

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
EN BANC**

**MAGDALENA G. VDA. DE CUAYCONG,  
*Petitioner-Appellant,***

***-versus-***

**G.R. No. L-11837  
November 29, 1960**

**CRISTETA L. VDA. DE SENGBENCO,  
*Oppositor-Appellee.***

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**DECISION**

**CONCEPCION, J.:**

An appeal from two (2) Orders of the Court of First Instance of Negros Occidental, dated May 8 and July 21, 1954, respectively. The record on appeal was originally forwarded to the Court of Appeals, which, however, certified it to this Court, only questions of law being raised in the case.

By a decision of said court of first instance, dated September 5, 1935, Lot 903 of the Sagay Cadastre was ordered registered as follows: one-half (1/2) in the name of Cristeta L. Vda. de Sengbengco and the other half in that of the heirs of J. Clayton Nichols. The decision having presumably become final, the corresponding decree and original certificate of title were issued on November 21 and December 12, 1935, respectively. Less than a year later, or on September 8, 1936,

the heirs of Rafael Balila, who had filed their answer, claiming said Lot 903, way back in 1923, moved for a reconsideration of said decision and a new trial upon the ground that the movants had not been notified of the hearing held in connection with the aforementioned lot. This motion was denied by an order dated October 2, 1936, which, on July 17, 1937, was reconsidered and set aside by Hon. Sotero Rodas, Judge, who then presided the court aforementioned. Pertinent parts of the order of this effect read:

“Habiendose presentado la moción de revision antes del transcurso de un año a contar desde la expedicion del decreto, no cabe duda alguna que procede acceder a la misma siempre y cuando haya habido fraude en la obtencion del citado decreto. No hay pruebas de que los adjudicatorios arriba nombrados fuesen responsables de la falta de notification a los recurrentes, pero es significativo el hecho de que el ultimo reclamante que alegó ser dueño de la totalidad del lote en cuestion y cuya contestación solo se presentó en 30 de julio y sin que conste que haya sido admitida y levantada previamente la orden de rebeldia en cuanto a el, entró en convenio con J. Clayton Nichols que tambien reclamaba la totalidad de dicho lote, en dividirse por mitad el terreno y pedir su adjudicacion a favor de ellos en partes iguales. El Juzgado es de opinion que se les had privado a los recurrentes de su propiedad sin previo proceso legal no habiendoseles concedido su ‘day in court’ y que este Juzgado no tenia jurisdicción para conocer de la reclamación de Sing Bengco que no ha sido admitida debidamente, y que el caso cae en el significado de la palabra fraude que se requiere que se dumuestre para que haya revision de decreto.

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“Por todo lo expuesto, el Juzgado reconsidera su auto de fecha 2 de octubre y accediendo a la moción de revision ordena que se señale a vista el lote No. 903 de este expediente.” (Italics ours.)

The records do not show what happened immediately thereafter. War broke out in the Pacific late in 1941, and, subsequently, the records were seemingly lost or destroyed. On or about September 5, 1953, Mrs. Sengbengco filed a petition, dated August 21, 1953, for

reconstitution of the certificate of title above referred to, the original of which and its owner's duplicate having been allegedly burned, destroyed or lost during the last war. The motion was granted by an order dated November 17, 1953, in compliance with which Original Certificate of Title No. 15104 was issued on January 2, 1954. Soon later or on January 16, 1954, Magdalena G. Vda. de Cuaycong, to whom the rights and interest of the heirs of Rafael Balila in and to Lot 903 were conveyed, assigned and transferred on August 28, 1936, moved for the cancellation of said Original Certificate of Title No. 15104, upon the ground that the same had been issued illegally and in consequence of an oversight, for, apart from being null and void, the decision upon which it is based was reconsidered and set aside by the aforementioned order of July 17, 1937. This motion was granted by an order dated February 14, 1954, which, on motion of Mrs. Sengbengco, was reconsidered and set aside by another order — issued by Hon. Francisco Arellano, Judge, who then presided the court — under date of May 8, 1954. A reconsideration of the latter order having been denied on July 21, 1954, Mrs. Cuaycong interposed the present appeal.

Appellee maintains, and the lower court held, that appellant's motion of September 8, 1936, for reconsideration of the decision dated September 5, 1935 and new trial, as well as the order of Judge Rodas of July 17, 1937, granting said motion, were premised upon Section 38 of Act No. 496, pursuant to which every decree of registration shall be conclusive upon and against all persons, subject to the right of the parties injured by a decree obtained by fraud to seek a review, within one (1) year from entry of the decree, provided no innocent purchaser for value has acquired an interest; that the failure of the Clerk of the Court of First Instance of Negros Occidental to notify the heirs of Rafael Balila had "no legal personality" to file their petition for review, on September 8, 1936, inasmuch as prior thereto, or on August 28, 1936, herein appellant had acquired their interest in Lot 903; and that, having failed to avail herself, within a reasonable time, of the benefits of the order of Judge Rodas, dated July 17, 1937, appellant is now barred by laches from either invoking said order or seeking the protection of the law.

We are unable to agree with this view. If the principle of laches were applicable to appellant, on account of her failure, up to January 16,

1954, to urge the enforcement of the order of July 17, 1937, it should operate equally upon the appellee, who did not seek to contest said order and have it set aside until March 6, 1954, or almost 17 years later.

Moreover, in paragraph 15. of her “petition for reopening and review of decree” (p. 52, Rec. on Appeal), appellant alleged — and this said appellee’s brief (p. 23) — that said appellee and the heirs of J. Clayton Nichols had obtained the decision of September 5, 1935, by submitting a stipulation to the effect that Lot 903 be adjudicated to them as the only claimants thereof, although the answer containing the claim of the Balilas appeared in the record of the proceedings, with which the parties must be deemed familiar. We note, also, that according to the verified pleadings before us — the pertinent allegations of which have not been denied by herein appellee-said lot had been in the adverse possession of the Balilas, actually, openly and continuously, for over 40 years, prior to September, 1935, and thereafter, of appellant herein, up to the present, so that the appellee could not possibly have not have been unaware of such fact. This conclusion appears to be borne out by the circumstance that despite the decision and the decree, as well as the certificate of title in her favor, way back in 1935, Mrs. Sengbengco has not, up to the present, even attempted to take possession of Lot 903. In the light of these circumstances, we are satisfied that, as held by Judge Rodas, said decree was tainted with fraud sufficiently to justify the order of July 17, 1937 (*Director of Lands vs. Aniceto Aba, et al.*, 68 Phil., 85).

Again, a decree of registration secure through fraud is valid, although annulable, upon petition filed within one (1) year after entry of the decree, in the absence of an innocent purchaser of value, whereas a decision rendered without notice to the parties of record is void for lack of due process (46 C.J. p. 552; 16A C.J.S. 835; *Taylor vs. Phox Bus Co. et al.*, 129 N.J. Eq. 610, 20 A 2d. 343; *People ex rel Van Dyk vs. Van Dyk*, 33 N.Y.S. 2d 766; *Producers Inv. Co. et al. vs. Colvert*, 187 Okl. 59, 100 P. 2d. 1005; *Harris et al. vs. Deal*, 189 Va. 675, 54 S.E. 2d. 161; *State ex real Adams vs. Superior Court of the State, Pierce County*, 36 Wash. 2d. 868, 220 P. 2d 1081; *State ex rel First National Bank vs. Hastings*, 207 P. 23, 31; *Bass vs. Hoagland*, C.A. Tex. 172 F. 2d 205, 70 S. Ct. 57, 338 U.S. 816, 94 L. ed. 494; *Hovey vs. Elliot*, 167 U.S. 409, 17 S. Ct. 841, 42 L. ed. 215; *Windson vs. McVeigh*,

93 U.S. 274, 23 L. ed. 914; *Wetmore vs. Karrich*, 205 U.S. 141, 27 S. Ct. 434, 51 L. ed. 745; *Atlantic Coast Line Railroad Co. vs. Lake County Citrus Sales, Inc.*, 48 So. 2d. 922; *Adams & McGahey vs. Clyde B. Neill*, 58 N.M. 782, 276 P. 2d. 913). Indeed, acts of Congress, as well as those of the Executive, can deny due process only under pain of nullity, and judicial proceedings suffering from the same flaw are subject to the same sanction, any statutory provision to the contrary notwithstanding.

Now, then, if a decree issued in pursuance of a valid decision, obtained by fraud, may be annulled within one (1) year from entry of said decree, there is more reason to hold that the same, if entered in compliance with a decision suffering from a fatal infirmity, for want of due process, may be reviewed, set aside and cancelled upon petition filed within the same period, provided that no innocent purchaser for value will be injured thereby.

Lastly, the conveyance to Mrs. Cuaycong of the rights and interest of the heirs of Rafael Balila did not affect the “legal personality” of the latter. Besides, they retained an interest in Lot 903, in view of their obligation in favor of Mrs. Cuaycong to warrant the title thereto.

**WHEREFORE**, the aforementioned orders of May 8 and July 31, 1954 are hereby reversed and set aside, and the order of July 17, 1937, accordingly reinstated; and let the record of this case be remanded to the court of origin for further proceedings, in conformity with the order last mentioned, with costs against the oppositor-appellee. It is so ordered.

**Paras, C.J., Bengzon, Padilla, Bautista Angelo, Labrador, Reyes, Barrera, Gutierrez David, Paredes, and Dizon, JJ., concur.**