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GREGORIO VILLARTA, GLICERIO VILLARTA AND MARINA VILLARTA, PLAINTIFFS AND APPELLANTS, VS. FAUSTA CUTAMORA VDA. DE CUYNO, BASILIDES, PAZ, MAXIMA, ENRIQUIETA, IRENEO, CATALINO, ALL...

G.R. No. L-20682. May 19, 1966

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Plaintiffs Gregorio, Glicerio and Marina Villarta seek to establish their title to a parcel of land, of about 15 hectares, located in the barrio of Tipolo, Municipality of Ubay, Province of Bohol, and to recover the possession thereof, as well as the value of the owner's share of its crop, plus attorney's fees and costs. Defendants denied plaintiffs' alleged ownership and asserted title in themselves, in addition to pleading prescription of action. After appropriate proceedings, the Court of First Instance of Bohol, in which the case was commenced, rendered a decision, the dispositive part of which reads:

> "PREMISES CONSIDERED, the Court renders judgment declaring plaintiff Gregorio Villarta owner of the Northwestern portion of the land described in the complaint, which portion contains an area of 31 ares.
>
> "The Court refrains from deciding- the case regarding1 the rest of the disputed land, declared under Tax Declaration No. 80-12 (Exhibit B), for the reason that most of the co-owners are not included as parties to the case.
>
> "The Court, therefore, orders the dismissal of this case with respect to the remaining- part of the land in question, declared under Tax Declaration No. 8042, on the ground that it belong to the heirs of the late Isidoro Cuyno, most of which are not made parties to this case.
>
> "The present judgment is rendered without special pronouncement as to costs, and without prejudice to the right of plaintiff Gregorio Villarta to recover from all the co-owners of the disputed property the amounts of taxes he had paid to the municipal treasurer of Ubay, Bohol."

Hence, this appeal by the plaintiffs.

Plaintiff Gregrorio Villarta is the father of his co-plaintiffs Glicerio and Marina Villarta. The disputed land belonged originally to Isidoro Cuyno, who, prior to May 29 1924, had assigned a small portion thereof, with an area of approximately 0.3100 hectares, to one Clemente Olaybar, who, on said date, declared it, for real estate tax purposes, in his name, under Tax Declaration No. 8043 of the Province of Bohol. The remaining portion of said land, with an area of 14.8400 hectares, more or less, was declared in tile name of Isidoro Cuyno, under Tax Declaration No. 6010, which was superseded, in 1925, by Tax Declaration No. 8042, in the same name. Isidro Cuyno died sometime before 1936.

For failure of his heirs to pay the real estate taxes due under said Tax Declaration No. 8042, said portion, of about 14.8400 hectares, was forfeited to the Government in 1936. To avoid its eventual sale at public auction, one of the

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children of Isidoro Cuyno, namely, Marciano Cuyno, asked plaintiff Gregorio Villarta, whose wife (Guardicisima Cuyno) is a granddaugther of said deceased, to pay the amount of said taxes. Accordingly, from August 29, 1936 to September 2, 1937, Gregorio Villarta paid the municipal treasurer of Ubay several sums of money aggregating P114.52, representing the overdue real estate tax on said portion of 14.8400 hectares. On June 11, 1946, Gregorio Villarta caused this portion to be declared in his name under Tax Declaration No. 13462. Meanwhile, or on April 18, 1945, he had purchased from Clemente Olaybar the aforementioned small portion, of about 0.3100 hectares, which the latter had acquired from Isidoro Cuyno before May 29, 1924 (Exhibits H & H-l).

On March 20, 1961, Gregorio Villarta commenced the present action alleging that defendants herein had, in July, 1953, forcibly deprived them of the possession of the land in question and, as a consequence, of the owner's share in the products thereof. The evidence for the plaintiffs tend to establish that, despite the aforementioned payments to the municipal treasurer of Ubay, Gregorio Villarta had been unable to take possession of said land, except a small part thereof, because the other parts of the land, constituting the bulk thereof, had been allegedly sold conditionally by Isidoro Cuyno to several parties, from whom Gregorio Villarta claims to have redeemed said parts in three (3) separate transactions from March 3, 1942 to April 18, 1945; that on January 28, 1948, defendants herein filed Civil Case No. 292 of the Court of First Instance of Bohol against Gregorio Villarta to recover the land in question from Gregorio Villarta, upon the ground that the same represents their share in the estate of Isidoro Cuyno, as heirs of his now deceased son Marciano Cuyno; and that sometime in 1953, during the pendency of said Case No. 292 defendants herein illegally deprived Gregorio Villarta of the possession of said land.

At the outset, it should be noted that plaintiffs' action is based primarily upon the payment made by Gregorio Villarta to the municipal treasurer of Ubay of the overdue real estate tax on the portion of the land in question, of about 14.8400 hectares covered by Tax Declarations 6010 and 8042, which had been forfeited to the Government for delinquency in the payment of said tax. Plaintiffs contend that Gregorio Villarta had thereby acquired the rights of the deceased Isidoro Cuyno in and to said property. However, the delinquent taxpayer was the estate of Isidoro Cuyno, not Gregorio Villarta, so that payment by the latter merely subrogated him into the rights of the Government as creditor for said delinquent taxes (Article 1236, Civil Code of the Philippines).

As a matter of fact, the municipal treasurer of Ubay did not, by accepting said payment by Gregorio Villarta, sell the aforementioned property to him. Indeed, said officer did not execute any deed of conveyance in favor of Gregorio Villarta. What is more, the receipts given to the latter by said officer (Exhibits C, D, G & GOI) were issued, not in his (Gregorio Villarta's) name, but in that of Isidoro Cuyno. The fact that Gregorio Villarta accepted said receipts, issued in the name of Isidoro Cuyno, indicates that the former, also, understood that he was not thereby purchasing the property, but, had made the payment for the account or benefit of Isidoro Cuyno. In fact, the letter of the municipal treasurer of Ubay to Gregorio Villlarta, dated October 8, 1936, and marked as plaintiffs' Exhibit E, refers to said payments of Gregorio Villaita as part of the process of "repurchase" by him "in behalf of the declared owner, Mr. Isidro Cuyno." Thus, Gregorio Villarta thereby became a trustee for the benefit of Isidoro Cuyno, or his heirs.

Plaintiffs claim, also, that Gregorio Villarta had become the owner of said land by virtue of two (2) sales in his favor, namely, one made by Irineo Embradura and his wife Toribia Cuyno, on March 3, 1942, and another by Juan Gaviola and (seemingly, his wife) Toribia Cuyno, on May 11, 1942. As correctly observed in the decision appealed from, Gregorio Villarta merely acquired from Mr. & Mrs. Embradura their right and interest in the land described in the deed of conveyance Exhibit J, not as owners of said land, but as alleged mortgagees thereof. Then, again, the land allegedly bought by Gregorio Villarta from Juan Gaviola and Toribia Cuyno was covered by Tax Declaration No. 11791 in the name of Isidoro Cuyno (see Exhibits I & 1-1). The land involved in the present

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case was covered, not by said declaration, but Tax Declaration No. 6010 and, later, by Tax Declaration No. 8042.

Plaintiffs, likewise, invoke title to part of the land in question in consequence of a conveyance allegedly made to Gregorio Villarta by Clemente Olaybar, who, plaintiffs allege, acquired it from Benito Cuyno, who, in turn, derived his title from Isidoro Cuyno, by virtue of the deed of sale (Exhibit H-3) (also Exhibit H-3-A). The property described in this instrument is located, however, in Cabadiangan, whereas the land in question is in Tipolo. Accordingly, the lower court was justified in concluding that the subject matter of said Exhibit H-3 is different from that of the present case.

Again, plaintiffs invoke title by acquisitive prescription. This pretense is, however, untenable: (1) because they admit that, in 1936, Gregorio Villarta was unable to take possession of most of the land in question, for the same was then being held by those who had allegedly purchased conditionally portions thereof from Isidoro Cuyno; (2) because the purchase allegedly made by Gregono Villarta from Mr. & Mrs. Embradura, and Juan Gaviola and Toribia Cuyno, took place only in 1942, and plaintiffs' possession from this year was interrupted constructively upon the filing of Civil Case No. 292 in 1948, or before the expiration of ten (10) years; (3) because, since the aforementioned delinquent taxes had been paid by Gregorio Villarta "in behalf of Isidoro Cuyno", the possession acquired by the former, and his subsequent transactions with the Embra-duras and the Gaviolas, must be deemed effected by Gregorio Villarta in trust and far the benefit of Isidoro Cuyno, until the contrary is clearly proven; and (4) that the first such evidence that can be invoked by Gregorio Villarta is, at best, Tax Declaration No. 13462 (Exhibit A) in his name, but this declaration was made on June 11, 1946, and his possession since then was, as above indicated, interrupted, in contemplation of law, in 1948, and actually, according to plaintiffs' complaint, in 1953, or before the expiration of ten (10) years since 1946.

It cannot be denied, however, that, prima facie, as children of Guardicisima Cuyno, one of the daughters of Isidoro Cuyno, plaintiffs Glicerio and Marina Villlarta are entitled to share in the property in question. This notwithstanding, the lower court refrained from determining the extent of their rights, if any, thereon, because most of the surviving descendants of Isidoro Cuyno had not been made parties in this case. As set forth in the decision appealed from:

> "Isidoro Cuymo died leaving the following: children: Angel, Toribia, Gregoria, Vicenta, Bernardo, Urbano, Narciso, Benito and Marciano, all surnamed Cuyno.
>
> "Angel Cuyno died leaving the following children: Guardicisima Cuyino, wife of plaintiff Gregorio Villarta, Caridad Cuyno, Maria Cuyno and Servando Cuyno.
>
> "Toribia Cuyno, another child of Isidoro Cuyno, died leaving the following children: Felicisima Gaviola, Visitacion Gaviola anil Teofiio Gaviola.
>
> "Gregoria Cuyno, daughter of the late Isidore Cuyno, died leaving one child named Rosalio Olaivar.
>
> "Vicenta Cuyno, daughter of Isidro Cuyno, also died leaving two children named Cecilia Sarabosing and Justino Sarabosing.
>
> "Narciso Cuyno, another child of the deceased Isidoro Cuyno, died leaving a child named Francisco Cuyno.
>
> "Benito Cuyno, another son of the deceased Isidoro Cuyno, died leaving one daughter named Olimpia Cuyno.
>
> "Urbano Cuyno, son of Isidoro Cuyno, died leaving children named Teresa Cuyno, Rubino Cuyno and Jose Cuyno.
>
> "Marciano Cuyno, another child of Isidoro Cuyno, died and left the following children: Basil ides, Paz, Maxima, Enriquieta, Irene and Catalino, all surnamed Cuyno. These persons are defendants in, this case,

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> together with their mother Fausta Cutamora, widow of the deceased Marciano Cuyno.
>
> "Bernardo Cuyno is the only living son of the late Isidoro Cuyno."

In other words, of the nine (9) children of Isidoro Cuyno, the heirs of only one of them—namely, Marciano Cuyno— are fully represented in this case. Glicerio and Marina Villarta merely represent part of the heirs of Isidoro's son Angel Cuyno, namely his daughter Guardicisima. Angel's other children—Caridad, Maria and Servando Cuyno—are not parties in this case. Neither is Isidoro's only surviving son, Bernardo Cuyno. Nor are the descendants of Isidoro's other deceased children—Toribia, Gregoria, Vicenta, Bernardo, Urbano, Narciso and Benito.

The lower court acted wisely, therefore, in not determining the precise share of the parties herein in the land formerly covered by Tax Declaration No. 8042 and in limiting itself to declaring that said land belongs to the heirs of Isidoro Cuyno, without "prejudice to the right of Gregorio Villarta to recover from them the sums by him paid as real estate tax thereon.

Wherefore, the decision appealed from is hereby affirmed, with the costs of this instance against plaintiffs-appellants. It is so ordered.

Bengzon, C.J., Bautista Angelo, Reyes, J.B.L., Barrera; Dizon, Regala, Makalintal, Bengzon, J.P., Zaldivar and Sanchez, JJ., concur.

Judgment affirmed.

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