

CARLOS S. GABILA, PLAINTIFF-APPELLANT, VS. FLORENCIO BARRIGA, DEFENDANT-APPELLEE.

G.R. No. L-28917. September 30, 1971

Ponente: VILLAMOR, J.

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VILLAMOR, J.:

From the order of the Court of First Instance of Davao in its Civil Case No. 4911 dismissing his complaint, the plaintiff has appealed directly to this Court.

On December 18, 1965, Carlos S. Gabila filed a complaint against Florencio Barriga, which he amended on July 26, 1967, primarily to include the Director of Lands as co-plaintiff. In the amended complaint it is alleged:

(a) that from 1935 to 1953, Daniel Perez and Anacleto N. Perez, plaintiff Gabila's predecessors-in-interest, were in lawful, continuous, open, adverse, public and uninterrupted possession and occupation of two parcels of land situated in Bunawan, Davao City, known as Lots 1 and 2, Fis-10887-D of District Land Office No. 20, Davao City, introducing on Lot 2 improvements consisting, among others, of a fishpond, banana plants and coconut trees most of which were already fruit-bearing;

(b) that since April 21, 1953, when Anacleto N. Perez died, plaintiff's wife, Leonarda P. Gabila, has continued the occupation of the two aforementioned lots which, being a foreshore area bordering on river banks, are not disposable;

(c) that a portion of Lot 2 occupied and cultivated by plaintiff Gabila, containing an area of approximately five hectares, was surreptitiously and fraudulently surveyed and included in a sales application filed by the defendant with the Bureau of Lands;

(d) that through fraud and misrepresentation the defendant succeeded in securing in his name Criminal Certificate of Title No. P-1747 which included that portion of Lot 2;

(e) that to conceal the fraudulent manner in which he secured his title, the defendant destroyed plaintiff's fishpond improvements, thereby erasing old land marks;

(f) that the defendant misled the Bureau of Lands into believing that the area applied for by him and subsequently titled in his name could be legally alienated and disposed of by the said bureau, when in truth the same, being foreshore land, could only be the subject of lease;

(g) that in the event of cancellation of the defendant's title, the parcel of land covered thereby would revert to the Bureau of Lands;

(h) that the defendant has never attempted to eject plaintiff Gabila from the portion of Lot 2 occupied by the latter;

(i) that plaintiff Gabila did not have the opportunity to be heard in the proceedings leading to the issuance of the defendant's title;

(j) that due to the defendant's fraudulent acts and misrepresentation, plaintiff was unlawfully deprived of that Portion of Lot 2 occupied and cultivated by him, as well as of the improvements thereon; and

(k) that since the date of entry of the decree of registration awarding a certificate of title in defendant's favor on December 18, 1964, no rights of an innocent purchaser for value have supervened.

The complaint prayed that the decree of registration and the title issued in the defendant's name be cancelled and/or amended with respect to the portion actually and continuously occupied and cultivated by plaintiff Gabila, and that the said plaintiff be granted such other relief as the court might deem just and equitable in the premises.

On December 8, 1967, the defendant filed a motion to dismiss the amended complaint on the grounds that the action being one for cancellation of a free patent and of the certificate of title issued on the basis thereof, the Government, through the Solicitor General - not a private individual like plaintiff Gabila - was the real party in interest; and that although the Director of Lands was included as party plaintiff, the complaint was signed by a lawyer representing only plaintiff Gabila, without any showing as to who was appearing for and in behalf of the Director of Lands, who - by the way - was not shown to have been authorized by the Solicitor General to enter the case as plaintiff; thus, the said Director of Lands was without legal capacity to sue. Plaintiff Gabila opposed the motion.

The parties were heard on the motion to dismiss. On February 9, 1968, the court below granted the motion for lack of jurisdiction over the subject matter. The court was of the opinion that while the Director of Lands was included as a party plaintiff, there was no showing in the complaint that he was being represented by an authorized agent or representative; hence, actually, the only plaintiff in the case was Carlos S. Gabila who, however, had neither legal competence nor interest to sue the defendant for cancellation of the latter's title. According to the trial court, the real party in interest was the Republic of the Philippines, which is the only entity that can legally maintain - thru the Solicitor General - an action to cancel a title issued by virtue of a land patent, considering especially, as the court said, that the defendant's title has already become indefeasible.

The present motion to dismiss is actually predicated on Section 1(g), Rule 16 of the Revised Rules of Court, i.e., failure of the complaint to state a cause of action, for it alleges in paragraph 12 thereof that the plaintiff admits that he has no right to demand the cancellation or amendment of the defendant's title, because, even if the said title were cancelled or amended, the ownership of the land embraced therein, or of the portion thereof affected by the amendment, would revert to the public domain. In his amended complaint the plaintiff makes no pretense at all that any part of the land covered by the defendant's title was privately owned by him or by his predecessors-in-interest. Indeed, it is admitted therein that the said land was at all times a part of the public domain until December 18, 1964, when the government issued a title thereon in favor of the defendant. Thus, if there is any person or entity entitled to relief, it can only be the government.

In the case at bar, the plaintiff's own averments negate the existence of such a right, for it would appear therefrom that whatever right might have been violated by the defendant belonged to the government, not to the plaintiff. Plaintiff-appellant argues that although his complaint is captioned as one for cancellation of title, he has nevertheless stated therein several causes of action based on his alleged rights of possession and ownership over the improvements, on defendant-appellee's alleged fraudulent acquisition of the land, and on the damages allegedly incurred by him (plaintiff-appellant) in relation to the improvements. These matters are merely ancillary to the central issue of whether or not defendant-appellee's title should be cancelled or amended, and they may not be leaned upon in an effort to make out a cause of action in relation to the said focal issue. Indeed, the principal relief prayed for in the amended complaint is the cancellation or amendment of defendant-appellee's title.

While it is true that the amended complaint has included the Director of Lands as a party plaintiff, the said

government official is a plaintiff only in name. The amended complaint is signed by a lawyer admittedly representing only plaintiff Carlos S. Gabila. The Solicitor General or his representative, or anyone else for that matter, has not represented the Director of Lands at any stage of the case. Consequently, it would appear that the inclusion of the Director of Lands in the amended complaint without his knowledge or consent was but an afterthought of plaintiff Gabila engendered by his correct belief that the nature of the suit he wanted to file called for the inclusion of the government as a party to the case.

WHEREFORE, the order appealed from is hereby set aside. The records of this case are ordered returned to the court of origin where the party interested should formally implead the Director of Lands, with notice to the Solicitor General, subject to terms and conditions which the trial court may impose, with the understanding that if the aforementioned official is not impleaded, this case shall be dismissed. No special pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, Fernando, Teehankee, Barredo, and Makasiar, JJ., concur.

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