

100 Phil. 707

[G. R. No. L-9704. January 18, 1957]

LORENZO LLANOS, PETITIONER, VS. CLAUDIO SIMBORIO AND HON. PATRICIO CENIZA, JUDGE OF THE COURT OF FIRST INSTANCE OF MISAMIS OCCIDENTAL, RESPONDENTS.

D E C I S I O N

MONTEMAYOR, J.:

On July 29, 1946, Claudio Simborio filed against Lorenzo Llanos and others a complaint in the Court of First Instance of Misamis Occidental, Civil Case No. R-887, "for recovery of ownership, possession, and damages" regarding a parcel of land with an area of about ten hectares, situated in the barrio of Agunod, Plaridel, Misamis Occidental. The land in question would appear to be a part of a homestead applied for by Simborio, his application having been approved by the Bureau of Lands on November 4, 1935, There were several adverse claimants to the same homestead, and said claims were investigated by two public land inspectors in 1939, and said adverse claims were dismissed by the Director of Lands, apparently on the basis of the report of said public land inspectors. These adverse claimants seem to be the defendants in Civil Case No. R-887, with the exception of Lorenzo Llanos, and inasmuch as said adverse claimants abided by the decision of the Bureau of Lands, they were dropped as defendants and only Lorenzo Llanos answered the complaint.

After the hearing, the trial court found that during the war, in 1942, Llanos entered that portion of the homestead aforementioned and when Simborio, owner of the homestead, tried to drive him away, Llanos refused to vacate the portion, alleging that he was there only as an evacuee, but later on however, he claimed some title or interest on the land in question. On the basis of the findings of the trial court, it rendered judgment declaring plaintiff Claudio Simborio owner and possessor of the parcels described in the complaint by virtue of his homestead application duly approved by the Bureau of Lands, with the exception of a portion described at the back of Exhibit D, which was owned and possessed by one Cirilo Labad, and it ordered defendant Llanos to vacate the land in question and to return its

possession to the plaintiff and to pay the costs of the proceedings. Llanos appealed the decision to the Court of Appeals, which found that appellant Llanos had no right or title to the land occupied by him and included in, the homestead of Simborio; and that the tax declaration (Exhibit 1) presented by Llanos to support his claim that he had been occupying the land in question since 1918 refers to another parcel outside the homestead. The Court of Appeals affirmed the decision of the trial court in all its parts, with 'costs against the appellant.

It seems that Llanos filed a motion for reconsideration of the decision, asking that the case be remanded to the court below for the reception of additional evidence showing his prior possession, and the existing improvements introduced by him in the land in question, and their value. By resolution of November 9, 1954; the Court of Appeals denied the motion for reconsideration on the question of prior possession on the ground that the trial court gave full faith and credit to the testimony of the plaintiff Simborio, who stated that he and his deceased father had occupied the land in question since the year 1930, and that appellant's motion for reconsideration as well as the evidence of record failed to reveal any facts or circumstances which would justify the Court of Appeals to set aside or modify its own decision which totally affirmed the decision of the trial court. As regards appellant's contention that he should be reimbursed for the value of the improvements introduced by him on the land since 1942, the Court of Appeals declared that the appellant did not ask for a refund or compensation by way of alternative relief, either in his amended answer or in his brief, and the evidence of record was not clear as to said actual improvements allegedly introduced by him since 1942, and their actual value. But they (the Justices) felt that the ends of justice would be best served if the motion for reconsideration be granted on the question of improvements, the Court of Appeals saying that, although the appellant was clearly a possessor in bad faith because the appellee tried to stop him when he entered the land in 1942, the appellee also acted in bad faith because he allowed appellant to remain and occupy the portion entered by him, thereby enabling him to cultivate it and introduce improvements thereon until the year 1946 when the action was commenced ; consequently, the rights of both parties must be determined as if both had acted in good faith (Article 364 of our Civil Code). The Court of Appeals, therefore, granted that part of the motion for reconsideration concerning improvements and the refund of the value thereof and ordered the record of the case remanded to the court of origin, so that said court, considering the findings of the appellate court, may receive evidence of the parties with respect only to the improvements which might have been made or introduced by the appellant since the year 1942, as well as their value, and then render judgment thereon.

Apparently dissatisfied with the decision and resolution of the Court of Appeals, Llanos petitioned this Tribunal to review the same by way of certiorari, but by resolution of this Court of January 6, 1955, this petition was dismissed for being factual and for lack of merit.

Once the record was returned to the court of origin, pursuant to the resolution of the Court of Appeals, plaintiff Simborio filed a petition for the issuance of a writ of possession, on May 17, 1955. Acting upon said petition, the trial court issued an order dated June 3, 1955 directing the Clerk of Court to issue the corresponding writ of possession in favor of Simborio, which writ was duly issued, dated June 6, 1955 (Annex I). The Sheriff of Misamis Occidental to whom the writ of possession was directed, evidently executed the same and placed Simborio in possession of the land in question. Lorenzo Llanos filed a "motion for relief to quash writ of possession and execution," dated July 26, 1955, alleging that pursuant to the writ of possession, the Deputy Provincial Sheriff on June 18, 1955, placed plaintiff in possession and delivered to him "the possession and ownership of the coconut trees, coffee, house, x and other plants and improvements owned by the defendant in said land;" that a few days thereafter, plaintiff Simborio gathered the matured coconuts amounting to about 6,000 nuts, making from the same, copra of about 2,000 kilos more or less, and selling the same for P440; that the issuance of the writ of possession with a view to placing plaintiff in possession of the land and the improvements made by him (the defendant) was a mistake for being premature because the decision was not yet final and executory there remaining a hearing by the trial court to determine the improvements introduced by defendant and their value; and that the placing of the plaintiff in possession before he, defendant, was paid the value of said improvements was illegal and void because it deprived him of his property without due process of law. In his prayer, Llanos asked that an order be issued to quash the writ of possession and to restore him (defendant) in the possession and ownership of his improvements until he was paid the value thereof by the plaintiff, and to order said plaintiff to refund to the defendant the amount of P440 the value of the copra made. This motion for relief to quash the writ of possession was denied and Lorenzo Llanos filed the present petition for certiorari to annul the order of the trial court granting the writ of possession as well as the writ of possession itself, and to restore the possession of the land to him (Llanos).

We are not in entire accord with the Court of Appeals in its resolution of November 9, 1954, particularly that portion thereof declaring appellee Simborio as having acted in bad faith in allowing appellant to remain and occupy that portion entered by Llanos and permitting him to introduce improvements thereon until the year 1946, and therefore regarding both parties as both having acted in good faith as regards the improvements. As to the bad faith

of Llanos, there can be no question. As already stated and found by the trial court and affirmed by the Court of Appeals, he illegally entered the parcel in question in 1942, and pretended to be a mere war evacuee, presumably to persuade the appellee to allow him to stay, so that the improvements introduced by him since 1942 were unquestionably made in bad faith. The Court of Appeals made a sweeping statement that Simborio also acted in bad faith for having allowed Llanos to stay; thereby enabling him to introduce improvements thereon. Bearing in mind that this was during the war and that Llanos pretended to be a mere evacuee deserving¹ of consideration and tolerance, we cannot say that Simborio acted in bad faith. On the contrary, there is reason to believe that he acted out of generosity for the purpose of helping a supposed war sufferer. Moreover, it is doubtful whether, considering the uncertain times and extraordinary conditions obtaining during the enemy occupation, Simborio was in a position to be very strict and forcibly drive out Llanos and create an enemy, and thus expose himself to acts of revenge or retaliation. Besides, we do not know whether during the occupation, Simborio himself did not evacuate to other parts for security purposes, and whether he expected that a mere evacuee on his land allowed to stay on mere sufferance, would introduce permanent improvements and later repay the generosity and kindness of the true landowner with an adverse claim, requiring said landowner to resort to the court³ for relief.

However, the finding and holding of the Court of Appeals on this question of good faith and bad faith was not appealed by Simborio and became final. In other words, the result is that under the law, Llanos may now be regarded as a possessor in good faith as to the improvements introduced by him between 1942 and 1946, and so may hold the land on which these improvements stand until he receives reimbursement for their value from the owner of the land. Viewed from this angle, the order of the trial court for the issuance of a writ of possession as well as the writ of possession itself were improvidently issued. It is true that the decision of the trial court affirmed by the Court of Appeals as to the title of Simborio over the land and his right to possess the same has become final. At the same time, his right to possess the land in question is subject to his reimbursing Llanos the value of the improvements introduced between 1942 and 1946.

In view of the foregoing, the petition for certiorari is hereby granted and petitioner Lorenzo Llanos should be restored in possession but on that portion only which the improvements introduced between 1942 and 1946 are located. The only remedy open to Simborio would be to have an early hearing about those improvements so that the trial court may ascertain their true value and so that Simborio, upon paying the amount to Llanos, could get back the possession of his land, naturally, with the improvements. No costs.

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Paras, C. J., Bengzon, Padilla, Bautista Angelo, Labrador, Conception, Reyes, J. B. L., Endencia and Folix, JJ., concur.

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