

SABINA SANTIAGO, ET AL., PLAINTIFFS AND APPELLANTS, VS. J.M. TUASON & CO., INC., DEFENDANT AND APPELLEE.*G.R. No. L-14223. November 23, 1960*

Ponente: REYES, J.B.L., J.

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Appeal from the order of the Court of First Instance of Quezon City, dated May 12, 1958, dismissing plaintiffs' complaint in Civil Case No. Q-2913 of said Court, on the grounds of lack of cause of action, prescription, and res judicata.

Substantially, the complaint alleges: that on May 12, 1948, Ynocencio Santiago, after due proceedings, was declared by the proper officials of the Spanish Government, owner of the land described in the complaint, as evidenced by Annex "A"; that said Ynocencio Santiago, from and after May 12, 1948, continued in the possession of the aforesaid land in the concept of owner, publicly, continuously, adversely and peacefully until his death, when his two legitimate children, Isaias and Albina Santiago, succeeded and continued to own and possess said land pro indwiso in the same character as that of their predecessor; that upon the death of Isaias Santiago, his 1/2 share therein was inherited by his eleven children, namely, Elena, Pablo, Geronimo, Cecilio, Constantino, Irene (now dead, survived by Jacinto Purificacion), Marta, Ponciana, Leoncio, Carlos and Benito, all surnamed Santiago, who, together with their aunt Albina Santiago, continued to own and possess the land in the same character as that of their predecessors; that plaintiffs only recently learned that on -March 25, 1949, defendant had filed with the same Court Civil Case No. Q-27 for "Quieting of Title and Recovery of Possession" against their co-owners (Elena, Pablo, Geronimo, Cecilio, and Constantino), in which defendant herein (J. M. Tuason & Co.) alleged that the land in Annex "A" formed part of its TCT No. 119 of the land records of Rizal; that the judgment in Civil Case No. Q-27, in which plaintiffs were never impleaded as parties, had already become final (affirmed in G.R. L-5079,[*] July 31, 1956); that the defendant had executed the judgment in said civil case as against plaintiffs herein, excluding and ousting the latter from the enjoyment and possession of the land; that defendant's TCT No. 119 (37679) of the land records of Rizal, as well as Original Certificate of Title No. 735 from which the former was derived, does not include the land claimed by plaintiffs; that granting that TCT No. 119 now includes the land claimed by plaintiffs, its inclusion in defendant's certificate of title was made through fraud, in that neither plaintiffs nor their predecessors were actually notified of said registration proceedings as no survey party ever entered plaintiffs' land, causing them to believe that it was not applied for; as ground for cancellation of defendant's certificate of title, it is further alleged that the technical description in Original Certificate of Title No. 735 had been falsified to include areas never brought within the jurisdiction of the land registration court, since they were not covered by the application and publication in G. R. L. O. 7681 which led to the registration of the land; that long before defendant's predecessors applied for and secured registration under Act 196 of their land which allegedly includes plaintiffs' land, the latter had already acquired ownership thereof, not only by the document Annex "A" but by acquisitive prescription; that since defendant's predecessors obtained their Original Certificate of Title No. 735 which allegedly includes plaintiffs' land, the latter has not passed to an innocent third party; that despite demands on defendant, the latter refused and still refused to desist from the acts complained of.

Plaintiffs prayed: (1) that defendant be ordered to desist from enforcing Civil Case No. Q-27 as against plaintiffs; (2) for a survey of the land in question to determine whether TCT No. 119 (37679) of the land records of Rizal includes the land described in the complaint; (3) for reconveyance to plaintiffs of whatever portion of the land claimed by them may be found included in TCT No. 119 (37679); (4) for cancellation of TCT No. 119 and Original Certificate of Title No. 735 to be substituted with a new certificate of title embracing only those lands included in the application, publication and/or decree in G.R.L.O. 7681; (5) and for various items of damages.

Upon defendant's motion, the court below dismissed the complaint, holding, as aforesaid, that there was no cause of action, that the case was barred by a prior judgment (Civil Case No. Q-27, affirmed by the Supreme Court in G.R. No. L-5079), and that whatever action plaintiffs might have had, had prescribed. Thereupon, the plaintiffs appealed directly to this Court.

We agree with appellants that the decision in the preceding suit to quiet title, prosecuted by the appellee Tuason & Co. against other heirs of Ynocencio Santiago (99 Phil., 615; 50 Off. Gaz. [11] 5727), can not constitute *res judicata* against these appellants who were not parties to that suit and do not derive their title from the defendants in the previous litigation (Rule 39, sec. 44 [b]). There is authority for the proposition that a judgment may be made binding in a subsequent litigation upon one who, although not a formal party to a previous suit, has actually conducted or controlled the action or defense therein (65 ALR 1134), or who was adequately represented in such previous litigation; but no clear proof of the existence of such exceptional circumstances is before us in the present case. On the other hand, the rule is that co-owners are not *privies inter se* in relation to the property owned in common.

"Since tenants in common are not *privies*, it is clear that a judgment rendered in a suit affecting the common property, brought by only one of the co-owners, is not binding upon his associates nor can it be invoked by them. Thus, where a suit to set aside a decedent's deed conveying all his property to a single son is brought by only one of the disinherited children, a judgment declaring the deed to be void can not be availed of in a subsequent partition proceeding by any of the others." (14 Am. Jur., sec. 107, p. 169)

But granting that the plaintiffs-appellants herein are not *privies* of the defendants Santiago in the former litigation over this same property (S.C. G.R. No. L-5079), still the pronouncement of this Court, made in the former case, to the effect that the Spanish document (Annex A) issued in favor of Ynocencio Santiago (ancestor of appellants herein) was neither a *titulo de informacdn posesoria* nor a title by *composicion con el estado*, and, therefore, vested no ownership over the land therein described in favor of Ynocencio Santiago, holds and applies to herein appellants, since the quality or legal effect of the document does not depend upon the persons who invoke it.

If the late Ynocencio Santiago did not become the owner of the disputed property by virtue of the document Annex A, than appellants herein, as heirs of Ynocencio, have not acquired such ownership either. It follows that the first and second causes of action of their complaint, predicated as they are on the assumption that such ownership and its consequential rights resulted from Annex A, must necessarily fail. Not being owners, they can complain of no invasion of dominical rights.

As to the third cause of action: the mere fact that appellants herein were not personally notified of the registration proceedings that resulted in a decree of registration of title in favor of the Tuasons in 1914 does not constitute in itself a case of fraud that would invalidate the decree. The registration proceedings, as proceedings *in rem*, operate as against the whole world and the decree issued therein is conclusive adjudication of the ownership of the lands registered, not only against those parties who appeared in such proceedings but also against parties who were summoned by publication but did not appear. The registration by the appellee's predecessors-in-interest freed the lands from claims and liens of whatever character that existed against the lands prior to the issuance of the certificates of title, except those noted in the certificate and legal encumbrances saved by law (*Yumol vs. Rivera*

and Dizon, 64 Phil. 13, 17 and cases cited therein). In addition, there being no allegation that the registered owners procured the non-appearance of appellants at the registration proceedings; and very much more than one year having elapsed from the issuance of the decrees of registration in 1914, neither revocation of such decree nor a decree of reconveyance are obtainable any more.

It follows also that the allegation of prescriptive title in favor of plaintiffs does not suffice to establish a cause of action. If such prescription was completed before the registration of the land in favor of the Tuasons, the resulting prescriptive title was cut off and extinguished by the decree of registration. If, on the contrary, the prescription was either begun or completed after the decree of registration, it conferred no title because, by express provision of law, prescription can not operate against the registered owner (Act 496, section 46).

There remains only the fourth cause of action, the sum and substance of which is contained in paragraphs 22 and 23 of the dismissed complaint (Rec. App. p. 10-11), reciting:

"22. Plaintiffs, on information and belief, allege that the decree of registration which resulted in the issuance of Original Certificate of Title No. 735 of the land records of Rizal does not include the same land or area as that now appearing in said Original Certificate of Title No. 735 and that the technical description of the land in said Original Certificate of Title No. 735 has been falsified or tampered with in order to include an area greater than that applied for by defendant's predecessors-in-interest and that mentioned in said decree of registration.

23. Plaintiffs, on information and belief, further allege with reference to said Original Certificate of Title No. 735 of which said Transfer Certificate of Title 119 (37679) is a part of a derivative:

a) that the title includes areas which never were brought within the jurisdiction of the land registration court since they were not included in the application and the publication of the registration in G.L.R.O. 7681;

b) that the land described in Paragraph 3 and Annex "A" hereof was among the areas not included in said application and publication nor in the decree of registration."

In our opinion, these allegations are insufficient to state a cause of action, being on their face sham and frivolous. Whether or not the decree of registration in favor of the Tuasons includes more land than was originally applied for; and whether or not the application, publication and decree of registration covered the land claimed by appellants, are not matters to be alleged on information and belief, since the registration proceedings and plans are public records, open to appellants' inspection and verification. No reason is shown why these facts could not be first positively and definitely ascertained by plaintiffs, when they could do so upon simple comparison of the descriptions appearing in the application, the decree, and the appellants' title deeds. The vagueness and uncertainty of their allegations evidence that appellants themselves are not convinced of the truth of what they allege, but wish to avoid being held accountable in case their charges of fraud and falsification are shown to be untrue. Such indefiniteness of averments disentitles them to consideration by the Court. The machinery of justice is not established to verify rumors and conjectures, nor is it designed to do for parties what is incumbent upon them to do. For the Courts to sanction the practice of pleading upon information and belief matters of public record or which pleaders could themselves easily ascertain, would open the door to irresponsibility and encourage reckless charges and nuisance suits.

The fifth and sixth causes of action are predicated on the others previously discussed, and need no separate consideration.

In view of the foregoing, we agree with the Court below that the complaint stated no cause of action, and, therefore, it was properly dismissed, without prejudice to subsequent amendment in conformity with the Rules.

The order appealed from is affirmed, with costs against appellants.

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

Order affirmed.

[*] J. M. Tuason & Co., Inc. vs. Geronimo Santiago, et al., (99 Phil., 615; 50 Off. Gaz., [11] 5727).

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