

**LOO SOO AND VY LIONG LEE PLAINTIFFS AND APPELLANTS, VS.
DONATO OSORIO, DOMINGO DE LEON, CIRILO SIBUCAO, LUISA
FERGERSON, JAIME BRIOSO, PEDRO ZAFRA, SATURNINO ROBLES,
PEDRO LOPEZ...**

G. R. No. L-1364. May 30, 1951

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

On September 11, 1946, plaintiffs filed a complaint for ejectment in the Justice of the Peace Court of Pasay, Rizal, against defendants regarding two parcels of land situated in said municipality. Defendants in their answer set up as special defense that the plaintiffs are not the owners of the parcels of land in question but one Geronimo Santiago, as evidenced by transfer certificate of title No. 75399 of the Register of Deeds for the City of Manila; that even if plaintiffs bought the land in question, the sale was set aside because, being aliens, they are prohibited from acquiring it; and that defendants never dealt with the plaintiffs, but with one Geronimo Santiago. After issues were joined, the court dismissed the case. Plaintiffs appealed to the Court of First Instance, wherein defendants reiterated the answer they had filed in the court of origin. After plaintiffs had introduced their evidence and rested their case, defendants moved to dismiss it on the ground of lack of jurisdiction because it involves the ownership of the land. The court sustained the motion and dismissed the case. Hence this appeal.

The main issue before us is whether the question of ownership of the land claimed to be illegally occupied by defendants is involved herein that it places this case beyond the jurisdiction of the lower court in the exercise of its appellate jurisdiction, or stated differently, whether the mere allegation by defendants in their answer that plaintiffs are not the owners of the land because, as aliens, they are disqualified from acquiring it, has the effect of divesting the lower court of its jurisdiction to try this case on appeal.

It is an undisputed fact that the property in question was sold to the plaintiffs by its registered owner, Geronimo Santiago, by an absolute deed of sale executed on February 1, 1944, and that, after the sale, plaintiffs took possession of the land. It also appears that from that date until the liberation of Manila in February, 1945, defendants had been paying the rentals to the plaintiffs and that it was only after they had constructed small houses or barong-barongs on the land after liberation, without the knowledge and consent of the plaintiffs, that they refused to pay the rentals to the plaintiffs. This being the case, it would seem that the right of the plaintiffs to be recognized as owners and possessors of the land and to drive out the defendants therefrom for their failure to pay the rentals, can not be disputed. Defendants argue that, inasmuch as the deed of sale covering the land in question was not recognized by the register of deeds for the city of Manila, when it was presented to him for registration, on the ground that aliens are not allowed to acquire and own lands in the Philippines because of a constitutional prohibition, plaintiffs have no right to the property and, therefore, this case should be dismissed.

We believe, however, that this is not the proper time for defendants to raise this question for the reason that plaintiff's title to the land cannot be collaterally attacked in an ejectment case. The only issue here is the physical

possession of the land—possession de facto and not possession de jure (*Lizo vs. Carandang*, vol. 2, Off. Gaz., p. 302; *Mercado vs. Go Bio*, [1] 44 Off. Gaz., 2735). Geronimo Santiago, who sold the land to the plaintiffs, is the proper party who can challenge this title, and this is what he in fact did when he instituted a case in the Court of First Instance of Manila wherein he seeks the annulment of the sale made to the plaintiffs. From what we can glean from the record, this case has not yet been finally decided. As long as the plaintiffs remain to be the owners of the land, and their title thereto has not been finally determined in a proper action, defendants cannot confuse the issue by raising the question of title in an effort to defeat the right of the plaintiffs to eject them from the premises. This Court made this point quite clear when it laid down the rule that "in an action of forcible entry and detainer, the mere filing of an answer, claiming title to the premises involved or raising the question of ownership, will not divest a justice of the peace of jurisdiction." (*Supia and Batiago vs. Quintero and Ayala*, 59 Phil., 312, 321; *Escover vs. Escover*, G. R. No. 44148, April 22, 1939; *Vasquez vs. Diva*, [2] 46 Off. Gaz., 5430.) This rule squarely applies in this case.

Wherefore, the order appealed from is set aside. Let this case be remanded to the lower court for further proceedings, with costs against the appellees.

Partis, C. J., Feria, Bengzon, Padilla, Tuason, Montemayor and Jugo, JJ., concur.

[1] 78 Phil., 279.

[2] 83 Phil., 410.

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