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SECOND DIVISION

[G.R. No. 52456. September 6, 1985]

ANITA LIM GOSIACO, *petitioner-appellee, vs.* **TIU PO,** *oppositor-appellant.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; APPEAL; WHEN CONSIDERED MOOT AND ACADEMIC.— Appellant Po principally wants that the pendency of Civil Case No. 2770-P which was appealed to this Court be inscribed on the title to the property involved in this case. However, the aforesaid civil case which was docketed in this Court as L-28905 entitled "*Tiu Po vs. Lily Lim Tan, et al.*" was dismissed by this Court way back on July 22, 1975 (see 65 SCRA 203). The case which appellant Po seeks to be annotated on the transfer certificate of title involved herein had already been finally determined. Hence, the dismissal of said case renders the present case moot and academic.

APPEARANCES OF COUNSEL

Salvador C. Bayani for oppositor-appellant.

D E C I S I O N

MAKASIAR, *C.J.*:

The former Court of Appeals, in its resolution dated January 9, 1980, certified this case to this Court on the ground that the issues involved therein are purely questions of law.

Lily Lim Tan is a registered owner of a parcel of land which contains an area of 959 square meters located in Pasay City and covered by Transfer Certificate of Title No. 11412.

On July 11, 1966, the land was sold in favor of petitioner-appellee Anita Lim Gosiaco. Transfer Certificate of Title No. 11412 was cancelled and in lieu thereof, Transfer Certificate of Title No. T-11584 was issued in favor of Gosiaco.

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On August 2, 1966, oppositor appellant Tiu Po filed a complaint against Gosiaco and Lily Lim Tan for annulment of sale of the aforesaid land on the ground that the deed of sale was executed to defraud Po as creditor of Lily Lim Tan. The complaint was docketed as Civil Case No. 2770-P before the former Court of First Instance of Rizal at Pasay City. On the same date, August 2, 1966, Po filed a notice of *lis pendens* with the Office of the Register of Deeds of Pasay City which was inscribed on Transfer Certificate of Title No. T-11584.

Civil Case No. 2770-P was dismissed by the lower court on September 21, 1966. Po appealed the order of dismissal to this Court and the same was docketed as L-28905 entitled "*Tiu Po vs. Lily Lim Tan, et al.*"

While the said case was pending before this Court, Gosiaco, on March 10, 1970, instituted the present petition for cancellation of notice of *lis pendens* annotated on Transfer Certificate of Title No. T-11584 before the lower court on grounds that the delay in the final determination of Civil Case No. 2770-P is prejudicial to her; that the notice of *lis pendens* was registered by Po for the purpose of molesting her; that the nature of *lis pendens* is based on a money claim and not on an action based on real rights.

On March 14, 1970 Po filed her opposition to the petition alleging, among others, that the annotation of *lis pendens* is in order because title to and ownership of the land is involved in Civil Case No. 2770-P, hence the same is an action *in rem*; that the delay in the determination of said case could not be attributed to her; and that until the said civil case is finally terminated, it would not be right or proper to cancel the *lis pendens*.

After trial and hearing, the lower court issued an order dated June 26, 1970, denying the petition for cancellation.

On August 31, 1970, Gosiaco filed a motion for reconsideration which was opposed by Po.

On December 5, 1970, the trial court reconsidered and set aside its order of June 26, 1970 and directed the Register of

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Deeds of Pasay City to cancel upon receipt thereof the notice of *lis pendens* annotated on Transfer Certificate of Title No. T-11584.

The Register of Deeds was furnished with a copy of the lower court's order on December 8, 1970 and on the same date, he cancelled the annotation of the *lis pendens*. On even date, a deed of absolute sale was presented to the Register of Deeds whereby the property covered by Transfer Certificate of Title No. T-11584 was allegedly sold by Gosiaco to a certain Juan Pambuan, Jr. and upon the registration of said document which was allegedly executed on December 7, 1970, Transfer Certificate of Title No. 11584 was cancelled and Transfer Certificate of Title No. 16092 was issued in favor of Juan Pambuan, Jr. without any annotation of *lis pendens*.

On May 31, 1971, Po sought reconsideration of the lower court's order of December 5, 1970. The motion was denied on July 17, 1971.

Hence, this petition, Po alleging that the lower court erred:

I

". . . in finding and declaring that Civil Case No. 2770-P is considered an action *in personam*.

II

". . . in finding and declaring that although it appears that although title to the property subject of the contract of sale is involved (TCT No. T-11584), it is merely incidental to the principal action for rescission or annulment of said contract with damages.

III

". . . in finding and declaring the motion for reconsideration filed by petitioner-appellee to be well-taken and in reconsidering and setting aside the order dated June 26, 1970.

IV

". . . in ordering the Register of Deeds of Pasay City to cancel the notice of *lis pendens* annotated on Transfer Certificate of Title No. T-11584 by reason of pendency of Civil Case No. 2770-P, upon receipt of said order and upon payment of the legal fees therefor.

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V

". . . in denying oppositor-appellant's motion for reconsideration.

The ultimate goal of appellant Po's present appeal is to seek a resolution from this Court ordering the Register of Deeds of Pasay City to re-annotate the *lis pendens* which was cancelled on Transfer Certificate of Title No. T-11584 and also to annotate the same on Transfer Certificate of Title No. 16092 which title is now in the name of Juan Pambuan, Jr.

The petition should be dismissed.

Appellant Po principally wants that the pendency of Civil Case No. 2770-P which was appealed to this Court be inscribed on the title to the property involved in this case. However, the aforesaid civil case which was docketed in this Court as L-28905 entitled "*Tiu Po vs. Lily Lim Tan, et al.*" was dismissed by this Court way back on July 22, 1975 (see 65 SCRA 203). The case which appellant Po seeks to be annotated on the transfer certificate of title involved herein had already been finally determined. Hence, the dismissal of said case renders the present case moot and academic.

ACCORDINGLY, THE PRESENT PETITION, HAVING BECOME MOOT AND ACADEMIC, IS HEREBY DISMISSED. NO COSTS.

SO ORDERED.

Concepcion Jr. (Acting Chairman), Escolin, Cuevas, and *Alampay, JJ.*, concur.

Abad Santos, J., on leave.