

FIRST DIVISION

[G.R. No. 130768, March 21, 2002]

CRISANTO L. FRANCISCO, PETITIONERS, VS. THE COURT OF APPEALS AND REGINO B. RELOVA, JR., RESPONDENTS.

D E C I S I O N

YNARES-SANTIAGO, J.:

Before us is a petition for review of the decision^[1] dated June 11, 1997 of the Court of Appeals in CA-G.R. CV No. 50104, affirming the decision^[2] dated January 25, 1995 of the Regional Trial Court of Antipolo, Rizal, Branch 73, in Land Registration Case No. 91-1016, LRA Record No. N-62367.

On October 2, 1991, respondent Regino G. Relova filed a petition^[3] with the trial court for the registration of two parcels of land described as Lots Nos. 1834 and 1832, Cad-688-D of the Cainta-Taytay Cadastre, situated in Barangay San Juan, Taytay, Rizal. He alleged that he has been in open, continuous, exclusive and notorious possession of the said parcels of land since 1958 and, therefore, has acquired the same by prescription.

The Republic of the Philippines, through the Office of the Solicitor General, registered its written opposition to the petition.^[4]

At the initial hearing of the petition on February 28, 1992, nobody appeared to oppose the petition. After respondent Relova presented evidence to establish the jurisdictional facts, the trial court ordered that a general default be entered against the whole world except the Republic of the Philippines. The trial court designated a hearing commissioner to receive evidence *ex-parte* in support of the petition.^[5]

During the course of the proceedings, the Land Registration Authority (LRA) submitted its report^[6] stating that discrepancies were found after plotting the plans pertaining to the land applied for. Thus, the LRA recommended that the appropriate government agencies be ordered to submit their reports to determine whether the land or any portion thereof are covered by land patents are within the forest zone.

After the reception of evidence before the trial commissioner, and based on its report,^[7] the trial court rendered its decision, the dispositive portion of which reads:

WHEREFORE, premises considered, the Court hereby confirms the title of herein petitioner Regino B. Relova, Jr. to the parcels Lot No. 1834 Cad-688-D covered by Plan Ap-04-006273 and Lot No. 1832 Cad-688-D covered by Plan Ap-006183 situated in Barangay San Juan, Municipality of Taytay, Province of Rizal containing an area of three hundred thirty nine (339) square meters and seventeen thousand four hundred nine

(17,409) square meters respectively and orders their registration in the name of herein applicant Regino B. Relova, Jr. who is married to Lourdes S. Guino with all the rights and privileges appertaining thereto.

Let an order for issuance of a Decree be issued upon finality of this decision and payment of taxes and fees due on the subject parcels of land.

SO ORDERED.^[8]

Subsequently, the LRA filed with the trial court a Supplementary Report, submitting the corrected technical boundaries of the technical descriptions for Lots 1832 and 1834. The report further states:

WHEREFORE, the foregoing report is respectfully submitted to the Honorable Court for its information and guidance with the recommendation that (a) the corrected technical description of lot 1832, Cad 688-D, Cainta-Taytay Cadastre (Annex J) be approved and (b) the applicant be ordered to publish in the Official Gazette the corrected technical description of Lot 1834, Cad 688-D, Cainta-Taytay Cadastre (Annex K), and thereafter, an order be issued approving the said technical description to be utilized in the issuance of the corresponding decree of registration pursuant to the decision dated January 25, 1993 and Order for the issuance of the Decree dated April 1, 1993.^[9]

On October 28, 1993, the trial court issued the following Order:

Considering the Report of the Land Registration Authority (LRA) dated September 20, 1993 as well as the "Urgent Ex-Parte Motion" of the applicant through counsel, the court hereby approves the corrected technical description of Lot 1832, Cad-688-D, Cainta Taytay Cadastre. Moreover, the recommendation that the corrected technical description of lot 1834, Cad-688-D Cainta-Taytay Cadastre be published in the Official Gazette is hereby DENIED for the reason that the correction (amendment) does not appear to be substantial inasmuch as the boundaries affected are both owned by the applicant in the above-entitled case.

SO ORDERED.^[10]

Upon motion of respondent Relova, the trial court ordered the issuance of a writ of possession on December 7, 1993.^[11]

On January 14, 1994, petitioner Crisanto L. Francisco entered his appearance as oppositor and filed a Motion to Quash Writ of Possession.^[12] He alleged that he has been in actual possession of Lot 1832; that no notice of the motion for writ of possession was furnished to him; and that the land registration court has no authority to issue a writ of possession.

Subsequently, petitioner filed a Petition for Reopening and Review^[13] of the decree of registration pursuant to Article 32 of P.D. 1529 and a Supplemental Petition and Reply.^[14] He reiterated the grounds alleged in his motion to quash the writ of

possession and further alleged that respondent failed to republish the notice of initial hearing containing the corrections in the technical description of Lot 1832 made by the Bureau of Land Management; that respondent falsely and fraudulently testified that the disputed lot was part of the land purchased by his predecessor, Francisco Santana, from Maximo Cruz; that it is not true that respondent's possession was undisturbed; that respondent declared the land for taxation purposes only in March 1991; that petitioner's claim of ownership over the disputed land was annotated on the said tax declaration; and that even respondent's predecessor-in-interest and other adjacent lot owners recognized petitioner as the owner of the dispute land.

In its order dated February 27, 1995, the trial court ruled as follows:

It appears that the Decree of Registration in the above-entitled case with No. N-205474 was issued on February 28, 1994 while oppositor's "Petition for Reopening and Review" and "Supplemental Petition" were filed on March 2, 1994 and on August 9, 1994, respectively. It appears also, that the applicant has not yet transferred the subject land to an innocent purchaser for value, hence the court is of the considered view that the oppositor may avail himself of the remedy provided under article 32 of PD 1529 otherwise known as the Property Registration Decree which grants to "any person, including the government and the branches thereof, deprived of land or of any estate or interest therein by such adjudication or confirmation of title obtained by actual fraud, to file in the proper Regional Trial Court a petition for reopening and review of the decree of registration not later than one year from and after the date of entry of such decree of registration, but in no case shall such petition be entertained by the court where an innocent purchaser for value has acquired the land or an interest thereon, whose rights may be prejudiced..."

The allegations of the oppositor as to the actual fraud allegedly committed by the applicant in the latter's application for registration of title of lot 1832 necessarily requires proof which can only be adduced in a proper hearing or trial. Corollary, thereto, is the requirement of the law for the oppositor, to prove his real or dominical right over the lot in question.

In view thereof, the Motion for Leave to File and Admission of Supplemental Petition is hereby GRANTED.

The above-entitled case is therefore, re-opened insofar as Lot 1832 is concerned.

In the meantime, the execution of the writ of possession issued in the above-entitled case is hereby held in abeyance insofar as lot 1832 is concerned, pending resolution of the petition for review of herein oppositor.

Let this case be set for reception of evidence for oppositor Crisanto Francisco on April 6, 1995 at 9:00 A.M.

SO ORDERED.^[15]

Upon a motion for reconsideration of respondent,^[16] the trial court reversed its previous order, to wit:

Wherefore, premises considered, the court therefore reconsiders its order of February 27, 1995 and hereby reiterates its decision in this case for the registration of lots applied for by the applicants.

The court also approves the motion for issuance of the writ of possession as prayed for by the applicants and hereby orders the issuance of said writ.

SO ORDERED.^[17]

Petitioner filed a motion for reconsideration,^[18] arguing that he was denied due process of law when he was deprived the opportunity to prove the allegation of fraud committed by the applicant in securing a decree of registration on the land in dispute. The motion for reconsideration was, however, denied.^[19]

Petitioner appealed to the Court of Appeals, where the same was docketed as CA-G.R. CV No. 50104. On June 11, 1997, the Court of Appeals affirmed the order of the trial court denying the petition for reopening and review of the decree of registration.^[20] Petitioner's motion for reconsideration was denied on September 16, 1997.^[21]

Hence, this petition raising the following issues:

Whether a court can refuse to receive evidence on allegations of fraud, in a petition for review of an application for registration, committed by the applicant in his application and in the proceedings, legally sufficient to nullify and set aside such decision approving registration and the decree and certificate of title subsequently issued, and then reiterate its original decision and decree without trying and resolving if the alleged frauds were committed or not?

Whether such refusal to hear and receive evidence on the petition for review is a denial of due process that renders the court's orders, decisions and proceedings void and annulable for lack, excess, or abuse of jurisdiction?

Whether an appellate court that affirms such void decision and orders of the trial court and refuse to remand below the appealed case for trial on the merits, equally commits a violation of due process and acts without, in excess or with abuse of jurisdiction?

Whether lack of jurisdiction on the part of the trial court for applicant's failure to prove jurisdictional requirement of publication in a newspaper of general circulation of the application and date of initial hearing, because the evidence or affidavit of publication presented as proof thereof is a falsified one and, therefore, null and void, can be raised in