land registration officials states that the holders of the homestead patents registered the lots in questioning the years 1928 and 1929. The decision in *Government of the Philippine Islands vs. Abran* was promulgated on 31 December 1931. Hence, the subject lots are specifically excluded from those adjudicated by the afore-said decision to Consolacion M. Gomez.

It is a settled rule that a homestead patent, once registered under the Land Registration Act, becomes indefeasible and incontrovertible as a Torrens title, and may no longer be the subject of an investigation for determination or judgment in cadastral proceeding.^[15]

The aforecited case of *Government vs. Abran*, therefore, is not "the law of the case", for the lots in question were not private lands of Consolacion M. Gomez when homestead patents were issued over them in 1928-1929. There is sufficient proof to show that Lots 15, 16, 34 and 41 of Ipd-92 were already titled lands way back in 1928 and 1929 as shown by Annexes "A", "B", "C", and "D" of respondents' Memorandum.[16]

Lastly, petitioners claim that if the decision of 5 August 1981 of the lower court is sustained, the homestead title holders may still vindicate their rights by filing a separate civil action for cancellation of titles and for reconveyance in a court of ordinary civil jurisdiction. Conversely, the same recourse may be resorted to by petitioners. "(T)he true owner may bring an action to have the ownership or title to land judicially settled, and if the allegations of the plaintiff that he is the true owner of the parcel of land granted as free patent and described in the Torrens title and that the defendant and predecessor-in-interest were never in possession of the parcel of land and knew that the plaintiff and his predecessor-in-interest have been in possession thereof be established then the court in the exercise of its equity jurisdiction, without ordering the cancellation of the Torrens title issued upon the patent, may direct the defendant, the registered owner, to reconvey the parcel of land to the plaintiff who has been found to be the true owner thereof."[17]

WHEREFORE, the petition is DENIED. The appealed decision of the Court of Appeals is AFFIRMED. Costs against the petitioners-appellants.

SO ORDERED.

Melencio-Herrera, (Chairperson), Paras, and Regalado, JJ., concur.
Sarmiento, J., on leave.

[1] 56 Phil. 397

[2] Penned by Judge Felicidad Carandang Villalon, Branch X, CFI of Pangasinan, Third Judicial District, San Carlos City, Rollo, pp. 102-108

[3] Rollo, p. 109

[4] Penned by Judge Pedro G. Aducaen, Branch LVI, RTC, First Judicial Region, San Carlos City, Pangasinan.

[5] Rollo, pp. 130-136

[6] G.R. No. 71872, Rollo, pp. 31-46

[7] CA-G.R. Sp No. 07621, Decision penned by Justice Esteban M. Lising with the concurrence of Justices F.C. Bartolome and Felipe B. Kalalo, Rollo, pp. 149-159.

[8] Rollo, pp. 180-181

[9] Section 32, P.D. 1529

[10] *Capio vs. Capio*, 94 Phil. 113; *Valmonte vs. Nable*, 85 Phil. 256; *Afalla and Pinanoc vs. Rosauro*, 60 Phil. 622; *Roman Catholic Bishop of Cebu vs. Phil. Railway Co.*, 49 Phil. 540; *De los Reyes vs. De Villa*, 48 Phil. 227; *Pamintuan vs. San Agustin*, 43 Phil. 558; *Director of Lands vs. Busuego*, 12 SCRA 678

[11] 48 Phil. 227

[12] *De los Reyes vs. De Villa*, *supra*.

[13] Section 6, (2) (6), P.D. No. 1529

[14] 56 Phil. 397, 401

[15] *El Hogar Filipino vs. Olviga*, 60 Phil. 17; *Aquino vs. Director of Lands*, 39 Phil. 850; *Manalo vs. Lukban and Liwanag*, 48 Phil. 973; *Pajomayo, et al. vs. Manipon, et al.*, 39 SCRA 676; *Iglesia ni Cristo vs. Hon. Judge CFI of Nueva Ecija, Br. I*, 123 SCRA 516.

[16] *Rollo*, pp. 325-329

[17] *Iglesia ni Cristo vs. Hon. Judge, CFI of Nueva Ecija, Br. I*, 123 SCRA 516, citing *Vital vs. Anore, et al.*, 90 Phil. 858-859

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