

**LEONARDO N. AZARCON AND ROSA CAJUCOM AZARCON,
PLAINTIFFS-APPELLANTS, VS. LEOPOLDO VALLARTA, LUIS T.
VALLARTA, JULIAN T. VALLARTA, CORAZON VALLARTA AND
EMILIO LORENZO (HUSBAND), ...**

G.R. No. L-43679. October 28, 1980

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

Appeal certified to this Tribunal in 1976 by the Court of Appeals on a question of law in that the issue is the construction or interpretation placed upon pleadings and documentary evidence or the correctness of the conclusions drawn therefrom.

The plaintiffs are the spouses ROSA Cajucom-Azarcon and Leonardo N. Azarcon, hereinafter referred to as the appellants Azarcons. The defendants are Leopoldo Vallarta, Luis T. Vallarta, Julian T. Vallarta, Corazon Vallarta and her husband Emilio Lorenzo, who shall collectively be called the appellees Vallartas.

The controversy centers around a parcel of irrigated riceland situated at Sitio Bagnoy, San Juan de Dios, Aliaga, Nueva Ecija, of approximately ten hectares, previously owned by Dr. Jose V. Cajucom, father of appellant ROSA Cajucom-Azarcon. It used to be covered by two titles, namely, Original Certificate of Title No. P-2815[1] in the name of appellants Azarcons, and Original Certificate of Title No. 0-3093[2] previously in the names of the appellees Vallartas, but now covered by several Transfer Certificates of Title in their individual names.[3]

Evidence for the appellees Vallartas shows that on March 14, 1932, Dr. Jose V. Cajucom sold to Julian Vallarta Sr., and his first wife Francisca Trinidad, parents of the Vallartas, a parcel of agricultural land of nine hectares situated in Sitio Bagnoy, San Juan de Dios, Aliaga, Nueva Ecija. The Vallartas claim that in a resurvey made on September 6, 1959, their parents discovered that the land sold, believed to be only nine hectares, was actually nineteen hectares. Consequently, on October 7, 1960, Dr. Cajucom executed, in favor of Julian Vallarta, Sr., a "Waiver and Quitclaim" over the excess ten hectares, now in dispute, in consideration of the amount of P5,000.00.[4] The land referred to in said document was that described in Psu-171661, a survey plan prepared for Dr. Cajucom on November 7, 1958, with an area of 106,632 square meters. A subsequent survey on September 6, 1959 (psu 177178) disclosed an actual area of 102,704 sq. ms. after deducting the areas covered by irrigation canals.

On the other hand, evidence for the appellants Azarcons also show that on October 20, 1959, a year before the aforementioned waiver, Dr. Cajucom executed a "Deed of Absolute Sale" of the same land in favor of the Azarcons, in the amount of P20,000.00. The document also referred to the same plan Psu-171661 and recited that the property was unregistered land and that it was the "paraphernal" property of Dr. Cajucom having been inherited by him from his father Nicolas Sarenas Cajucom.[5]

In 1961, appellant ROSA filed a Free Patent Application over the disputed property.[6] In support of her

application, ROSA presented the affidavits of Antonio Puno, Antonio de la Cruz, Bruno Santos and Emilio Sanguesa attesting to the actual occupation and cultivation of the land in dispute since 1934 by herself and/or her predecessors in-interest.[7] The Free Patent Application was approved on February 26, 1961 and Free Patent Entry No. 18504 was thereafter issued by the Director of Lands.[8]

On May 8, 1961, the Register of Deeds of Nueva Ecija issued Original Certificate of Title No. P-2815 in the name of the Azarcons.

Going back to the Vallartas, their evidence further discloses that on May 12, 1964, Julian Vallarta, Sr. sold his one half portion of the disputed property to his children by his first wife who died in 1959, namely, Jaime, Julian, Jr., Francisca, Luis, Corazon, Librada, Cesar, Roberto, Mariano and Leopoldo, all surnamed Vallarta, in the amount of P10,000.00.[9]

Sometime in 1965, the Vallarta heirs, including appellees, filed with the Court of First Instance, Branch III, Nueva Ecija, an application for registration of the disputed property (LRC Rec. No. N-26618). The opposition of the Director of Lands and the Director of Forestry having been withdrawn, decision was rendered on April 18, 1966 affirming the title of the Vallarta heirs and ordering registration in their names.[10] Conformably thereto, on July 18, 1966, the Register of Deeds of Nueva Ecija issued Original Certificate of Title No. 0-3093 in the name of the aforementioned Vallarta heirs.

Later, the disputed property was subdivided and the appellees herein secured for themselves Transfer Certificates of Title in their names as previously mentioned. Appellees also secured the corresponding Tax Declarations in their names[11] and paid real estate taxes on the property[12] from 1966-1969, as well as irrigation fees from 1956-1963 fully and partially for the years 1964-1968.[13]

The resultant situation then is a 10-hectare irrigated riceland sold successively by its previous owner to the two sets of opposing parties herein, and covered by two distinct original certificates of title in their respective favor.

The Azarcon letters of demand to vacate, dated March 5 and 22, 1968, having been ignored by the Vallartas, on March 18, 1969, appellants Azarcons filed a petition with the Court of First Instance, Branch III, of Nueva Ecija in LRC No. 26618 for the cancellation of the Vallarta titles. On a motion to dismiss filed by the Vallartas and without going into the merits of the case, the Court dismissed the same on the ground that it could not entertain in the same registration proceedings a petition where its decision had long become final and executory. The dismissal, however, was without prejudice to the filing of the proper action before the competent Court.[14]

Thus, on May 6, 1968, the Azarcons filed the instant Complaint for Cancellation and Annulment of Titles with the Court a quo, which the Vallartas traversed and controverted, and with each set of litigants asserting the validity, superiority, and indefeasibility of their respective titles.

Without trial and only on the basis of memoranda and documentary evidence submitted, the lower Court rendered a Decision in favor of the Vallartas on December 27, 1969, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered in favor of the defendants and against the plaintiffs, and declaring plaintiff's Free Patent No. 167650 and/or OCT No. P-2815 of the Land Records of Nueva Ecija null and void, and ordering the Register of Deeds of this Province to cancel the same, at plaintiff's expense."

Dissatisfied with the judgment and with the denial of their Motion for Reconsideration, the Azarcons elevated the case to the Court of Appeals, which certified the same to this Court.

The Azarcons ascribe the following errors to the lower Court:

"I.

x x x in holding that the land covered by the Free Patent Title of the plaintiffs-appellants is the private property of Jose V. Cajucom Sr. and not a part of the public domain;

"II.

x x x in holding that Free Patent No. 16750 issued on May 8, 1961 and registered in the Registry of Deeds of Nueva Ecija on July 18, 1961 under Original Certificate of Title No. P-2815 is under section 91 of CA 141, ipso facto cancelled is null and void;

"III.

x x x in holding that the defendants are the owners and in actual possession of the land in question since March 14, 1932, the same having been sold by Jose V. Cajucom in favor of Julian Vallarta;

"IV.

x x x in considering that the land title no. 3093 of the defendants is superior to the Free Patent Title of the plaintiffs-appellants;

"V.

x x x in not considering the counterclaim filed by defendants for which they paid no docket fee to the clerk of court a collateral attack to the title of the plaintiffs-appellants.

The foregoing take issue with the following findings of the trial Court:

"In view of the existence of two distinct titles over the same property, it is thus clear that the only issue to be resolved by this Court is: which of the two titles must prevail, is it free patent No. 167690 of the plaintiffs or Original Certificate of Title No. 0-3093 (now Transfer Certificate of Titles Nos. 67396, 67397, 80934 and 80936) of the defendants?

"Upon consideration of the applicable laws and jurisprudence, the Court decides the foregoing issues in favor of the defendants.

"A free patent which purports to convey land to which the government did not have any title at the time of its issuance does not vest any title in the patentee as against the true owner (*Suva vs. Ventura*, 40 Off. Gaz., pp. 47-48, 4th Supp., Aug. 2341, Ct. App; *Ramoso v. Obligado*, 70 Phil. 86; *Director of Lands v. Reyes*, 69 Phil. 497; *Vital vs. Anora*, G.R. No. L-4176, February 29, 1952). Plaintiffs were fully aware that on February 26, 1961 when their application was approved, the land in question was not a part of the public domain as to be disposable by the Director of Lands, because as early as October 20, 1959, by virtue of their Exh. 'A' they knew too well that the land was of the private ownership of the patentees' father Jose V. Cajucom from whom they allegedly bought the same for P20,000.00. That said land was no longer a part of the public domain but of the private ownership of Jose V. Cajucom even before the second world war is further attested by the fact that as early as March 14, 1932 the same owner had disposed of his private property to defendant's predecessors and re-affirmed by him on October 7, 1960 (Exh. '3'). Pursuant to the above-cited cases, where a person, who obtained free patent, knowingly made a false statement of material and essential facts in his application, by stating that the land applied for was part of the public domain not occupied or claimed by any other person, when in fact, the same had formally belonged to another as his private property from whom he alleged to have acquired it, it was held that in accordance with Section 91 of Com. Act No. 141 his title is ipso facto cancelled, and consequently, rendered null and void.

"Another fatal misrepresentation in plaintiffs' application which legally results in the nullity of their free patent are their statements that they and their predecessors were in actual possession of the land since 1926 and that they have paid continuously since July 4, 1926 the real estate tax thereof, both of which are contrary to the evidence adduced in this case. As to possession, the defendants or their predecessors were in continuous

possession of the disputed land since March 14, 1932. In fact, it was only on March 5, 1968 when plaintiffs attempted, to take over said possession. The same is true on the matter of payments of the realty tax (Exhs. B-C, plaintiffs; Exhs. 5 to 18, inclusive, defendant).

"On the other hand, the Court finds no defect, fatal or otherwise, in defendants' titles, much less any legal ground to nullify them. On the contrary, Original Certificate of Title No. 0-3093 was obtained by them in a decision of this Court (Branch III) in L.R.C. Rec. No. N-26618 on April 18, 1966, without the plaintiffs opposing the registration thereof and with no opposition on the part of the Director of Lands (Exh. '2'). At any rate, said title is now indefeasible and incontestable." [15]

We find the foregoing conclusions drawn by the trial Court from the documentary evidence submitted by the parties to be in order. The document of sale in favor of the Azarcons executed on October 20, 1959 explicitly recites that the land sold was the exclusive property of the vendor, Dr. Jose Cajucom, who had inherited it from his father. Indeed, if it were not private property but still public land, he could not have disposed of it in favor of Julian Vallarta, Sr. as early as 1932. That was obviously the reason why both the Director of Lands and the Director of Forestry withdrew their respective oppositions to the application for registration filed by the Vallartas. Not having been part of the public domain, the Government was bereft of title to convey to any applicant. Again, ROSA's allegation in support of her application for Free Patent regarding her possession was, in fact, a misrepresentation, because the Vallartas had been in possession since the sale in 1932 and had continued in such occupancy, as shown by the demand by the Azarcons in 1968, reiterated in their Complaint, that the Vallartas vacate the disputed property.

We are fully cognizant of the well-settled rule that where two certificates of title are issued to different persons covering the same land in whole or in part, the earlier date must prevail as between the original parties, and in case of successive registration where more than one certificate is issued over the land the person holding under the prior certificate is entitled to the land as against the person who relies on the second certificate.[16] This presupposes, however, that the prior title is a valid one. Where, as in the case at bar, it is evident that the prior title of the Azarcons suffers from an inherent infirmity, such a rule cannot be invoked in their favor.

Finally, the Azarcons contention that appellees' counterclaim assailing the Azarcon title should have been considered by the trial Court as merely a permissive counterclaim for which they should have been made to pay docketing fees, is untenable. It is a compulsory counterclaim, which could have been barred if not set up. Accordingly, no fees therefor need have been paid. Nor can it be successfully argued that said counterclaim was a collateral attack on the Azarcon title. On the contrary, the validity of both titles of the opposing parties was directly and squarely put in issue and formed the crux of the controversy.

We cannot but decry the carelessness of the Bureau of Lands in having issued the Free Patent in ROSA's favor. Surely, a more diligent search into their records would have revealed the true character of the disputed property as private land. It should also be noted that in the voluntary registration proceedings filed by the Vallartas (LRC Rec. No. N-26618), the Director of Lands, through the Provincial Fiscal who represented him, should have known of the Free Patent previously issued and should have informed the Court accordingly. Had more vigilance been exercised by a government agency entrusted specifically with the task of administering and disposing of public lands, the present litigation could have been averted.

WHEREFORE, the judgment appealed from, being in conformity with law, is hereby affirmed.

Costs against plaintiffs-appellants.

SO ORDERED.

Teehankee, Acting C.J., Makasiar, Fernandez, and Guerrero, JJ., concur.

- [1] Free Patent No. 167650, Exh. D.
- [2] Exhibit 1.
- [3] Exhibits 24-28.
- [4] Exhibit 3.
- [5] Exhibit A.
- [6] Exhibit F.
- [7] Exhibits G and H.
- [8] Exhibit E.
- [9] Exhibit 4.
- [10] Exhibit 20.
- [11] Exhibits 7-12.
- [12] Exhibits 13-18.
- [13] Exhibit 19.
- [14] p. 60, Record on Appeal.
- [15] pp. 77-80, Record on Appeal.
- [16] Pajomayo, et al. vs. Manipon, 39 SCRA 677 (1971).

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