

ANACLETO P. NAVARRO, APPLICANT AND APPELLANT, VS. THE DIRECTOR OF LANDS, OPPOSITOR AND APPELLEE.

G. R. No. L-18814. July 31, 1962

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

This is an appeal by Anacleto P. Navarro from the order of the Court of First Instance of Manila dated July 1, 1959, dismissing his application for registration of lots Nos. 1 and 2 of Plan Psu-117149, both residential properties located in Malate along the Dewey Boulevard.

The application was filed on February 6, 1958 and docketed as Case' No. N-53, L.R.C. Rec. No. N-14566. The Director of Lands interposed an opposition, alleging that the lots applied for are part of the public domain belonging to the Republic of the Philippines. Evidence was submitted by the applicant on February 11 and March 30, 1959, after which the hearing was adjourned to June 18. On May 8 of the same year the Director of Lands filed a motion to dismiss on two grounds: (1) that the application was barred by prior judgment and (2) that the same was improper as an application for judicial confirmation of imperfect title under Section 48, paragraph (b), of Public Land Law, as amended by Republic Act No. 1942, which applies only to public agricultural lands and not to those which are residential in character. The trial court, in its order from which this appeal has been taken, sustained the motion on both grounds.

It appears that sometime in 1950 the Director" of Lands instituted a cadastral proceeding in the Court of First Instance of Manila (G.L.R.C. Cad. Rec. No. 6, G.L.R.O. Cad. Case No. 1) to settle and adjudicate title to the same lots now in litigation. The Republic of the Philippines claimed them as part of the public domain. One Caridad Guillen Cortez filed an answer and was later on substituted by appellant Anacleto P. Navarro, who sought registration of the properties in his name pursuant to the provision of Section 48, paragraph (b), of the Public Land Act. In the decision of the aforesaid Court dated July 17, 1954 his claim was denied and the two lots were declared public lands. The case was appealed to the Court of Appeals, which rendered a decision of affirmance on June 29, 1957 (CA-G.R. No. L-13983-R). Still unsatisfied, Navarro elevated the case to this Court for review by certiorari, but the petition was dismissed "for being factual and for lack of merit" in a resolution dated September 6, 1957.

The plea of *res judicata* must be upheld. The requisites of this plea are: (1) the former judgment must be final; (2) it must have been rendered by a court having jurisdiction of the subject matter and the parties; (3) it must be a judgment on the merits; and (4) there must be, between the first and second actions, (a) identity of parties (b) identity of subject matter and (c) identity of cause of action. The only controversy here is with respect to the last element, namely, identity of cause of action, the others being concededly present. In the case of *De la Rosa vs. Director of Lands, et al.*, 96 Phil., 641; 53 Off. Gaz. No. 13, p. 4092 this Court held:

"The parcel of land (Lot No. 4) sought to be registered being the same lot already declared public land in Land Registration Case No. 295, G.L.R.O. No. 30055, where the herein appellant and the Director of Lands were parties and the applicant therein failed to establish title secured from the Spanish Government or possession of

the land in accordance with the Public Land Act then in force, the decision in the former case declaring Lot No. 4 as part of the public domain must be deemed *res judicata*."

The cause of action in both the present case and the former cadastral proceeding is the registration of the two lots in question. The specific issue involved is whether the lots applied for are part of the public domain or have so far been possessed by appellant that he must be deemed to have acquired title thereto which is sufficient for registration in his name. The declaration by final judgment in the cadastral proceeding that they are public lands settled this issue once and for all.

It is contended that the basis for such declaration was the insufficiency of appellant's evidence in the former case to prove continuous possession by him and by his predecessors-in-interest since July 26, 1894, as required by the Public Land Law before its amendment by Republic Act No. 1942, and that since in the present case his claim is based on possession only for a period of thirty years immediately preceding the filing of his new application in 1958, in accordance with the amendatory law, the issue has entirely changed and consequently he should have been allowed to prove such claim. Even on this theory, however, we note that both in the decision of the Court of First Instance in the cadastral case and in the decision of affirmance rendered by the Court of Appeals, the fact as well as the length of the alleged possession of appellant and his predecessors-in-interest were placed in issue and duly passed upon. The appellate court stated therein:

"The evidence of appellant Anacleto P. Navarro stems mainly from his own testimony. He declared that since 1936, he was lessee of the two lots from the spouses Emilio Arceo and Margarita Jimenez. He fenced it and built a dike because when, it was low tide, part of the land was submerged in water. He made fillings on the property, planted coconuts thereon and built two houses, which were destroyed during the liberation of Manila. Sometime later he heard that the property was sold to Rosario Dumlaog, who, in turn, sold it to Bernardino Landeta; that thereafter the latter sold the land to Caridad Guillen Cortez from whom he (appellant Anacleto P. Navarro) leased and later bought the property. Appellant Navarro admits that neither Caridad Guillen Cortez nor her predecessors ever declared the land in question for taxation purposes; and that none of them paid taxes on said land.

"We start with the statement that it is a rule long familiar in this jurisdiction that all lands are presumed to be a part of the public domain; that to overcome this presumption, evidence must be more than a mere preponderance and that vague and indecisive proofs are insufficient even in the absence of opposition on the part of the government.

"Considering the averment in appellant's answer to the effect that his title over the two lots is supposed to have been derived from Margarita Jimenez, the question of whether or not the latter, that is Margarita Jimenez, ever became owner of the property looms large in the resolution of the present case. To begin with, it is well to remember, as a pivotal point, that said Margarita Jimenez only claims ownership over Lot No. 2 which is the smaller of the two lots. Of course, she made a statement that Lot No. 1 is not included in her claim, but that if, in fairness, it be disclosed at the hearing that some portion of it is really owned by her, she would also include that portion in her claim. This vague and uncertain claim to Lot No. 1 remains what it is, uncertain. Unable to pinpoint her alleged property, Margarita Jimenez, was, during the course of the trial, taken to the place. And true enough, she laid claim to Lot No. 2 and also but to a small fraction of Lot No. 1.

"On the face of this uncertain evidence, we are persuaded to state that right at this point, Lot No. 1 should be excluded from appellant's claim and declared public land.

"In spite of the averment that the two lots in controversy constitute privately owned property, the evidence is unanimous to the effect that none of the alleged owners ever declared the land for taxation purposes. None of them ever paid taxes on the property. It has been truthfully said that tax declarations and tax receipts constitute evidence of great weight in support of possession or ownership. *Tupaz et al. vs. Eicamora, et al.* 37 Gaceta

Ofiicial , No. 28, pp. 617, 618; Director of Lands vs. Aaron, et al., CA-G. R. No. 10337-R, October 28, 1954; Director of Lands vs. Baligod, et al., CA-G. R. No. 8749-1R, May 13, 1955; Director of . Lands vs. Depositario, et al., CA-G.R. No. 10308-R, May 20, 1955; Angeles, et al. vs. Duran et al., CA-G.R. No. 16333-R, March 4, 1957. Any owner, the most ignorant included, knows his obligation, of seeing to it that his real property is declared for taxation purposes and that he regularly pay the taxes thereon. This obligation could perhaps have escaped the attention of one person. But to say that all the alleged owners from Juana Guinto, thru Margarita Jimenez and her husband Francisco Arceo, Bernardino Landeta, Caridad Guillen Cortez and finally appellant Anacleto P. Navarro forgot to declare the property for taxation purposes and to pay the taxes thereon, is utterly unbelievable. Moraza vs. El Director de Terrenos, 37 Gaceta Ofiicial, No. 129, pp. 2819, 2821. Paraphrasing Mr. Justice Torres in Cruzado vs. Bustos and Escaler, 34 Phil., 17, 35, none of the foregoing persons ever did 'believe himself to be the owner of the land he claims.'

"One look at the sketch, Exhibit 1, and sketch, Exhibit 2, of the Director of Lands, will readily show why Lots 1 and 2 in question could not have been private property. The whole of Lot No. 1 and part of Lot No. 2 were originally under water forming part of Manila Bay; while the remainder or upper portion of Lot No. 2 forms part of the mouth of Estero Maytubig which flows into the Bay.

"Then there is the oral evidence for the government.

"Novardo Advincula, Civil Engineer of the Bureau of Public Works, testified as follows: When the government proposed to extend Dewey Boulevard, he was assigned to locate the right of way from Cortabitarte to Libertad. He used the plan Exhibit 1 of the Bureau of Lands and was guided by the technical description furnished by the said bureau in his job to locate exactly the proposed line of the right of way. In 1939 he made an ocular inspection of the place. It was then that he found that the two lots in question were under water; so much so, that at that time there were bancas tied to the poles in that place and that there were no improvements on the land. Of course, the place at present is no longer under water as it was drained and filled up by the Bureau of Public Works which dredged the Manila Bay and pumped the dredged soil from the Bay into the area and throughout Dewey Boulevard Extension. This filing was made before the war.

"Another witness, Enrique Alcantara, surveyor of the Bureau of Lands, testified: He knows the land in question because he was ordered by the Chief Surveyor to identify the adjoining owners: that the land consisting of the two lots described in plan Exhibit. A has a lot been included in the cadastral survey in 1913-1914 because the said lands were outside of the shore-line of Manila . Bay. He likewise declared that he executed a survey of Dewey Boulevard Extension in 1935; that at that time he had to wade from Vito Cruz to Libertad for the reason that the water thereon was hip deep and that Lots Nos. 1 and 2 were under water and no improvements were found thereon. In 1951, so this witness continued, he made an investigation of the adjoining owners of the land in question and that, then he found that said lots were already filled up. Not knowing who the owners of the two lots where, he tried! to gather information from the Office of the City Assessor of Manila. The said Office gave out a written statement to the effect that the lots aforesaid definitely were never declared for taxation or assessment purposes. The fact that the property in question was under water prior to the filling thereof is corroborated by appellant Navarro himself, Navarro testified that in the year he leased the land, he built a dike as part of the land was submerged under water during low tide. During the course of the ocular inspection, Margarita Jimenez declared that the land she was claiming became high thru the sand thrown from the sea by means of the machinery' probably belonging to the government. Tr. ocular inspection, p. 8.

"True it is, that there is testimony in the record calculated to show that when Margarita Jimenez and her husband acquired this property in 1907, they were informed by their vendor, Jacinto Villalon—not Juana Guinto—that said Villalon had been in possession of the land since the Spanish regime. However, the exact date such alleged possession by Villalon commenced has not been established, and neither appellant nor any of his alleged predecessors in interest, has shown acquisition of the land by composition title from the Spanish government or by possessory information title or by any of the legal modes of acquiring public lands.

"Upon the facts, the conclusion is irresistible that appellant's evidence is utterly inadequate to support his claim of ownership over the lots in question."

It is quite clear from the foregoing that the Court of Appeals, in dismissing appellant's claim in the cadastral case, found it as a fact that he had not possessed the lands in question for even the thirty years now asserted by him. Such finding is conclusive on the question of possession and precludes any new litigation concerning it.

"The foundation principle upon which the doctrine of res judicata rest is that parties ought not to be permitted to litigate the same issue more than once; that, when a right or fact has been judicially 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." (National Bank vs. Barreto, 52 Phil., 818, 824; Escudero vs. Flores, et al., 97 Phil., 240; 51 Off. Gaz. 3444.)"

One further point may be noted: When Republic Act No. 1942 was approved on June 22, 1957, appellant's appeal in the cadastral case was still pending in the Court of Appeals and after it was decided therein he filed before us a petition for review by certiorari, invoking precisely the provision of the new law requiring only continuous possession, under claim of ownership, for a period of thirty years to entitle the possessor to apply for judicial confirmation of his imperfect title. The dismissal of the petition by this Court for lack of merit, therefore, constituted an adjudication of appellant's claim in the light of such new legislation.

Having thus sustained appellee's plea that this case is already barred by prior judgment, we deem it unnecessary to pass upon the second legal point raised by him, namely, that the lots in question being residential in character, they do not fall within the purview of Section 48, paragraph (b) of the Public Land Law, as amended by Republic Act No. 1942, and hence cannot be the subject of judicial confirmation of an imperfect title.

Wherefore, the order appealed from is affirmed, with costs against appellant.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Barrera, Paredes, Dizon, and Regala, JJ., concur.

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