

MERCEDES ANICETA GARCIA, SPOUSES DULCESIMO ROSARIO AND VIOLETA REYES, AND ERLINDA O. ROSARIO, PETITIONERS-APPELLANTS, VS. DOMINADOR G. MENDOZA ADJUDICATEE-APPELLEE.

G.R. No. 91729. November 19, 1991

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This case was certified to Us on the issue of whether the remedy of petition for review of judgment exists or is warranted by Act No. 2259 (Cadastral Act).

Petitioner Mercedes A. Garcia claims that she and her husband, Cirilo Mendoza, had purchased Lot No. 32080 located in San Carlos City, Pangasinan, on April 24, 1938. They subsequently sold it under a Pacto de Retro sale to co-petitioners Sps. Dulcesimo Rosario and Violeta Reyes and Erlinda O. Rosario (Petitioners), who then took possession of said lot.

On February 23, 1988, the cadastral court (RTC, Br. 57, San Carlos City) issued a decision adjudicating Lot No. 32080 in favor of Dominador G. Mendoza (hereafter, Mendoza), their son.

Petitioner Garcia claims that there was actual fraud because Mendoza falsely claimed that his father, Cirilo Mendoza, inherited the property from Hermenegildo Mendoza (Cirilo's alleged father); that Mendoza made it appear that Lot 32080 was an exclusive property of Cirilo Mendoza, who had been in possession of the lot since October 15, 1987, and subsequently, donated the same to his son, Mendoza.

On September 2, 1988, the petitioners filed with the court a petition for review of judgment. This was denied in an Order dated December 6, 1988.

Petitioners appealed. Mendoza countered that a petition for relief from judgment under Sec. 38, Act No. 496, does not apply to a cadastral proceeding. Moreover, Mendoza alleged that he had filed his claim over Lot. No. 32080 in 1987 (Cadastral Case No. 61, LRC/GLRO, Record No. 1438, before Branch 57, RTC, San Carlos City); that he had gone through the cadastral proceedings, the corresponding notices had been sent to the Director of Lands, Manila, the Register of Deeds, the claimants and their counsel as well as other interested parties.

There being no opposition to Mendoza's petition, oral or written, the Judge directed the Clerk of Court to receive the evidence ex-parte. Thereafter, the lot was adjudicated to Mendoza.

Certified to Us, the sole issue to be resolved is whether petitioners may file a petition for review for relief from judgment in a cadastral proceeding, pursuant to Act No. 2259, Sec. 11, in relation to Sec. 38 of Act No. 496, Land Registration Act.

Sec. 11, Act 2259, provides:

"Sec. 11. The trial of the case * * * shall be conducted in the same manner as ordinary trials and proceedings in the Court of Land Registration, and shall be governed by the same rules. Orders of default and confession shall also be entered in the same manner as in ordinary cases in the same court and shall have the same effect. * * *"
(Underscoring supplied) (p. 32, Rollo)

Sec. 38, Act No. 496, partly provides:

"x x x. Such decree shall not be opened by reason of the absence, infancy, or other disability of any person affected thereby, nor by any proceeding in any court for reversing judgments or decrees, subject, however, to the right of any person deprived of land or of any estate or interest therein by decree of registration obtained by fraud to file in the competent Court of First Instance a petition for review within one year after entry of the decree, provided no innocent purchaser for value has acquired an interest. Upon the expiration of said term of one year, every decree or certificate of title issued in accordance with this section shall be incontrovertible. x x x."

We agree with the petitioners. Sec. 11, Act 2259 clearly states that except as otherwise provided by the Cadastral Act, all the provisions of the Land Registration Act are applicable to cadastral proceedings as well as to the decrees and certificates of title granted and issued under the Cadastral Act.

In the case of *Tangco v. Vianzon*, 50 Phil. 1009, We upheld the cancellation of the decree of registration and the issuance of a new decree and certificate of title to, and registration of lots in petitioner's name pursuant to a petition for review filed within one year after the entry of the decree, and where after trial fraud was established. The provision of Sec. 38 of the Land Registration case (Act No. 496) was applied to the cadastral case.

ACCORDINGLY, the order dated December 6, 1988 denying the petition for relief from judgment is SET ASIDE. The case is hereby REMANDED to the Regional Trial Court-Pangasinan (then acting as a cadastral court), Branch 57, San Carlos City for reception of evidence. No Costs.

SO ORDERED.

Narvasa, (Chairman), Cruz, Feliciano, and Griño-Aquino, JJ., concur.

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