

**MUNICIPALITY OF HAGONOY, IN THE PROVINCE OF BULACAN,
PLAINTIFF-APPELLANT, VS. SECRETARY OF AGRICULTURE &
NATURAL RESOURCES, DIRECTOR OF LANDS AND JOSE B. SANTOS,
DEFENDANTS-APPE...**

G.R. No. L-27595. October 26, 1976

Ponente: ANTONIO, J.

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ANTONIO, J.:

Appeal from the decision rendered by the Court of First Instance of Bulacan on August 25, 1966, dismissing the complaint in Civil Case No. 3338-M, entitled "Municipality of Hagonoy vs. Secretary of Agriculture and Natural Resources, Director of Lands and Jose B. Santos".

The complaint in the court below, dated June 1, 1966, alleges that plaintiff municipality is the lawful and absolute owner of a fishpond situated at Sitio May-Hagonoy, Barrio San Roque, Hagonoy, Bulacan, covered by Tax Declaration No. 4211; that from time immemorial, plaintiff has been in actual, open, peaceful, continuous, exclusive and adverse possession thereof, and has exercised acts of ownership thereon; that defendant Jose B. Santos, notwithstanding common knowledge that said fishpond is owned by the municipality, applied for a sales patent covering the same with the Bureau of Lands; that on February 18, 1963, pursuant to Sales Application No. V-40308, defendant Director of Lands sold said fishpond to Jose B. Santos, despite the fact that the same is patrimonial property of the municipal-ity and, therefore, not disposable by sales patent under Commonwealth Act No. 141; that defendant Secretary of Agriculture and Natural Resources approved the sale, for which reason Original Certificate of Title No. P-746 was issued to Jose B. Santos by the Register of Deeds for the Province of Bulacan; that defendant Secretary of Agriculture and Natural Resources, in approving the sale and the issuance of the sales patent, and the Director of Lands, in selling and in recommending the approval of the sale of the above-mentioned parcel of land, acted beyond their power and in excess of their jurisdiction, said land not being public agricultural land but patrimonial property of the plaintiff, hence Original Certificate of Title No. P-746 is a patent nullity and without legal effect. Plaintiff, therefore, prayed that judgment be rendered declaring Original Certificate of Title No. P-746 null and void ab initio, and that defendant Jose B. Santos be ordered to pay attorney's fees, expenses of litigation and costs of suit.

On July 8, 1966, defendant Director of Lands filed an answer specifically denying: (1) plain-tiff's allegation of ownership over the parcel of land (fishpond) in question, claiming that the same was owned by the Republic of the Philippines and had been administered by the Bureau of Fisheries which had leased said fishpond to defendant Santos under Fishpond Lease Agreement No. 872 (renewal), and Santos, by virtue thereof, was in continuous possession of said fishpond as lessee from 1923 to 1962; (2) that the land was awarded to Santos on February 18, 1963, pursuant to Sales Application No. V-40308, said land being a part of the public domain, belonging to the Republic of the Philippines and disposable under the provisions of Commonwealth Act No. 141, as amended; and (3) that the actions taken by the Secretary of Agriculture and Natural Resources and the Director of Lands were pursuant to their authority under the law as officers charged with the duty of carrying out the provisions of said

Act and hence, Original Certificate of Title No. P-746, issued in pursuance of said functions, is a valid title.

As affirmative defenses, the Director alleged: (1) that there is another action pending between the same parties for the same cause; (2) that the cause of action is barred by prior judgment or by the statute of limitations; and (3) that the court had no jurisdiction over the subject matter of the action, the land in question being a part of the public domain and subject only to the authority and discretion of the defendant Secretary insofar as its administration, management and disposition are concerned, in accordance with law.

On July 18, 1966, defendant Jose B. Santos filed a motion to dismiss the complaint on the following grounds: (1) that the court has no jurisdiction over the subject matter of the case because the plaintiff failed to exhaust administrative remedies when he did not appeal the decision of the Secretary of Agriculture and Natural Resources to the President; (2) that the cause of action has been barred by the statute of limitations under Section 38 of the Land Registration Law (Act 496), which provides that when a decree of registration has been fraudulently issued, the aggrieved party has one (1) year within which to attack the validity thereof, and in the instant case, the complaint was filed more than three (3) years from the time title to the property was issued; (3) that plaintiff's cause of action is barred by prior judgment because in 1964, plaintiff had already filed a case for annulment of the same title, which case was dismissed by the court on the ground, among others, "that defendant Jose B. Santos is the true and absolute owner of the property in question since he obtained a certificate of title by virtue of a sales patent, the proceedings for which are proceedings in rem and, therefore, binding against the whole world", applying the principle of res adjudicata; and that there is another case of the same nature between the same parties pending before another sala of the same court,[1] in which case plaintiff municipality filed a complaint in intervention which involves the same property, substantially the same parties and the same issues. It was, therefore, prayed by movant Jose B. Santos that the complaint in the court a quo be dismissed with prejudice.

An Opposition to the foregoing Motion to Dis-miss was filed by plaintiff-appellant on August 2, 1966.

On August 30, 1966, the Secretary of Agriculture and Natural Resources filed a Motion to Adopt the Motion to Dismiss filed by defendant Jose B. Santos.

In the meantime, or on August 25, 1966, the court a quo had issued an Order dismissing the complaint, a portion of which reads as follows:

"It appears that sometime in 1964, the Provincial Fiscal of Bulacan filed a petition for the cancellation of Original Certificate of Title No. P-746 in the name of defendant Jose B. Santos, On May 28, 1964, this Court dismissed the said petition on the consideration that defendant Jose B. Santos acquired title to the property in question, under the Torrens System, proceedings for which is a proceeding inrem, the primary purpose of which is to stop any question of legality of title thereto, citing the case of Duran, et al. vs. Oliva, et al., 59 O. C. 6637 (September 30, 1963).

"Considering, therefore, that the allegations of the complaint in the instant case are but a repetition of the petition filed by the Provincial Fiscal for the annulment of the same title in the name of Jose B. Santos, and in the light of the same doctrine laid down in the case cited above, not to mention the three other grounds urged by defendant Santos in his motion to dismiss, this case is hereby DISMISSED, without pronouncement to costs."

Hence, the instant appeal from the foregoing Order of dismissal.

I

We rule that the Order of the Bulacan Court of First Instance on May 28, 1964, dismissing the "Petition for Cancellation of Title, the Original Certificate of Title No. P-746 * * *" against appellee Jose B. Santos does not constitute a bar to the present action. The principle of bar by prior judgment or *res judicata* is based upon the fundamental principle that a matter once adjudicated shall not again be drawn in issue while the former adjudication remains in force; that, when a right or fact has been judiciously tried and determined by a court of competent jurisdiction, or an opportunity for such trial has been given, the judgment of the court, so long as it remains unreversed, should be conclusive upon the parties and those in privity with them in law or estate.[2] The elements of *res judicata* are: (a) it must be a final judgment or order; (b) the court that rendered the judgment or order must have jurisdiction of the subject matter and the parties; (c) it must be a judgment on the merits; and (d) there must be, between the two cases, identity of parties, identity of subject matter, and identity of cause of action.[3] If the judgment is not on the merits, it cannot be considered as a conclusive adjudication of the controversy. Consequently, a judgment dismissing an action for want of jurisdiction,[4] or because of the pendency of another action between the same parties and for the same cause,[5] or a judgment absolving a defendant because he was not served with summons,[6] or a dismissal on the ground of misjoinder[7] cannot operate as *res judicata* on the merits. It must be noted that the petition for cancellation of title was filed by Fiscal Victor P. Ventura against Jose B. Santos and the Director of Lands. Jose B. Santos filed a motion to dismiss the aforesaid petition "on the ground that there is another action pending between him and Felix Reyes, et al. involving the same subject matter and wherein the parties prayed for similar relief, and that the cause of action is barred by the statute of limitations in that the certificate of title issued had acquired the character of indefeasibility". The trial court dismissed the petition on the ground that "the proper remedy for petitioner under the circumstances seems to be that contemplated in section 38 of the Land Registration Act and not the present petition for cancellation of the aforesaid title." This Order did not settle the question of title over the property. It, therefore, left the question whether or not the title was unlawfully procured for future determination. It is evident, therefore, that the Order of dismissal was not on the merits but on the ground that the petitioner therein pursued the wrong remedy.

We note, however, that the appropriate remedy of the Municipality of Hagonoy under the attendant I facts is not one for the reopening of the decree under section 38 of the Land Registration Act, as suggested by the trial court, but an action for reconveyance.[8] Once a patent is registered and the corresponding certificate of title is issued, the land ceases to be part of the public domain and becomes private property over which the Director of Lands has neither control nor jurisdiction. A public land patent, when registered in the corresponding Register of Deeds, is a veritable *Torrens* title, and becomes as indefeasible as *Torrens* title upon the expiration of one (1) year from the date of issuance thereof. Said title is, like one issued pursuant to a judicial decree, subject to review within one (1) year from the date of the issuance of the patent. Beyond said period, the action for the annulment of the certificate of title issued upon the land grant can no longer be entertained.[9] However, where it is claimed that the land awarded by virtue of patent was not part of the public domain but was private property, the owner who has been wrongfully deprived of such land may, notwithstanding the lapse of the one-year period, bring an action for the recovery thereof, and "the court, in the exercise of its equity jurisdiction, without ordering the cancellation of the *Torrens* title issued upon the patent, may direct the defendant, the registered owner, to reconvey the parcel of land to the plaintiff who has been found to be the true owner thereof." [10]

In *Quiñiano v. Courts of Appeals*, [11] a similar case where patent and title were obtained over a parcel of land belonging to private owners, this Court reiterated the legal norm enunciated in the case of *Director of Lands v. Register of Deeds of Rizal*, [12] thus: "The sole remedy of the landowner whose property has been wrongfully or erroneously registered in another's name is, after one year from the date of the decree, not to set aside the decree *

* * but, respecting the decree as incontrovertible and no longer open to review, to bring an ordinary action in the ordinary court of justice for reconveyance or, if the property has passed into the hands of an innocent purchaser for value, for damages."

This remedy was the one actually pursued by appellant municipality when, sometime in March, 1964, it sought an action for reconveyance of the property subject matter of this case when it filed a complaint in intervention in Civil Case No. 2186 against appellee Jose B. Santos. Said complaint in intervention sought the cancellation of the title of appellee Santos and reconveyance of the property alleging substantially the same facts included in the complaint in the case at bar, specifically ownership and possession over the parcel of land covered by Original Certificate of Title No. P-746 and fraud in obtaining the patent and title.

Notwithstanding that the action for reconveyance was brought within one (1) year from the date of the issuance of the patent, during which time a petition for review, as contemplated in section 38 of the Land Registration Act, could have been brought, said action could nevertheless prosper.[13] The petition for reopening of the decree which may be filed within one (1) year from the issuance of the said decree is not the exclusive remedy of, and does not bar any other remedy to which the aggrieved party may be entitled. Thus, We held in *Agreda v. Agreda*, supra, that the party who is prejudiced may file an action for the reconveyance of the property of which he had been illegally deprived, even before the issuance of the decree.

II

Considering the pendency of Civil Case No. 2186, the dismissal of Civil Case No. 3338-M could, however, be sustained on the ground of litispendentia. In order that this ground may be invoked, there must be between the action under consideration and the other action (1) identity of parties, or at least such as are representing the same interest in both actions; (2) identity of rights asserted and reliefs prayed for, the relief being founded on the same facts; and (3) the identity on the two preceding particulars should be such that any judgment which may be rendered on the other action will, regardless of which party is successful, amount to resadjudicata in the action under consideration.[14] These requisites exist here.

Notwithstanding that the Secretary of Agriculture and Natural Resources and the Director of Lands who are parties-defendants in Civil Case No. 3338-M are not parties in Civil Case No. 2186, it cannot be denied that the real party in the controversy against whom the action for reconveyance could be properly instituted is appellee Santos, who is the defendant in the complaint for intervention in Civil Case No. 3338-M. Moreover, the afore-mentioned Department Secretary and Director could be impleaded by appellant therein through the filing of the appropriate pleading. Since the main issue raised by appellant therein is the ownership of said property there can be no question that a final decision on the merits in Civil Case No. 2186 would, regardless of who is successful, amount to a resadjudicata in the case at bar, because all questions on the validity of Original Certificate of Title No. P-746 could be definitely settled therein, thus precluding the relitigation of the same issues. The issues herein raised, such as whether or not the property in question is patrimonial property of the appellant municipality or part of the public domain, could, therefore, be resolved in Civil Case No. 2186.

WHEREFORE, the instant appeal is hereby DISMISSED, without prejudice to appellant's pursuing its remedy in Civil Case No. 2186.

Fernando, (Chairman), Barredo, Aquino, and Concepcion, Jr., JJ., concur.

[1] Civil Case No. 2186, entitled "Jose B. Santos. Plaintiff versus Felix and Jose Lopez, Defendants,"

- [2] Moran's Comments on the Rules of Court, Vol. 2, 1970 Ed., pp. 362-363.
- [3] San Diego v. Cardona, 70 Phil. 281, 283; Lim Toco v. Go Fay, 81 Phil. 258.
- [4] Bayot v. Zurbito, 39 Phil. 650.
- [5] Moldes v. Mullet, 104 Phil. 731.
- [6] O'Connel v. Mayuga, 8 Phil. 422.
- [7] Maxion v. Manila Railroad Co., 44 Phil. 597.
- [8] Clemente and Pichay v. Lukban, 53 Phil. 931; Sec. 55, Act 496; Severino v. Severino, 14 Phil. 343.
- [9] Ramosov. Obligado, 70 Phil. 86; & Sumailv. Judge of Court of First Instance of Catabato, et al., 96 Phil. 947; Lucas v. Durian, 102 Phil. 1157; Director of Landsv. De Luna, 110 Phil. 28; Nelayanv. Nelayan, 60 O.G. No. 35, p. 5314.
- [10] Vital v. Anore, 90 Phil. 855, 859.

[11] 39 SCRA 221, 225-226.

- [12] 92 Phil. 826.
- [13] Agreda v. Agreda, 39 SCRA 191.
- [14] Alarcon v. Torres, 19 SCRA 706, 709; Del Rosario v. Jacinto, 15 SCRA 15; PAMBUSCO v. Ocfemia, 18 SCRA 407; Franciso v. Vda, de Blas, 93 Phil. 1

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