

JOSE ALCANTARA, PETITIONER, VS. DIONISIA YAP, PACIFICO YAP AND HON. NICASIO YATCO, JUDGE OF THE COURT OF FIRST INSTANCE OF QUEZON CITY, RESPONDENTS.*G. R. No. L-18530. May 30, 1962*

Ponente: BARRERA, J.

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On June 25, 1960, respondents Dionisia Yap and Pacifico Yap filed with the Court of First Instance of Rizal a complaint (Civil Case No. Q-5241) against petitioner Jose Alcantara alleging, inter alia, that in 1951, respondents bought on installment plan from J. M. Tuason & Co., Lots Nos. 2 and 3, Block 359 of the Sta. Mesa Heights Subdivision, located at A. Bonifacio St., San Jose, Quezon City, under contracts to sell Nos. 7052 and 7065; that upon the signing of said contracts, the possession of said lots was delivered to respondents by said company; that at the time respondents bought said lots, petitioner "has been occupying a portion of 100 square meters" thereof which are adjacent, and built his house and other constructions thereon, without respondents' consent nor of said company; that as a consequence of the acts of usurpation committed by petitioner, respondents have suffered and will continue to suffer damages at the rate of P40.00 a month, representing the fair rental value of the premises. Respondents prayed that judgment be rendered ordering petitioner and all other persons claiming under him to vacate the premises in question and to remove the house and other constructions therefrom; to pay respondents the sum of P40.00 a month from January 1, 1952 until they are restored to the possession thereof; and to pay the costs of the suit.

To this complaint, petitioner filed his answer on August 20, 1960, alleging as special defenses that petitioner's complaint states no cause of action because according to paragraph 4 thereof, respondents have never been in possession of the property subject matter of the case; that respondents have no personality to sue, because the alleged owner of said lots is J. M. Tuason & Co. and respondents are mere purchasers on installment plan, who have not yet been issued a final deed of sale; that petitioner is the owner of the parcel of land subject matter of the case, by virtue of a right of inheritance, having inherited the same from his deceased father; that petitioner has always been in continuous, open, and uninterrupted possession of the same from time immemorial to the present time; that said property is included in the subject matter of Civil Case No. 3623 (Alcantara vs. J. M. Tuason & Co.) pending before Branch II of the same court (Court of First Instance of Rizal); that the parcel of land subject matter, of the case is not included in the title of J. M. Tuason & Co. (TCT No. 31977), because it is located west of the road to Novaliches and is, therefore, beyond the western boundaries of the Hacienda de Sta. Mesa; that Gregorio Araneta, Inc., agent of J. M. Tuason & Co. had no authority to dispose of said property which is situated beyond the limits of TCT No. 31977; and that respondents are purchasers in bad faith, having purchased the property in question with full knowledge that at the time of the execution of said contracts of sale, J. M. Tuason & Co. was not in possession thereof because petitioner was in possession of the same. Petitioner prayed that the complaint be dismissed; that the hearing of the case be held in abeyance pending the decision of Civil Case No. 3623; that J. M. Tuason & Co. be summoned to appear as a necessary party defendant; and that petitioner be

declared owner of said property.

Issues having been joined, the case was tried and, after trial, the court, on January 27, 1961, rendered a decision which in its pertinent parts, reads:

' DECISION

"This is a case for the recovery of possession and damages filed by plaintiffs Dionisia G. Yap and Pacifico Yap against the defendant Jose Alcantara, over lots Nos. 2 and 3, Block No. 359 of the Sta. Mesa Heights Subdivision located at A. Bonifacio St., San Jose, Quezon; City; under 'Contracts to Sell' Nos. 7052 and 7065, under Transfer Certificates of Title Nos. 53198 and 53199, respectively, of the Register of Deeds of Quezon City in the name of the plaintiffs.

"It was the contention of the defendant that, the referred. lots were outside the property of the Tuasons, for defendant claims to have inherited the same from his deceased father.

"The Court takes judicial notice that the above lots were registered in the name of plaintiffs' predecessor-in-interest since 1914 as decided in the case of Tiburcio vs. Peoples Homesite and Housing Corporation (G.R. No. L-13429, prom, on October 31, 1959). And, inasmuch as plaintiffs have derived their title from J. M. Tuason & Co., Inc., from whom they bought the lots in question, then plaintiffs are innocent purchasers for value and their title cannot now be questioned by the defendant or anybody else for that matter.

"On the other hand, defendant did not present any title, whether perfect or imperfect that we call under Act No. 496 (Land Registration Act).¹ is, indeed, a misfortune that no surveyor (expert) and no relocation was ever made to show semblance of defendant's contention that the property is not within the title of the Tuasons. The testimony of laymen, Jose Alcantara and Elias Benin could not be taken seriously to overcome an indubitable title of plaintiffs supported by Torrens Title in their name. If the contention of the defendant is correct, no register of deeds will issue titles to plaintiffs, as they are bonded officers and, therefore, answerable for damages.

* * * * *

"Evidently, plaintiffs proved by indubitable documents that, they were not only possessors of the property in question, but also they are the exclusive owners of the same. The only thing left to be determined is the reasonable damages to which they are entitled for the occupancy of the lots. In this respect, they are entitled to the amount of P40.00 a month from January 1, 1952 until the date the premises are vacated.

"In view of the foregoing, the Court renders judgment one in favor of the plaintiffs and against the defendant to vacate the premises and remove the house and other constructions therefrom; to pay plaintiffs the sum of P40.00 a month from January 1, 1952 until the plaintiffs are restored to the possession thereof, and costs. So ordered."

From this decision of which he received notice on February 10, 1961, petitioner filed a "motion for reconsideration and new trial" on February 22, 1961, on the grounds that (1) the evidence was insufficient to justify the decision, and (2) the decision is contrary to law. To this motion, respondents filed an opposition on February 24. On March 4, 1961, the court issued an order denying said motion for reconsideration and new trial, of this tenor:

"ORDER

"Upon due consideration of the motion for reconsideration and new trial of counsel for the defendant and the opposition thereto of counsel for the plaintiffs and, it appearing that after an examination of the records of this case, the said motion for reconsideration and new trial is not supported by the evidence counsel for the defendant has presented during the hearings in this case;

"The said motion for reconsideration and new trial is hereby denied.

"So Ordered."

Notified of this order on March 16, 1961, petitioner filed a notice of appeal, record on appeal, and appeal bond, on the following day- But on March 28, 1961, respondent Judge disapproved the record on appeal, in an order stating:

"It appearing that the record on appeal filed by the defendant was filed beyond the reglementary period, as the motion for reconsideration and new trial did not stop the running of the period to appeal because, upon a perusal of the same, the Court believes that the said motion for reconsideration is merely a pro forma motion;

"The record on appeal of the defendant is hereby disapproved and the appeal of the said defendant is not given due course. "So ordered."

Petitioner duly filed a motion for reconsideration of said order on May 4, 1961, but the same was denied by respondent Judge in an order dated May 13, 1961, which reads:

"ORDER

"Upon due consideration of the motion for reconsideration of the defendant and the opposition thereto of the plaintiff, and finding the motion for reconsideration to be without sufficient merits, as the court still believes that the motion for reconsideration and new trial dated February 22, 1961, which was previously denied by the Court, is a pro forma motion;

"The instant motion for reconsideration is hereby denied. So ordered."

On June 23, 1961, petitioner filed with this Court the present petition for certiorari, to which we gave due course.

Petitioner claims that respondent Judge exceeded his jurisdiction and acted with grave abuse of discretion in considering his motion for reconsideration and new trial of February 22, 1961 as a pro forma motion, and in his approving the record on appeal filed by him on March 17, 1961.

The only question to be determined in this case is whether petitioner's motion for reconsideration and new trial in question is pro forma.

Section 2, Rule 37, of the Rules of Court provides that when a motion for new trial is made on the ground that "the evidence was insufficient to justify the decision, or it is against the law", it must "point out specifically the findings or conclusions of the judgment which are not supported by the evidence or which are contrary to law, making express reference to the testimonial or documentary evidence or to the provisions of law alleged to be contrary to such findings or conclusions." Perusal of petitioner's motion for reconsideration and new trial in question, shows that said provision of the Rules of Court had been complied with by him, if not strictly, at least, substantially. In his said motion, petitioner pointed out the findings and conclusions of respondent Judge not supported by the evidence or against the law, and made express reference to the testimonial or documentary evidence contrary to such findings or conclusions, to wit:

"During the course of the trial, defendant has shown that the carretera provincial de Rizal para Novaliches' adjoining the Cementerio del Norte which forms the Northwestern boundary of the land covered by TCT No. 31997, is no other than the A. Bonifacio Road. The attention of this Honorable Court was invited to the fact that this Honorable Court, now sitting in Quezon City within and the province of Rizal, should take judicial notice of the fact that the A. Bonifacio Road is the same as the 'Carretera provincial de Rizal para Novaliches.' The land whose possession is sought to be recovered is located west of the A. Bonifacio Road and is not covered, therefore, by the title of J. M. Tuason & Co. Inc., from which plaintiffs derived their title. The land in

litigation, not being covered by TCT No. 31997, remains as unregistered land. * * * Defendant's evidence showed that the land possessed and owned by him is bounded on the East by Novaliches Road. This Honorable Court admits in its decision the contention of the defendant that the land sought to be recovered by the herein plaintiffs is outside the boundaries of the land owned by J. M. Tuason & Co. Inc. from which the plaintiffs' TCT No. 53198 and TCT No. 53199 were derived. The defendant contends that TCT No. 31997 of J. M. Tuason & Co. Inc. clearly states that the land covered by said title is bounded on the Northwest by the 'carretera provincial de Rizal para Novaliches' adjoining the Cementerio del Norte is no other than the A. Bonifacio Road. * * * The defendant, on the other hand, has shown that the land of the defendant is bounded on the East by the Novaliches Road (t.s.n. p. 6 and 46, Dec. 21, 1960). The documentary evidence presented by the defendant (Exh. 3, Exh. 3-A, and Exh. 4) clearly shows that the land of the defendant is bounded on the East by the A. Bonifacio Road which is the Provincial Road of Rizal to Novaliches. The land covered by TCT No. 31997 (Exh. 5, Exh. 6-A, Exh. 6-B) converted into the Sta. Mesa Heights Subdivision, is bounded on the Northwest by the same Novaliches Road (A. Bonifacio Road) which is the boundary of the defendant's land on the East. It is, therefore, very clear that the common boundary line between the land covered by TCT No. 31997 and the land of the defendant Jose Alcantara is the Novaliches Road (A. Bonifacio Road). It is, indeed, surprising why, in the Decision of this Honorable Court, no finding of fact was made as to the nature of the A. Bonifacio Road or the Novaliches Road which is the bone of contention between the herein plaintiffs and the herein defendant. * * * We, therefore, respectfully ask this Honorable Court to make a clear finding of fact and a clarification of its Decision as to the nature of the A. Bonifacio Road. * * * If the A. Bonifacio Road is the same as the 'carretera provincial de Rizal para Novaliches', as in fact it is, it is therefore, incontrovertible and clear as crystal that the Title of J. M. Tuason & Co. Inc. cannot cover the land of the defendant located west of the 'carretera provincial de Rizal para Novaliches' (A. Bonifacio Road). * * * We respectfully submit that the Decision rendered by this Honorable Court on January 27, 1961 is likewise against the law. We have shown in the preceding argument that the lot sought to be recovered in the present case is not covered by TCT No. 31997. Not being covered by TCT No. 31997, the provisions of the Land Registration Law, or the decisions of the Supreme Court with respect to registered lands is not applicable in this case. The land⁴ located west of the 'carretera provincial de Rizal para Novaliches' (A. Bonifacio Road) owned by the defendant and other property owners are still unregistered property up to the present time. * * * The lands west of the A. Bonifacio Road are, up to the present, unregistered lands. Being unregistered lands, we have shown by both oral and documentary evidence (t^h. pp. 9, 24, 25, 44, 45, 47, 48, 49, Dec. 21 1960; Exhs. 1, 2, 3, 3-A, 4, 7 and 8), that the defendant has been in continuous, adverse, public, and open possession of the property since time immemorial, has been paying taxes on said property and has been in possession of the same up to the present time. This fact shows clearly his Title to the land. * * *."

Having shown that petitioner's motion in question complied with the aforementioned provision of the Rules of Court, it follows that said motion is not pro forma. Respondent Judge should have, therefore, approved petitioner's appeal otherwise admittedly filed within the reglementary period for appeal.

Respondents contend that to allow petitioner's appeal would only give him false hopes, as it is legally impossible for him to seek a reversal of the decision of respondent Judge because this Court has already sustained the validity of the title of J. M. Tuason & Co. (respondent's predecessor-in-interest) over the Sta. Mesa Heights Subdivision in the cases of J.M. Tuason & Co. vs. Santiago, 99 Phil., 615; 52 Off. Gaz., 5217 and Santiago vs. J. M. Tuason & Co. 110 Phil., 16. The contention is untenable because petitioner's claim is, not that J. M. Tuason & Co.'s title is invalid, but that the property subject matter of the present case is outside the boundaries or limits of the title of J. M. Tuason & Co.

For all the foregoing, the writ of certiorari prayed for by petitioner is hereby granted; the order disallowing the appeal (dated March 28, 1961) is set aside; and the lower court is hereby directed to approve and give due course to the record on appeal, if found correct, to the Court of Appeals. No costs. So ordered.

Padilla, Concepcion, Reyes, J. B. L., Paredes, and Dizon, JJ., concur.

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