

ANTONIO MATUTE Y AMASA, PETITIONER AND APPELLEE, VS. THE GOVERNMENT OF THE PHILIPPINE ISLANDS, OBJECTOR AND APPELLANT.

G.R. No. 7867. November 18, 1914

Ponente: JOHNSON, J.

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JOHNSON, J.:

This action was commenced on the 28th day of December, 1906, in the Court of Land Registration. The petitioner asked that five parcels of land particularly described in the first paragraph of his. Complaint, all located within the jurisdiction of the pueblo of Davao, on the Island of Mindanao, be registered under the Torrens system. The petitioner alleged that if the court should find that he was not entitled to have said parcels of land registered by reason of ownership, that the same should be registered in his name in accordance with the provisions of chapter 6 of Act No. 926. The petitioner alleged that said parcels of land contain 1,785 hectares.

On the 3d day of May, 1907; Gregorio Araneta, Attorney-General, appeared on behalf of the opponent in said cause.

On the 30th of August, 1907, the petitioner presented an amended complaint, asking for the registration of the said parcels of land. In the amended complaint; the petitioner alleged that the said five parcels of land contained 1,511 hectares 38 ares and 24 centares.

On the 31st day of January, 1908, the petitioner presented a motion in said cause, asking for permission to withdraw his action, reserving to himself the right "to reproduce it later in another suit."

On the 16th day of October, 1908, Juan Sumulong, associate judge of the Court of Land Registration, granted said petition in the following words: "On motion by the petitioner, the petition in this case is dismissed, without prejudice to his reproducing the same whenever he may deem it advisable so to do."

About eighteen months later, on the 22d day of March, 1910, the petitioner appeared in court and asked that his original cause of action be revived. Said motion contained the following:

"1. That, on the date of October 16, 1908, the court, on motion by the petitioner, issued an order dismissing the petition in this case, reserving to him the right to reproduce it whenever he might deem it advisable so to do.

"2. That, by reason of the aforementioned order and it being to the interests of the petitioner that this case be tried anew for the purpose of its final decision, he hereby sets forth that he reproduces in all its parts the petition presented in the said case.

"3. That the petitioner further sets forth that the land described in the petition, Exhibit E, is included in the Civil Reservation No. Ill for the organization of a pueblo in the municipality of Davao.

"The petitioner therefore prays the court to cancel the order of dismissal issued in this case on October 16,

1908, and to direct that the case be proceeded with in the ordinary manner until final judgment be rendered.

"Manila, March 22, 1910—Ambrosio Santos, attorney for petitioner.—No. 4 Salcedo, Santa Cruz, Manila."

On the 1st day of April, 1910, the Honorable Higinio Benitez, associate judge of the Court of Land Registration, granted said motion and ordered that said cause be included "in the calendar for the next session in the Province of Davao."

On the 26th day of September, 1910, the Attorney-General, Ignacio Villamor, appeared and duly presented an exception to said order of the 1st of April, 1910, and on the same day (26th of September, 1910) presented a motion based upon the following grounds:

"1. That, on the date of October 16, 1908, this honorable court issued the following order:

" 'On motion by the petitioner, the petition in this case is dismissed, without prejudice to his reproducing the same whenever he may deem it advisable so to do.

"Manila, P. I., October 18, 1908.—(Sgd.) Juan Sumulong, acting associate judge.'

"2. That, about the 1st of April, 1910, on motion by the petitioner, Judge Benitez issued an order granting the reopening of this case and assigning a date for the hearing.

"3. That the order granting a reopening of this case is contrary to law: (a) Because it was issued after the lapse of more than one year from the date of the order of dismissal; and (b) because in the order of dismissal, dated October 16, 1908, the petitioner was only granted the right to reproduce his application.

"4. That the question here involved and now sought to have decided is of great importance for the procedure that must in future be followed by this court in similar cases; and a ruling on the point in discussion is required of this court, to avoid appeals that might cause unnecessary expense to the litigating parties.

"Therefore the undersigned Attorney-General prays that this point be considered by the court in bane, and that after due hearing the order of this court dated April 1, 1910, be set aside, with the declaration that the reopening of this case was improper."

Said motion was referred to the consideration of three judges of the Court of Land Registration, sitting in bane. Upon due consideration, said judges decided that they, by virtue of the provisions of section 8 of Act No. 1648, had no jurisdiction to intervene in said cause, for the purpose of modifying or reversing the said order of Judge Benitez, reinstating said cause, of April 1, 1910.

Section 8 of said Act No. 1648, provides: "Upon a decision being rendered by any judge serving on the Court of Land Registration, either party in interest may, within thirty days after the decision is rendered by such judge, petition the court in bane, consisting of all the judges serving on the court, or at least three of said judges, for a rehearing of the case, and, if it shall appear to such court in bane that the decision on which a rehearing is asked is in conflict with any previous decision of the court, or of any judge thereof, or with any decision of the Supreme Court of these Islands, or of any other competent appellate tribunal, then the court in bane, may, in its discretion, by vote of a majority of its members, grant the rehearing petitioned for, annul the decision of the single judge, and rehear the case sitting in bane; and the decision of the court in bane shall be the decision of the Court of Land Registration in the case, and may be regularly appealed from as in other cases."

On the 17th day of November, 1910, the Attorney-General presented his formal opposition to the registration of said parcels of land in question.

On the 15th day of March, 1911, the petitioner again asked permission to amend his complaint and to change the

description of the land contained in parcel E.

The cause was duly set down for trial and after hearing the evidence, the Honorable James A. Ostrand, associate judge, on the 23d day of January, 1912, rendered his decision, in which he denied the right of the plaintiff to have registered in his name parcels A and B, described in the first paragraph of the complaint, for the reason that the evidence did not show that he was the owner of said land.

The judge found that the evidence did show that the petitioner was entitled to have parcels C, D, and E, described in the first paragraph of the complaint, registered. He granted the registration of said parcels C and D, under the provisions of subsection 5 of section 54 of Act No. 926. The court granted the registration of parcel E, because, as he found, the petitioner had been, by himself and through his predecessors, in the open, continuous, exclusive and notorious possession and occupation of said parcel, under a bona fide claim of ownership for thirty years.

On the 1st day of February, 1912, the Attorney-General duly excepted to the order of the judge granting the registration of said parcels C, D, and E, and on the same day presented a motion for a new trial. Said motion for a new trial was denied on the 2d day of February, 1912, to which order denying the motion for a new trial, the Attorney-General duly excepted and presented his bill of exceptions and appeal to this court.

In this court the Attorney-General presents two assignments of error, as follows:

"I. The court incurred an error of law in declaring the case reopened by its order of April 1, 1910; and

"II. It likewise erred in decreeing the registration of the land, the subject matter of the application, in favor of the petitioner, because it lacked jurisdiction over the matter in litigation and over the person of the petitioner."

With reference to the first assignment of error, it will be remembered that the petitioner, on the 31st day of January, 1908, asked that he be permitted to retire his petition presented in said cause, "reserving, however, the right to reproduce it afterwards in other proceedings;" that said motion was granted on the 16th day of October, 1908, with the condition: "without prejudice to the said petitioner's reproducing it whenever he might deem it advisable so to do;" that more than seventeen months later (the 22d day of March, 1910), the petitioner asked that said cause be reinstated; that said cause was reinstated, by order of the court, and again placed upon the calendar on the 1st of April, 1910.

The Attorney-General, in support of his first assignment of error, contends that the order of the court of the 1st of April, 1910, reinstating said cause without the presentation of a new petition and the citation of the parties again, was illegal and done without authority of law and was beyond the jurisdiction of the court. In support of his contention, the Attorney-General cites numerous decisions. He argues that the order of the court dismissing said cause, even conditionally (the 16th of October, 1908), became a final order, after the lapse of the time within which an appeal might have been perfected; that the action was thus terminated; that it could not be revived by reinstatement; that the only way that the action could be considered again by the court was by the presentation of a new petition and a new citation of the parties. The Attorney-General argues that the decisions of the Court of Land Registration become final after the expiration of the time within which the defeated party might appeal. Section 14 of Act No. 496, as amended by section 1 of Act No. 1484, provides that parties desiring, to appeal from an order of the Court of Land Registration must present their bills of exception within thirty days, and that that time may be extended by the court for another thirty days. The Attorney-General argues that if the appeal is not perfected within such time, the judgment is final. It is argued by the Attorney-General that the general rule is that the judge may alter or amend his decision in matters of substance, any time during the term within which such judgment is rendered, but that after the termination of said term, the judge is without jurisdiction to make any order in a cause terminated by a final decision, and that, inasmuch as there are no terms, as such, for the Court of Land Registration, the judgment should be final and cannot be altered or amended after the time has elapsed for

the perfection of the appeal. (Arnedo vs. Llorente and Liongson, 18 Phil. Rep., 257; Whitley vs. Dewey, 17 Cal., 314; Miller vs. Northern Pacific Ry. Co., 30 Mont, 289, 76 Pac. Rep., 691; Cameron vs. McRoberts, 3 Wheat. (U. S.), 591; Brooks vs. Burlington & S. Ry. Co., 102 U. S., 107; Bronson vs. Schulten, 104 U. S., 410; Tubman vs. B. & O. R. Co., 190 U. S., 38.)

In the case of Whitley vs. Dewey (17 Cal., 314) the supreme court of California, in a case where a plaintiff moved that his cause be dismissed, with the right to have the dismissal set aside, said:

"The order permitting a plaintiff to move to set aside the nonsuit preserved all his rights in the proceedings, but in legal effect it amounted to nothing more than a right to move for a new trial, and it was necessary that the provisions of the statute in relation to new trials should be complied with. This was not done, and upon the expiration of the term, the court lost all jurisdiction of the matter."

(Lurvey vs. Wells, 4 Cal., 106; Natoma Water & Mining Co. vs. Clarkin, 14 Cal., 544; Brown vs. Aspden, 14 How. (U. S.), 25; U. S. vs. Knight's Admr., 1 Black (U. S.), 488; Public Schools vs. WaJker, 9 Wall. (U. S.), 603; Hudson & Smith vs. Guestier, 7 Cranch (U. S.), 1.)

In the case of Bronson vs. Schulten (104 U. S., 410), Mr. Justice Miller, speaking for the Supreme Court of the United States, said: "During the term when it is rendered or entered of record, a judgment or order, however conclusive in its character, is under the control of the court pronouncing it, and may then be set aside, vacated, or modified, after that term, unless steps be taken during its continuance, by motion or otherwise, errors in final judgments can only be corrected by an appellate court."

The record shows that the land, or at least some parcels, was occupied by others than the petitioner at the time of the commencement of the action. Nearly eighteen months had expired from the time the petitioner made a motion that his petition be dismissed, before he asked that the same be reinstated. So far as the record shows no new notices or citations were issued to any of the parties interested. Many other persons, during the eighteen months, might have acquired an interest in the land in question.

In reply to the argument of the Attorney-General, relating to the finality of the judgment dismissing the petition at the request of the petitioner, the attorney for the plaintiff cites section 37 of Act No. 496.

Said section provides: "If in any case the court finds that the applicant has not proper title for registration, a decree shall be entered dismissing the application, and such decree may be ordered to be without prejudice. The applicant may withdraw his application at any time before final decree, upon terms to be fixed by the court."

The phrase in said section: "and such decree (dismissing the application) may be ordered to be without prejudice/ simply means that the petitioner may again institute the same action for the same purpose, and nothing more. The provision of said section that "the applicant may withdraw his application at any time before final decree, upon terms to be fixed by the court," does not contemplate that the Court of Land Registration is authorized to dismiss an action with the right to reinstate it after the expiration of seventeen or eighteen months, without new notices and new citations to the parties interested. If a petitioner in the Court of Land Registration may be permitted to have his cause of action dismissed and have it reinstated again after the lapse of seventeen or eighteen months, without new citations and new notices to the parties, then he may have it reinstated after the lapse of any time. We do not believe that such a procedure was contemplated by the legislature in adopting said section.

The foregoing interpretation may work a hardship upon the petitioner in the present case. We believe, however, that it is a safer rule to follow, even at the cost of an occasional hardship, to adhere to the principle which we have announced, and to refuse to recognize the right of a petitioner in a case like the present, to have his action reinstated, without new citations and new notices, after the lapse of the time within which an appeal might be

perfected from the decision of the Court of Land Registration. We do not believe that the Court of Land Registration, in dismissing a petition upon the application of the petitioner, with permission to reinstate the same, has a right to do so upon any terms which do not require that the parties shall be required, when the application for reinstatement is made, to re-cite all the parties who may be interested in the land in question.

The attorney for the petitioner argues that the Attorney-General did not perfect his appeal within the time required by law and that therefore his appeal should be dismissed. It will be remembered that the order of the lower court reinstating said cause was dictated on the 1st day of April, 1910. The motion of the Attorney-General for a rehearing and his exception to said order was not presented until the 26th day of September, 1910. There is nothing in the record, however, which shows on what date the Attorney-General received notice of said order. The time within which he must present his exception or motion for a new trial does not begin to run until after he has received notice of the order of the court. Inasmuch as the record does not contain any proof as to the time when the Attorney-General received notice of said order, we must conclude that his motion and exception were presented in time.

In view of the foregoing conclusions, we deem it unnecessary to discuss the second assignment of error.

For all of the foregoing, the judgment of the lower court is hereby reversed, without prejudice to, the plaintiff, and, without any finding as to costs, it is so ordered.

Arellano, C. J., Torres, Carson, and Araullo, JJ., concur

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CONCURRING

MORELAND, J.

I base my opinion in this case upon section 37 of Act No. 496, quoted in the majority opinion. Under that section it is clear to my mind that a decree dismissing an application for registration is one which finally terminates the proceeding and leaves matters in the same condition as if the proceeding had never been brought.

It is not a suspension of the proceeding" but a termination of it.

Therefore, if the petitioner subsequently desires to institute the same proceeding again, he must do so in precisely the same manner as if the former proceeding had never been brought. He must file his petition and take all of the other steps required by law in that regard.

With respect to the time when a judgment or decree becomes final, apart from the provisions of Act No. 496, the doctrine of this court is laid down in the leading case of Arnedo vs. Llorente and Liongson (18 Phil. Rep., 257), which was reaffirmed and followed in the case of De Fiesta vs. Llorente and Manila Railroad Co. (25 Phil. Rep., 554).

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