

**ANTONINO DIZON, ADELAIDA D. REYES, CONSOLACION DE
DEGOLLACION, ET AL., PETITIONERS, VS. HON. JUAN DE G.
RODRIGUEZ, AS SECRETARY OF AGRICULTURE AND NATURAL
RESOURCES, HERACLITO M...**

G.R. Nos. L-20300-01, L-20355-56. April 30, 1965

Ponente: BARRERA, J.

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BARRERA, J.:

These are separate appeals instituted by Antonino Dizon, et al. (G.R. Nos. L-20300-01) and the Republic of the Philippines, et al. (G.R. Nos. L-20355-56), from a single decision of the Court of Appeals, as modified by its resolution of August 20, 1962, holding that Lots Nos. 49 and 1 of subdivision plan Psd-27941 are parts of the navigable portion of the territorial waters and outside the southern boundary of the Hacienda Calatagan, covered by Transfer Certificate of Title No. T-722, and declaring the occupants Dizon, et al. possessors in good faith, entitled to remain therein until reimbursed, by the intervenor Republic of the Philippines, of the necessary expenses made on the lots in the sums of P40,000.00 and P25,000.00, respectively.

The facts of these cases, briefly stated, are as follows:

Hacienda Calatagan owned by Alfonso and Jacobo Zobel was originally covered by TCT No. T-722. In 1938, the Hacienda constructed a pier, called "Santiago Landing," about 600 meters long from the shore into the navigable waters of the Pagaspas Bay, to be used by vessels loading sugar produced by the Hacienda sugar mill. When the sugar mill ceased its operation in 1948, the owners of the Hacienda converted the pier into a fishpond dike and built additional strong dikes enclosing an area of about 30 hectares (of the Bay) and converted the same into a fishpond. The Hacienda owners also enclosed a similar area of about 37 hectares of the Bay on the other side of the pier which was also converted into a fishpond.

In 1949, the Zobel s ordered the subdivision of the Hacienda by ordering the preparation of the subdivision plan Psd-27941 wherein fishpond No. 1 (with 30 hectares) was referred to as Lot No. 1 and fishpond No. 2 (with 37 hectares) referred to as Lot No. 49. The plan was approved by the Director of Lands, and the Register of Deeds issued, from TCT No. T-722, TCT. No. 2739 for Lots 49 and 1 in the name of Jacobo Zobel.

In 1950, Jacobo Zobel sold to Antonino Dizon, et al., Lot 49 for which said purchasers obtained at first TCT No. T-2740 and later T-4718. Lot 1, on the other hand, was purchased by Carlos Goco, et al., who, in turn, sold one half thereof to Manuel Sy-Juco, et al. Transfer Certificate of Title No. 4159 was issued in the names of the Gocos and Sy-Jucos.

On May 24, 1952, Miguel Tolentino filed with the Bureau of Fisheries an application for ordinary fishpond permit or lease for Lot 49, and an application for a similar permit, for Lot 1, was filed by his daughter Clemencia Tolentino. The Dizons, Sy-Jucos and Gocos filed a protest with the au of Fisheries, claiming the properties to be private covered by certificates of title. This protest was dismissed by the Director of Fisheries, on the ground that

the areas applied for are outside the boundaries of TCT No. of Hacienda Calatagan. This ruling was based the findings of the committee created by the Secretary Agriculture and Natural Resources to look into the matter, that Lots 1 and 49 are not originally included within the boundaries of the hacienda.

On October 1, 1954, the protestants Dizons, Sy—Tucos, and Gocos filed an action in the Court of First Instance of Manila (Civ. Case No. 24237) to restrain the Director of Fisheries from issuing the fishpond permits applied for by the Tolentinos. The court dismissed this petition, for non-exhaustion of administrative remedy, it appearing that petitioners had not appealed from the decision of the Director of Fisheries to the Secretary of Agriculture and Natural Resources. On appeal to this Court, the decision of the lower court was sustained (G.R. No. L-8654, promulgated April 28, 1956). The protestants then filed an appeal with the Secretary of Agriculture and Natural Resources. This time, the same was dismissed for being filed out of time.

On August 16, 1956, the Dizons filed Civil Case 135 and the Sy-Jucos and Gocos, Civil Case 136, in the Court of First Instance of Batangas, to quiet their titles over Lots 49 and 1. Named defendants were the Secretary of Agriculture and Natural Resources and applicants Tolentinos. The Republic of the Philippines was allowed to intervene in view of the finding by the investigating committee created by the respondent Secretary, that the lots were part of the foreshore area before their conversion into fishponds by the hacienda-owners.

On January 30, 1958, after due hearing, the Court of First Instance of Batangas promulgated a joint decision making the finding, among others, that the subdivision plan Psd-27941 was prepared in disregard of the technical description stated in TCT No. T-722, because the survey or merely followed the existing shoreline and placed his monuments on the southwest lateral of Lot 49, which was the pier abutting into the sea; and made the conclusion that Lots 1 and 49 of Psd-27941 were part of the fore shore lands. As the certificates of title obtained by petitioners covered lands not subject to registration, the same were declared null and void, and Lots 1 and 49 were declared properties of the public domain. Petitioners appealed to the Court of Appeals.

In its decision of October 31, 1961, as well as the re resolution of August 20, 1962, the appellate court adopted the findings of the lower court, that the lots in question are part of the foreshore area and affirmed the ruling canceling the titles issued to plaintiffs. Although in the decision of October 31, 1961, the Court of Appeals awarded to applicants Tolentinos damages in the amount of P200.00 per hectare from October 1, 1954, when plaintiffs were notified of the denial of their protest by the Director of Fisheries, such award was eliminated in the resolution of August 20, 1962, for the reason that plaintiffs, who relied on the efficacy of their certificates of title, cannot be considered possessors in bad faith until after the legality of their said titles has been finally determined. Appellants were thus declared entitled to retention of the properties until they are reimbursed by the landowner, the Republic of the Philippines, of the necessary expenses made on the lands, in the sums of P40,000.00 (for Lot 49) and P25,000.00 (for Lot 1). It is from this portion of the decision as thus modified that defendants Tolentinos and the intervenor Republic of the Philippines appealed (in G. R. Nos. L-20355-56), claiming that plaintiffs' possession became in bad faith when they learned of the flaw in their titles, that is, when their Protest against the applications for lease was denied by the Director of Fisheries. In addition, the intervenor contends that being such possessors in bad faith, plaintiffs are not entitled to reimbursement of the expenses made on properties.

In G.R. Nos. L-20300-01, plaintiffs Dizon, et al. claim that the finding that the lots in question are part of the foreshore area was erroneous, because from defendants' own evidence, the same appear to be marshland their conversion into fishponds. It is noteworthy in connection with the appeal of plaintiffs that they do not contest the existence of the pier that was used by the hacienda owners in the loading of their manufactured sugar to vessels. The fact that said pier jotted out 600 meters to the sea indicates that the area over which such cemented structure spanned was part of the sea or at least foreshore land. And, plaintiffs were not able to disprove the testimonial evidence that the fishponds in question were constructed by enclosing the areas with dikes, using the pier as one

of the ends of the fishponds. 'It is clear that the areas thus enclosed and converted into fishponds were really part of the foreshore. This, and the fact that the subdivision plan Psd-27941 was found to have been prepared not in accordance with the technical descriptions in TCT No. T—722 but in disregard of it, support the conclusion reached by both the lower court and the Court of Appeals that Lots 49 and 1 are actually part of the territorial waters and belong to the State. And, it is an elementary principle that the incontestable and indefeasible character of a Torrens certificate of title does not operate when the land thus covered is not capable of registration.

On the matter of possession of plaintiffs-appellants, the ruling of the Court of Appeals must be upheld. There is no showing that plaintiffs are not purchasers in good faith and for value. As such title-holders, they have reason to rely on the indefeasible character of their certificates.

On the issue of good faith of the plaintiffs, the Court of Appeals reasoned out:

"The concept of possessor in good faith given in Art. 526 of the Civil Code and when said possession loses this character under Art. 528, needs to be reconciled with the doctrine of indefeasibility of a Torrens Title. Such reconciliation can only be achieved by holding that the possessor with a Torrens Title is not aware of any flaw in his title which invalidates it until his Torrens Title is declared null and void by final judgment of the Courts. "Even if the doctrine of indefeasibility of a Torrens Title not thus reconciled, the result would be the same, considering third paragraph of Art. 526 which provides that:

ART. 526. * * *

'Mistake upon a doubtful or difficult question of law may be the basis of good faith.'

"The legal question whether plaintiffs-appellants' possession in good faith, under their Torrens Titles acquired in good faith, does not lose this character except in the case and from the moment their Titles are declared null and void by the Courts, is a difficult one. Even the members of this Court were for a long time divided, two to one, on the answer. It was only after several sessions, where the results of exhaustive researches on both sides were thoroughly discussed, that an undivided Court finally found the answer given in the next preceding paragraph. Hence, even if it be assumed for the sake of argument that the Supreme Court would find that the law is not as we have stated it in the next preceding paragraph and that the plaintiffs-appellants made a mistake in relying thereon, such mistake on a difficult question of law may be the basis of good faith. Hence, their possession in good faith does not lose this character except in the case and from the moment their Torrens Titles are declared null and void by the Courts."

Under the circumstances of the case, especially where the subdivision plan was originally approved by the Director of Lands, we are not ready, to conclude that the above reasoning of the Court of Appeals on this point is reversible error. Needless to state, as such occupants in good faith, plaintiffs have the right to the retention of the property until they are reimbursed of the necessary expenses made on the lands.

With respect to the contention of the Republic of the Philippines that the order for the reimbursement by it of such necessary expenses constitutes a judgment against the government in a suit not consented by it, suffice it to say that the Republic, on its own initiative, asked and was permitted to intervene in the case and thereby submitted itself to the jurisdiction of the court.

IN VIEW OF THE FOREGOING CONSIDERATIONS, the decision appealed from is hereby affirmed in all respects, without costs.

SO ORDERED.

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

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