

DOLORES BUENAVENTURA, ADMINISTRATRIX OF THE INTESTATE ESTATE OF THE DECEASED ESCOLASTICO BUENAVENTURA, PLAINTIFF AND APPELLANT, VS. CELESTINO BUENAVENTURA AND ANGELES BUENAVENTU...

G.R. No. L-6208. December 29, 1953

Ponente: REYES, J.

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REYES, J.:

This is an action brought by the administratrix of the deceased Escolastico Buenaventura to recover a piece of land allegedly belonging to the latter, the complaint alleging that the said piece of land was among those entrusted by the deceased to his brother Celestino for his administration; that after the death of Escolastico in 1948, Celestino, together with his daughter Angeles, claim ownership of the land and refused to give the estate of the deceased its share of the products thereof.

Defendants admit that the land in question was among those entrusted to Celestino for administration but that on November 7, 1946, it was sold by Escolastico to defendant Angeles Buenaventura and by virtue of the deed covering the sale, an original certificate of title was issued in favor of the vendee in Cadastral Case No. 7, G. L. R. O. No. 759.

Replying to this allegation, plaintiff specifically denied under oath the genuineness and due execution of the alleged deed of sale.

Upon the case being called for trial, the court ordered the clerk to produce the record of the cadastral case above-mentioned, and having verified from said record that title had really been issued to Angeles, the court *motu proprio* dismissed the complaint in open court for lack of cause of action. The court, however, on the same occasion upon motion of plaintiff revoked its order of dismissal and ordered the parties to file an agreed statement of facts with memoranda within ten days from June 22, 1950. Acting on this order, counsel for plaintiff, then in Manila, sent counsel for defendants, then in Dipolog, Zamboanga, a proposed agreed statement of facts dated June 26, 1950. But counsel for defendants would not sign the proposed agreement, and plaintiff filed an amended, complaint, dated June 28, 1950, alleging that the land in question had already been adjudicated in favor of the deceased Escolastico Buenaventura on June 4, 1940 and an order promulgated on August 20, for the issuance of the corresponding decree and certificate of title, but that defendants, through a fraudulent document of sale purportedly signed by the deceased Escolastico, had illegally secured the issuance of the original certificate of title in favor of the defendant Angeles Buenaventura. This amended complaint was received by the clerk of court on July 6, but it was not accompanied by any motion for leave of court.

This was the state of affairs when on July 14, 1950, the court handed down an order dismissing the case on the ground that the parties were not able to file an agreed statement of facts and memoranda despite the warning that the case would be dismissed upon their failure to do so. The amended complaint was also ordered stricken from the record as having been filed without leave of court and notice to the opposing party.

Reconsideration of this order having been denied, plaintiff appealed to the Court of Appeals, but that court has certified the case here on the ground that the appeal only involves questions of law.

Appellant contends that the trial court erred (1) in dismissing the original complaint for failure of the parties to enter into an agreed statement of facts and submit their memoranda; (2) in disallowing plaintiff's amended complaint; and (3) in holding that the amended complaint constituted a collateral attack on a Torrens certificate of title.

It appearing that the amended complaint was filed after defendants had already filed their answer, the admission thereof had to be with the leave of court under section 2, Rule 17, Rules of Court. As the amended complaint was filed without such leave and even without notice to the adverse party, the court acted within its authority in ordering it stricken from the record. With the amended complaint stricken out, it becomes unnecessary to decide whether the said amended complaint constituted a collateral attack on an original certificate of title.

We believe, however, that the trial court acted rather hastily in ordering the dismissal of the case. There was no motion for that purpose. The reason given by the court was that the parties had failed to file their promised agreed statement of facts and memoranda within a period of ten days. As counsel for appellant rightly observes in his brief, the court's reasoning would put it within the power of one party to have a case dismissed by simply not signing any stipulation of facts which his adversary might propose. We think that the ends of justice would have been better served had the trial court, upon being apprised that the parties could not agree on the facts, set the case for hearing and permitted them to present evidence on those matters where no agreement could be reached.

In view of the foregoing, the order of dismissal is hereby revoked and the case ordered remanded to the court below for further proceedings in which plaintiff should be given an opportunity to ask for leave for the filing of her amended complaint as provided in the Rules. Without costs.

Paras, C. J., Pablo, Bengzon, Padilla, Tuason, Jugo, Bautista Angelo and Labrador, JJ., concur.

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