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SPECIAL FORMER FIRST DIVISION*

[G.R. No. L-30670. January 17, 1990]

PASTOR TANCHOCO, MACARIO TANCHOCO, AGRIPINA TANCHOCO, INOCENCIA TANCHOCO, LIBERATA TANCHOCO and TRINIDAD TANCHOCO, *petitioners, vs.* **HON. FLORENDO P. AQUINO, as Judge of the Court of First Instance of Nueva Ecija, Branch I, VICENTA TECSON *VDA. DE* LAJOM, JOSE T. LAJOM, RAFAEL VIOLA and THE PROVINCIAL SHERIFF OF NUEVA ECIJA,** *respondents.*

SYLLABUS

POLITICAL LAW; CONSTITUTIONAL LAW; BILL OF RIGHTS; RIGHT TO DUE PROCESS OF LAW; VIOLATED WHEN A PARTY IS DEPRIVED OF HIS PROPERTY OR HIS RIGHTS THEREIN WITHOUT THE REQUIRED NOTICE AND WITHOUT AFFORDING HIM THE OPPORTUNITY TO BE HEARD; CASE AT BAR. — There is no question that at the time the private respondents entered into the Compromise Agreement in Civil Case No. 8077 on *July 10, 1967*, the petitioners were already the registered owners of all but 1/7 of Lot 314. Petitioners Pastor, Macario and Agripina Tanchoco were already the registered owners of one-half (½) portion of said lot, then designated as Lot 314-B-2-A which was registered in their names under Transfer Certificate of Title No. NT-66683; whereas the share of petitioners Inocencia, Liberata and Trinidad Tanchoco consisting of 6/7 share of the other half portion of the said lot, which was designated as Lot 314-B-2-B was registered in their names under Transfer Certificate of Title No. NT-66684. The said portions of land were respectively declared for taxation purposes in the names of the petitioners, and they have been paying the realty taxes due thereon to the government. The possession of the said property was delivered to the petitioners and they have exercised all the rights of ownership over the same. As such

* As of September 15, 1987.

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registered owners of the respective portions of Lot 314 sold to them, the petitioners have acquired real rights over the said property, and they cannot now be deprived of the said property or their rights therein without due notice to them and without affording them the opportunity to be heard in a proper action or suit brought for the purpose. To deprive them of their said property or their rights therein without the required notice and without affording them the opportunity to be heard as what happened in this case, is a clear violation of the Constitutional guaranty that no person shall be deprived of his property without due process of law.

RESOLUTION

PARAS, *J.*:

Before the Court for resolution is petitioners' Motion for Reconsideration of Our Resolution promulgated in this case on September 15, 1987 which affirmed the questioned Orders dated June 25, 1968, July 31, 1968, March 14, 1969 and May 29, 1969 issued by respondent Judge of the Court of First Instance of Nueva Ecija in Civil Case No. 8077 entitled "*Donato Lajom vs. Jose P. Viola, et al.*"

The dispositive portions of the aforementioned questioned Orders are hereby quoted for ready reference, as follows:

The Order of July 25, 1968 (p. 63, *Rollo*) reads —

"WHEREFORE, the undivided one-half of lot 314 described under T.C.T. No. 11682 is now declared to have been ceded and conveyed to the plaintiffs Vicenta T. *Vda. de* Lajom and Jose T. Lajom, and therefore declared owners thereof. (The Register of Deeds for the Province of Nueva Ecija is hereby ordered to issue the title of said undivided one-half of lot 314 in the names of said plaintiffs Vicenta T. *Vda. de* Lajom, of legal age, widow, Filipino, and resident of 119 D. Arellano, Caloocan City, as an effect of the *lis pendens* annotated thereon on January 11, 1950). The defendant Rafael Viola and his supposed successors over the aforesaid property after the *lis pendens* had become operative on January 11, 1950 are hereby ordered to respect the rights and ownership of the aforementioned plaintiffs Vicenta T.

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Vda. de Lajom and Jose T. Lajom by virtue of the terms and conditions of this order.

SO ORDERED."

The Order of July 31, 1968 (*Rollo*, p. 68) states:

"Supplementary to the order of the Court of June 25, 1968, the Register of Deeds of Nueva Ecija is hereby ordered to cancel all annotations with respect to the undivided one-half (½) of lot 314 described under Transfer Certificate of Title No. 11682 after the notice of *lis pendens* at the back of the said title was annotated on January 11, 1950 and to cancel the original and owner's duplicate certificate of titles of all whomsoever claim to have derived title from the defendant Rafael Viola over the aforementioned property after the said *lis pendens* became imperative on January 11, 1950.

SO ORDERED."

The Order of March 14, 1969 (*Rollo*, p. 139), reads, as follows:

"Considering the exhaustive pleadings filed by the movants as well as the plaintiffs in support of the Motion for Reconsideration filed in connection with the Orders of this Court of June 25 and July 31, 1968, the Court believes and so finds that the movants not having been parties to the action at bar, they have no personality to question the aforementioned orders sought to be reconsidered; and without further dwelling into the other legal issues raised by the movants the Motion for Reconsideration is hereby denied for lack of merit. This does not mean, however, that this Court is closing any avenue of legal remedy that might be available to the movants in another action.

SO ORDERED."

The order of May 29, 1969 (*Rollo*, p. 141) is quoted as follows:

"Submitted for resolution is a Motion for Execution with Writ of Possession.

The Court finds the said motion, dated May 22, 1969 to be well-founded and therefore grants the same.

Let a Writ of Execution with Writ of Possession issue in favor of the plaintiffs in accordance with the order sought to be executed.

SO ORDERED."

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In affirming the said questioned Orders and thereby dismissing the instant petition for *certiorari*, We held that inasmuch as the land in question was subject of the notice of *lis pendens*, the petitioners were purchasers in bad faith and the sale of the land in their favor are fraudulent manifestly to defeat the judgment of the respondent Court in Civil Case No. 8077. (pp. 15-16, Decision, pp. 316-317, *Rollo*)

The petitioners in their Motion for Reconsideration beg to differ and take exception from the said holding, and submit that although they (petitioners) purchased the land subject to an existing notice of *lis pendens*, nevertheless, the facts of this case will readily show that they actually bought the same in good faith and for value respecting the rights of the judgment creditors, the herein respondents Lajom, to the 1/7 of the 1/2 portion of Lot 314 adjudicated to them in the final and executory Decision of the Court of First Instance of Nueva Ecija in Civil Case No. 8077. The dispositive portion of this Decision affirmed by this Court in G.R. No. L-6457, promulgated *May 30, 1956*, translated from the Spanish text reads as follows:

IN VIEW OF THE CONSIDERATIONS ABOVE EXPOUNDED, the Court adjudges this case in favor of the plaintiff and against the defendants, declaring the plaintiff, Donato Lajom, a natural child, implicitly and tacitly recognized by his father, the deceased Dr. Maximo Viola, in accordance with the Ley de Toro; the partition and distribution effected by the defendants in the Deed of Partition and Adjudication of the Property Left by [or the estate of] the Deceased, Dr. Maximo Viola (*Convenio de Particion y Adjudication de los Bienes Dejados por el Difunto Dr. Maximo Viola*) is declared illegal, null and of no effect; the collation of the properties in question is ordered, the same to be placed in the hands of the judicial administrator; the defendants, one and all, are ordered to submit an accounting of the fruits and products received from said properties assigned to each of them from October 25, 1935, in order that there may be a new distribution: it is also ordered that the defendants Jose P. Viola and Silvio Viola submit an accounting of the fruits and products of the three (3) parcels of land mentioned in paragraphs 1 and 2 of Annex A which had been placed under their administration in Special Proceeding No. 4741 of the Court of First Instance of Bulacan from September 3, 1933; and finally, after all these properties pertaining to the decedent Dr. Maximo

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Viola have been collated, all the debts paid, and all the fruits accounted for, it is ordered that said properties and products be partitioned and adjudicated as follows: in favor of the plaintiff, one seventh (1/7) of said properties and products, and two sevenths (2/7) in favor of each of the defendants herein. With costs. (The Spanish text is quoted in p. 5 of Our Decision, p. 306, *Rollo*)

After a second hard look at the records of the case, We find petitioners' stand well-taken. A reconsideration of Our Resolution of September 15, 1987 (pp. 302-320, *Rollo*) is, therefore, in order.

Lot 314 was conjugal property of the deceased Maximo Viola and his deceased wife Juana Toura (*Lajom vs. Leuterio, etc. vs. Viola,* 107 Phil. 651, 654, 658). The whole of said Lot was titled in the name of their son, respondent Rafael Viola under TCT No. 11682 way back in the year 1937.

The annotation of *lis pendens* on said TCT No. 11682 reads as follows:

"Entry No. 19553/T-14707; Kind — *Lis pendens* in favor of — Donato Lajom; Conditions — 1/2 of the properties described in this title is the object of a complaint filed in Civil Case No. 8077 of the C.F.I. of N.E.; Date of Instrument — Dec. 16, 1949; Date of Inscription — Jan. 11, 1950 at 2:00 p.m."

(p. 316, *Rollo*, p. 15, Decision)

On *April 6, 1964* Rafael Viola sold the undivided one-half (1/2) portion of Lot 314 to herein petitioners Pastor, Macario and Agripino Tanchoco for the sum of ₱50,000.00. This portion was subsequently designated as Lot 314-B-2-A and was issued TCT No. NT-66683 of the Register of Deeds of Nueva Ecija in the name of said petitioners.

Then, on *June 5, 1965*, Rafael Viola sold six-seventh (6/7) of the other undivided one-half (½) portion to the other petitioners Inocencia, Liberata and Trinidad Tanchoco for the sum of ₱42,000.00. This portion was subsequently designated as Lot 314-B-2-B and was issued TCT No. 66684 in their names.

It is therefore clear that the sales of the portion of Lot 314 by respondent Viola in favor of petitioners were both made

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after the Decision of the Court of First Instance of Nueva Ecija in Civil Case No. 8077 and the Decision of this Court affirming the same had already become final and executory, in which Decision it was held that the share of the respondents Lajoms *was only one-seventh (1/7) of the share of the deceased Maximo Viola in the said properties, or 1/7 of ½ of Lot 314.* (the dispositive portion of this decision in GR No. L-6457 was earlier quoted) This share of respondents Lajoms consisting of 1/7 of ½ of Lot 314 *was not included* in the sale in favor of the petitioners and was left to the Lajoms.

With these as the established facts, it became evident that the respondent court acted without or in excess of jurisdiction and with grave abuse of discretion in issuing its aforementioned questioned Orders which ultimately caused the cancellation of the certificates of title of the petitioners (TCT Nos. NT-66683 and NT-66684) and the issuance in lieu thereof of TCT No. NT-80665 in the names of Vicenta T. *Vda. de* Lajom and Jose T. Lajom, ½ share, and Rafael Viola, ½ share.

Let Us first dwell on the one-half (½) portion of Lot 314. This portion pertained to the deceased wife of Maximo Viola as her share in the conjugal properties. This was not involved in Civil Case No. 8077, so much so that in the annotation of *lis pendens* it is stated that said case involving "½ of the properties described in the title." (p. 316, *Rollo*) But inspite of the fact that this ½ portion is not involved in Civil Case No. 8077 and is not covered by the notice of *lis pendens*, still the respondent court caused the cancellation of TCT No. 66683 in the name of petitioners (who were purchasers from Rafael Viola) and the registration of the said ½ portion in the name of respondent Rafael Viola. To order the cancellation of the said title of the petitioners and to cause the registration of the same again in the name of respondent Rafael Viola who had already sold this portion for valuable considerations to the petitioners, is to say the least, highly irregular and ridiculous.

The same can be said of the sale of the 6/7 of the other one-half portion of Lot 314. This portion also lawfully belonged to the vendor Rafael Viola and did not include the 1/7 of ½ of

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said Lot 314 which was adjudicated to the respondents Lajoms in the final decision of this Court. (G.R. No. 6547, May 30, 1956)

There is no question that at the time the private respondents entered into the Compromise Agreement in Civil Case No. 8077 on *July 10, 1967*, the petitioners were already the registered owners of all but 1/7 of Lot 314. Petitioners Pastor, Macario and Agripina Tanchoco were already the registered owners of one-half (½) portion of said lot, then designated as Lot 314-B-2-A which was registered in their names under Transfer Certificate of Title No. NT-66683; whereas the share of petitioners Inocencia, Liberata and Trinidad Tanchoco consisting of 6/7 share of the other half portion of the said lot, which was designated as Lot 314-B-2-B was registered in their names under Transfer Certificate of Title No. NT-66684. The said portions of land were respectively declared for taxation purposes in the names of the petitioners, and they have been paying the realty taxes due thereon to the government. The possession of the said property was delivered to the petitioners and they have exercised all the rights of ownership over the same. As such registered owners of the respective portions of Lot 314 sold to them, the petitioners have acquired real rights over the said property, and they cannot now be deprived of the said property or their rights therein without due notice to them and without affording them the opportunity to be heard in a proper action or suit brought for the purpose. To deprive them of their said property or their rights therein without the required notice and without affording them the opportunity to be heard as what happened in this case, is a clear violation of the Constitutional guaranty that no person shall be deprived of his property without due process of law.

IN VIEW OF THE FOREGOING CONSIDERATIONS, the Resolution in this case promulgated on September 15, 1987 is hereby *RECONSIDERED* and the assailed Orders of respondent Court dated June 25, 1968, July 31, 1968, March 14, 1969 and May 29, 1969 in Civil Case No. 8077 are *ANNULLED* and *REVOKED*. Respondent Judge is further hereby ordered to *RESTORE* the *status quo ante* before the said Orders were issued.

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Cost againsst private respondents.

SO ORDERED.

Narvasa (Chairman), Cruz, and *Gancayco, JJ.*, concur.

FIRST DIVISION

[G.R. No. 52728. January 17, 1990]

AVELINO C. AGULTO, *petitioner, vs.* **HON. COURT OF APPEALS, HON. FRANCISCO Z. CONSOLACION, Presiding Judge of Branch II of the Court of First Instance of Davao; and the PEOPLE OF THE PHILIPPINES,** *respondents.*

SYLLABUS

REMEDIAL LAW; MOTIONS; MOTION FOR NEW TRIAL AND MOTION TO REOPEN TRIAL, DISTINGUISHED.— A Motion for New Trial may be filed *after* judgment but within the period for perfecting an appeal. A Motion to Reopen Trial may be presented only after either or both parties have formally offered and closed their evidence, but before judgment. There is no specific provision in the Rules of Court for motions to reopen trial. It is albeit a recognized procedural recourse or devise, deriving validity and acceptance from long, established usage. The reopening of a case for the reception of further evidence before judgment is not the granting of a new trial. A motion for new trial in civil or criminal actions may be applied for and granted only upon specific, well-defined grounds set forth respectively in Rules 37 (Section 1) and 121 (Section 2). On the other hand, the reopening of a case for the reception of additional evidence after a case has been submitted for decision but before judgment is actually rendered is, it has been said, controlled by no other rule than that of the *paramount interests of justice,* resting