

ANTONIO CLEMENTE, PLAINTIFF-APPELLEE, VS. BERNARDINO PASCUA, DEFENDANT-APPELLANT.*G.R. No. L-25153. October 04, 1968*

Ponente: CONCEPCION, C.J.

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Appeal by defendant, Bernardino Pascua, from a decision and a supplemental decision of the Court of First Instance of Isabela, ordering him to execute a deed conveying the property in litigation to plaintiff, Antonio Clemente, and to transfer to his name the corresponding tax declaration, as well as to surrender to the court, within three (3) days from notice, the owner's duplicate of TCT No. T-16798 of Isabela, and sentencing Pascua to pay to Clemente the following sums, namely; (1) P400, as attorney's fees; (2) P400, as expenses of litigation; (3) P200, as exemplary or corrective damages; (4) P30, for certified true copies presented as exhibits; (5) P50, as nominal damages; (6) P48.87, as docket and sheriff fees; and (7) double costs.

The subject-matter of this case is part of Lot No. 5463 of the Santiago Cadaster, Province of Isabela, which lot has an area of 23.1749 hectares. The lot originally belonged to Romualdo Gaffud, in whose favor OCT No. I-2174 of Isabela had been issued. On May 5, 1940, Gaffud conditionally sold to Rosendo Silverio - father-in-law of plaintiff Clemente - a portion of said lot, of about 16 hectares, which had been in Clemente's possession since 1939. On March 3, 1943, upon full payment of the stipulated price, the corresponding deed of absolute sale - subsequently approved by the Secretary of Agriculture and Natural Resources - in favor of Clemente, was executed. The portion thus conveyed was there-upon segregated - through subdivision plan Psd 21575, approved on September 30, 1947 - and designated as Lot No. 5463-A, with an area of 15.9987 hectares. Clemente tried to register said deed of absolute sale with the office of the Register of Deeds, but failed to accomplish his purpose, seemingly, because of absence of the owner's duplicate certificate of title, which, Gaffud said, was in the possession of a priest.

On July 11, 1949, Gaffud executed, in favor of Gregorio Cachén, another deed of absolute sale of Lot No. 5463, for the sum of P5,000. It turned out, later on, that this sum had not been paid to Gaffud. Upon presentation of the deed of sale in favor of Cachén and of the owner's duplicate of OCT No. I-2174, said certificate of title was, on December 1, 1949, cancelled and, in lieu thereof, TCT No. T--1633 was issued, in the name of Cachén. The latter did not, however, take possession of the land. On July 1, 1950 - or over two (2) months after the death of Gaffud, on April 15, 1950 - Cachén instituted Civil Case No. 275 of the Court of First Instance of Isabela, against Clemente, to obtain possession of said land, as its alleged owner. Clemente traversed this averment and affirmed that the land belongs to him, he having acquired it from Gaffud; that he (Clemente) had been in actual, open and uninterrupted possession thereof for over ten (10) years before June 20, 1950; and that, if Cachén had any transfer certificate of title in his name, he must have secured it fraudulently, in bad faith and without any consideration.

After appropriate proceedings, said court rendered its decision, on June 24, 1953, holding that the sale to Cachén was null and void for lack of consideration, and that, having been first in securing possession of the land, in good faith, Clemente has a better right thereto, and, accordingly, dismissing Cachén's complaint. On appeal taken by

Cachen, this decision was, on January 31, 1958, affirmed in CA-G.R. No. 13737-R of the Court of Appeals. Cachén sought a review on certiorari of the latter's decision in G.R. No. L-13673 of the Supreme Court, which, on May 14, 1958, dismissed the petition for review, upon the ground that it raised factual issues and lacked merit. The resolution of the Supreme Court to this effect became final on October 13, 1958.

On January 19, 1962, Clemente caused to be annotated on the back of TCT No. T-1633, a notice of lis pendens stating that the land in question is under litigation in Civil Case No. 275 of the Court of First Instance of Isabela, which had been appealed to the Court of Appeals in CA-G.R. No. 13737-R and later brought to the Supreme Court in G.R. No. L-13673. A little over a month later, or on March 4, 1962, Cachén conveyed Lot No. 5463 to herein defendant, Bernardino Pascua. Upon registration of the deed of sale in his favor, on March 5, 1962, TCT No. T-1633, in the name of Cachén, was cancelled and transfer certificate of title No. T-16798, in the name of Pascua, was issued, with the annotation of the notice of lis pendens appearing on TCT No. T-1633. When Pascua sought to take possession of the land, in 1963, he found that the tenants working thereon had delivered the owner's share of the harvest to Clemente, who had secured the corresponding writ of possession, in said Civil Case No. 275. Thereupon, Pascua filed therein a motion to set aside said writ, which was objected to by Clemente. Pascua, likewise, went to the Court of Agrarian Relations, in CAR Case No. 55, and prayed therein that Clemente and said tenants be required to deliver to him (Pascua) the landowner's share of the harvest, but the CAR suspended its proceedings until the final resolution of the case at bar, which had, meanwhile,[1] been commenced by Clemente, in the Court of First Instance of Isabela, as Civil Case No. II-712 thereof, against Pascua, for the reconveyance of Lot No. 5463-A and damages.

In his answer, defendant admitted, with some qualifications, most of the allegations in plaintiff's complaint. As special defenses, defendant contested the venue and alleged lack of cause of action, as well as pleaded the statute of limitations of actions. He, likewise, set up a counterclaim for attorney's fees, upon the ground that plaintiff's complaint was malicious.

Plaintiff, in turn, filed his answer to defendant's counter-claim, denying the allegations thereof, and then moved for a summary judgment, upon the ground that the defendant has not raised any genuine issue of fact, since the allegations of fact made in his answer to the complaint are belied by the decision of the Court of Appeals in CA-G.R. No. 13737-R, which is already final and executory, and by an attestation of the Provincial Assessor of Isabela and the corresponding tax declaration, copies of which were attached to the motion. Plaintiff, likewise, attached thereto his affidavit of merit. Despite defendant's opposition to said motion, the same, was, after due hearing, granted by the lower court, which, accordingly, rendered the appealed decision ordering the defendant to convey the disputed lot to the plaintiff, to transfer to his name the corresponding tax declaration and to surrender to the Court the owner's duplicate of TCT No. T-16798, as well as setting for hearing plaintiff's claim for damages. After the reception of evidence thereon, said court, subsequently, rendered a supplemental decision sentencing the defendant to pay damages, as set forth at the beginning of this decision. Hence, the present appeal by writ of error.

The issues calling for our determination in this appeal are two-fold - one is procedural in nature and the other concerns the merits of the case. The first refers to the propriety of the summary judgment appealed from, which is assailed upon the ground: (1) that venue has been improperly laid; and (2) that there are unsettled questions of fact.

As regards venue, defendant maintains that the land in question is now within the jurisdiction of the Province of Nueva Vizcaya. This pretense is, however, based exclusively upon his own tax declaration, stating that said land is in Malasian, Municipality of Dinfun, Nueva Vizcaya. Upon the other hand, it is not disputed that the property in question is part of Lot 5463 of the Santiago Cadaster, Isabela; that it was covered by OCT No. I-2174 of the

same province, in the name of Gaffud; that, upon cancellation thereof, it was substituted by TCT No. T-1633 of Isabela, in the name of Cachén, or defendant's predecessor in interest; and that, upon the sale of said lot to defendant, this TCT No. T-1633 of Isabela was superseded by TCT No. T-16798 of Isabela, in his (defendant's) name. Moreover, it is alleged in paragraph 2 of the complaint herein that said property is "situated in the Barrio of Luna (formerly Malasian), Municipality of Santiago, Isabela", and this allegation was impliedly admitted in paragraph 2 of defendant's answer.

Obviously, this admission and the foregoing facts and circumstances far outweigh defendant's self-serving tax declaration. In *Urmaneta v. Manzano*,^[2] this Court held:

"There was really no genuine issue of fact. If there is, the same was easily determinable from the pleadings and documents attached thereto; hence, the trial court correctly rendered the summary judgment on said pleadings and documents."

Let us now consider defendant's allegation to the effect that "there are issues of fact which should be threshed out in a trial on the merits." In this connection, plaintiff alleged in his complaint herein that, "by virtue of" the "decision of the Court of Appeals in CA-G.R. No. 13737-R (Civil Case No. 275, Isabela) copy of which is hereto attached" and the "resolution of the Supreme Court in Case No. G.R. No. L-13673, dismissing the petition for review by certiorari of said decision," he had been "declared as owner" of the lot in question; that, "pending final decision in said case," he had caused the aforementioned "notice of lis pendens" to be "annotated on TCT No. T-1633 issued in the name of Gregorio Cachén"; that, despite said notice of lis pendens and "with full knowledge of the same," defendant acquired said lot and secured a new TCT thereto, which "carried" the annotation of lis pendens appearing on the cancelled TCT No. T-1633; that, "despite x x x repeated demands", defendant failed and refused to reconvey said land to the plaintiff; and that, as a consequence, plaintiff had been constrained to bring this action, thereby incurring in expenses for attorney's fees and costs.

Except as regards the last allegation, as to which defendant claimed to have "no knowledge nor information as to the truth" thereof, the facts alleged in the complaint were admitted by the defendant, although he denied that plaintiff herein had been declared, in the previous case, owner of the lot in dispute, and asserted that the only question posed and decided in said case was the right to the possession of said lot. The issue thus raised by defendant herein - whether or not the title to said lot had been settled in the previous case - is entirely dependent, for its resolution, upon the interpretation of the decisions rendered in said case. Hence, said issue, like that of prescription of action - which is no longer pressed by the defendant - and that of alleged lack of cause of action in plaintiff's favor, is a question purely of law, not of fact. In short, "there is no genuine issue as to any material fact and x x x the moving party" was "entitled to a judgment as a matter of law," so that the lower court did not err in rendering a summary judgment.^[3]

Defendant insists that since the previous litigation was merely an *accion publiciana*, which hinged on the right of possession, the decision dismissing the complaint therein did not settle the title to the property in dispute. Both parties, in that case, however, based their respective right of possession upon their alleged title as owner of said property, resulting from the two (2) sales made by Gaffud, the first to plaintiff herein, and the second, several years later, to herein defendant's predecessor in interest, Gregorio Cachén. In order to decide the case, the Court was constrained, therefore, to pass upon the question of ownership. In doing so, the lower court rejected the claim of Cachén, stating that the sale in his favor was "null and void for want of consideration." Similarly, in its decision, the Court of Appeals explicitly declared:

"In view of the mounting evidence on record showing that Gregorio Cachén has not paid the consideration of the sale; that he (h)as not taken possession of the land; that he has not declared the property in his name for taxation purposes; that prior to the execution of the deed of sale in his favor, to wit, on July 7, 1949, Andres

Castillo, a brother in law of Gaffud, told Cachén in the presence of the latter's brother-in-law and Gaffud that the latter could not sell a portion of about 16 hectares of the land, because that much had already been sold by Gaffud to Antonio Clemente, the defendant herein; and that notwithstanding his knowledge of the flaw and defect of the title of his vendor, he entered into the transaction, it is evident that Cachén was not an innocent purchaser of title No. T-1633 in his name, did not give him any right to the property superior and paramount to those of defendant who, indisputably, and in all respects, has acted in good faith and has paid valuable consideration, and has been in possession of the land long before the plaintiff acquired a claim over the same. Whatever right the plaintiff may have acquired over the land by virtue of the deed of sale executed in his favor is subordinated to the rights of the defendant. And if the plaintiff is declared to have a right over that portion of about 16 hectares paramount to the rights of the defendant, the prejudice to the latter is obviously manifest. In the clash of rights between an innocent purchaser for value and one whose claim is tainted with bad faith and with knowledge of the defect of the title of his grantor, the answer is not difficult to find.

"We, therefore, declare that Antonio Clemente is the absolute owner of the land described as Lot 5463-A of the subdivision plan Psd-21575 with an area of 15.9987 hectares which is a part of the land described in transfer certificate of title No. T-1633 of the province of Isabela, and he is entitled to the possession thereof. The decision of the trial court dismissing the complaint is hereby affirmed. Costs is taxed against the plaintiff-appellant."

In other words, the complaint in the previous case was dismissed upon the ground that, as the first buyer who took possession of the lot in question, in good faith, plaintiff herein had become the absolute owner of said lot, and that, as such, he had a better right to its possession than Cachén, who had bought it in bad faith, apart from the fact that the sale in his (Cachén's) favor is null and void.

Upon the other hand, since defendant herein was, in view of the notice of lis pendens, aware of the proceedings in the previous case, when he purchased the lot in question from Cachén, it follows that he (defendant) cannot invoke the rights of a purchaser in good faith of a registered land and has acquired no more rights than those of Cachén, who had none.

WHEREFORE, the decision appealed from should be, as it is hereby affirmed, with costs.

IT IS SO ORDERED.

Reyes, J.B.L., Makalintal, Sanchez, Castro, Angeles, Fernando, and Capistrano, JJ., concur.
Dizon and Zaldivar, JJ., did not take part.

[1] On July 16, 1963.

[2] L-17478, February 28, 1962.

[3] Section 3 of Rule 34, Rules of Court; *Ibañez v. North Negros Sugar Co.*, L-6790, March 28, 1955; *Phil. Nat. Bank v. Phil. Leather Co.*, 105 Phil. 400; *Go Leting & Sons v. Leyte Land Transportation*, L-8887, May 28, 1958.

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