

IRENEO CUCHAPIN, PLAINTIFF AND APPELLANT, VS. VIRGINIA LOZANO, ET AL., DEFENDANTS AND APPELLEES.*G.R. No. L-13542. March 30, 1963*

Ponente: REGALA, J.

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This is an appeal directly from the decision of the Court of First Instance of Nueva Ecija in Civil Case No. 2214, declaring defendants' title to a piece of land absolute and indefeasible and dismissing plaintiff's complaint.

The pertinent facts as found by the lower court are as follows: On July 6, 1931, a homestead patent was issued to Casimiro Gattoc covering Lot 2180 of the Muñoz Cadastre. Pursuant to this patent, Lot 2180 was registered under the Land Registration Act and Original Certificate of Title No. 3404 was issued to Casimiro Gattoc on July 16, 1931. On March 21, 1932, Casimiro Gattoc executed a document (Exhibit "B") in which he declared that the eastern half of the lot belonged to his grandson, the plaintiff, who, according to him, had cleared . and taken possession of the land since they began clearing and possessing the homestead; that to avoid expenses, they had agreed that one of them would apply for a homestead and that by virtue of the application, title was issued in his name alone. On the same day, March 21, 1932, Casimiro Gattoc acknowledged in another instrument (Exh. "A") that he had received on various occasions, the sum of P1,500 from the plaintiff to secure the payment of which, he' mortgaged the products and. Improvements of his land to the plaintiff. Neither of these documents (Exlis. "A" and "B") was registered. On March 13, 1939, Casimiro Gattoc died/leaving as his sole heir his daughter Maria Gattoc.

On August 4, 1949, Maria Gattoc executed an affidavit of adjudication with a conveyance of Lot 2180 to Eusebio Carbonell for P800. Upon the registration of this document, Transfer Certificate of Title No. 3404 was cancelled and TCT No. 15644 was issued in the name of Maria Gattoc. Thereafter, TCT No. 15644 was cancelled and, in lieu thereof, TCT No. 15645 was issued in the name of Eusebio Carbonell. --

On December 5, 1941, plaintiff filed an adverse claim in the Office of the Register of Deeds of Nueva Ecija which was annotated on the back of the original copy of the title but not in the owner's duplicate certificate of title' of Carbonell.—

On May 29, 1944, Eusebio Carbonell sold Lot 2180 to, Oasiano Lozano for P16,978.88. Upon 'the registration of the deed of sale (Exh. "4"), TCT No. 25645 was replaced by TCT No, 20879 in the name of Casiano Lozano, married to. Pptenciana Panlaqui." The adverse claim filed by the plaintiff was annotated on the back of both the original and the owner's duplicate copy, of TCT No. 20879.

On July 12, 1956, plaintiff brought this action to annul the sale niade by Maria Gattoc to Eusebio Carbonell and the subsequent sale made, by Carbonell to Casiano Lozano, father of the defendants, on the allegation that the conveyance of the land from Gattoc to Carbonell was procured through the fraudulent machinations and manipulations of a certain Simeon Madayag, a half-brother'of Carbonell.. 'Plaintiff prayed that' tbe . sales be annulled as far as one half of Lot 2108 was concerned and that on the basis of Exhibits "A" and; "B", the same be

adjudicated to him and the other half be declared subject to a mortgage in his favor.

In due time, defendants filed their answer. After trial, the lower court rendered a decision dismissing the complaint on the ground that the plaintiff failed to prove the charge of bad faith and that the deed of acknowledgment was in fact and in effect a conveyance to the plaintiff, contrary to Section 116 of Act No. 2874 which prohibited the alienation of lands acquired under a homestead patent within five years.

The plaintiff appealed to this Court, raising both questions of fact and of law. Thus, in his first assignment of error, plaintiff contends that the lower court erred in holding that the deed of acknowledgment signed, by Casimiro Gattoc was null and void being in violation of Act No. 2874 and, in support thereof, claims that he has been in possession of half of the lot since 1918 during which time he has allegedly been paying the land taxes.

The second assignment of error is that the lower court erred in finding that the defendants-appellees' father Casiano Lozano, had acquired the land in dispute in good faith.

These allegations raise essentially questions of fact which require a review of the evidence in this case. The trial court's decision contains no findings that, plaintiff's possession dates back to 1918 nor does it say who has been paying the taxes on the land.

Since some of the questions raised call for a review of the evidence, and the amount involved not exceeding P50,000 (now P200,000), the appeal should have been brought to the Court of Appeals.

Wherefore, this case is hereby remanded to the Court of Appeals.

Bengzon, C. J., Padilla, Bautista Angela, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon and Makalintal, JJ., concur.

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