

BALDOMERO BAUTISTA, ANDRES BAUTISTA, ANGELO BAUTISTA, EUFEMIA BAUTISTA, VALERIANO BAUTISTA, AND JOSE BAUTISTA, PLAINTIFFS AND APPELLANTS, VS. ALEJANDRA CABLAY, JUANA TUASON, FEL...

G. R. No. L-18589. October 31, 1962

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Appeal from an order of the Court of First Instance of Pangasinan dismissing this case with costs against the plaintiffs.

Plaintiffs Baldomero, Andres, Angelo, Eufemia, Valeriano and Jose, all surnamed Bautista, as well as the deceased Paula Bautista—who was survived by her children Margarita and Teofilo, both surnamed De Veyra, who should be joined as parties plaintiffs, but are named as defendants, because plaintiffs do not know their whereabouts, and have been unable, therefore, to contact them—allege, in their amended complaint, that they are the legitimate children of Alberto Bautista, deceased, from whom they inherited two (2) parcels of riceland, with an aggregate area of about 204,954 square meters, situated in the Barrio of Nantangalan, Municipality of Pozorubio, Province of Pangasinan, and more particularly described in said pleading; that the aforementioned riceland was mortgaged by said Alberto Bautista, during his lifetime, to secure the payment of a debt in the sum of P1,500, to Anastacio Tuason, who had held the aforementioned property and received the products thereof, netting about P2,000 a year, with the obligation to apply the same to the payment of said debt, which has thus been more than fully settled; that, upon the death of Anastacio Tuason, his widow, defendant, Alejandra Cablay, their children, defendants, Juana, Felisa, Magdalena, Filomena, Jose and Alberto, all surnamed Tuason, as well as defendants Daniel Frianeza and Graciano Barroso, succeeded the deceased in the aforesaid possession; and that, despite repeated demands, the defendants have refused and still refuse, without just cause, to surrender said possession to plaintiff herein, who, accordingly, prayed that judgment be rendered declaring that the said debt of Alberto Bautista in favor of Anastacio Tuason has been fully paid; that the entry of the aforementioned mortgage in the office of the Register of Deeds of Pangasinan be ordered cancelled; and that the defendants be ordered to render accounts of the fruits of the property above referred to respectively received by them, and to turn over to plaintiffs the value of the said fruits, after deducting the sum of P1,500, representing the original debt of Alberto Bautista, as Well as the possession of said property and to pay damages.

In due course, defendants filed an answer to the amended complaint admitting some of its allegations, denying other allegations thereof and alleging by way of affirmative and special defenses that plaintiffs have no cause of action and that their cause of action, if any, is barred by the statute of limitations. In view of these special defenses, the lower court set the case for preliminary hearing and the reception of evidence in connection with the said special defenses. Plaintiffs objected thereto, but the lower court overruled the objection and, after the reception of the aforementioned evidence, issued the order complained of upon the ground of prescription of action.

Hence, this appeal by the plaintiffs, who maintain that a dismissal upon said ground is proper only when it is borne out by the allegations of the complaint; that such is not the situation obtaining in the case at bar, and the lower court labored under the impression that the contract between Alberto Bautista and Anastacio Tuason was an ordinary mortgage, which is erroneous, because it is alleged in the amended complaint that the land was held by Anastacio Tuason with the obligation to apply its products to the payment of his credit against Alberto Bautista, and, hence, under a contract of antichresis; and that an action to recover a land held under such contract does not prescribe.

There is no merit in this appeal. It is not true that the special defense of prescription of action may be upheld only when borne out by the allegations of the complaint. Appellants' pretense would have some color of validity had the order appealed from been issued upon a motion to dismiss, without taking any evidence on the plea of prescription. In the case at bar, the plea has been made in the answer and evidence has been introduced in support thereof.

Upon the other hand, and regardless of whether or not the allegations of the complaint amount to an averment of antichresis, it appears from the evidence on record that, in Civil Case No. 6410 of the Court of First Instance of Pangasinan, entitled *Rufino Toralba and Anastacio Tuason vs. Alberto Bautista*", decision (Exhibit 7) was rendered on January 12, 1933, sentencing Alberto Bautista to pay to Ruitno Toralba and Anastacio Tuason the sum of P1,500, with interest and costs; that, in compliance with a writ of execution (Exhibit 8) of said decision, issued on May 31, 1933, three (3) parcels of land of Alberto Bautista, including the property involved in this case, were, on July 26, 1933, sold at public auction to Anastacio Tuason and Rufino Toralba (see Exhibit 10) in whose favor the corresponding final deed of said (Exhibit 13) was executed by the Provincial Sheriff of Pangasinan, on April 3, 1935; that no redemption having been effected within the reglementary period, Anastacio Tuason and Rufino Toralba were placed in possession of said land in pursuance of a writ of possession (Exhibit 12) dated May 7, 1935; and that Anastacio Tuason and Rufino Toralba remained in possession of said land since then up to December 5, 1941, when they sold the land to defendant Daniel Frianeza (Exhibit 14), who, in turn, conveyed the same, on January 12, 1950, to defendant Graciano Barroso (Exhibit 15).

Inasmuch as the latter and his predecessors in interest have been in possession of said land, continuously, peacefully and adversely to the whole world, from May 7, 1935 to November 5, 1958, when the original complaint herein was filed, or for over 33 years, it is clear that, independently of the title transmitted to them by virtue of the final deed of sale executed by the Provincial Sheriff on April 3, 1935, plaintiffs' cause of action is barred by the statute of limitations.

Wherefore, the order appealed from is hereby affirmed, with costs against plaintiffs-appellants. It is so ordered.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Reyes, J.B.L., Paredes, Dizon, Regala and Makalintal, JJ., concur.

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