

**ALBERT WRIGHT, JR., ET AL., PLAINTIFFS AND APPELLANTS, VS.
LEPANTO CONSOLIDATED MINING CO., AND VICTOR LEDNICKY,
DEFENDANTS AND APPELLEES.**

G.R. No. L-18904. July 11, 1964

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

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

Direct appeal to this Supreme Court from a decision of the Court of First Instance of Mt. Province, Baguio City Branch, in its Civil Case No. 905, dismissing, after trial, the complaint for the recovery of possession and ownership of and accounting of ores extracted from two mining claims known as "Copper Placer Mining Claim" and "Lepanto Fraction Mining Claims," which are both situated at Mancayan, Lepanto-Bontoc, Mt. Province.

The expediente of the appealed case did not show the value of the properties in controversy; whereupon, on motion of the appellees for the determination of appellate jurisdiction because the appellants have raised questions of fact and law, this Court directed both parties to comply with paragraph 5, Section 17, of the Judiciary Act of 1918, as amended by Republic Act 2613. On their compliance, this Court, on 6 April 1962, resolved to retain and decide the case, as the value of the matter in controversy exceeds P200,000.

The plaintiffs-appellants, Albert Wright, Jr., Gertrude Wright tie Herrero and Robert Wright, 53*51, and 49 years of age, respectively, are the children of the late spouses Albert Wright, an American citizen, and Donay, a native of Mt. Province, Philippines. In 1959, they discovered for the first time that their father owned the above-named mining claims.

In a series of letters, the plaintiffs inquired into the muniments of title of the defendants, and when the many inquiries were partially answered by the defendants, the plaintiffs demanded the delivery of the mining claims to themselves as the rightful owners. The demand was rejected, and the plaintiffs filed the complaint on 9 November 1959, alleging that the acquisition by the defendants of the mining claims in question was fraudulent and in bad faith.

The properties are in the present possession and registered ownership of the defendants-appellees, under transfer certificates of title which were reconstituted under Republic Act 26, by final orders of the Court of First Instance of Bontoc, issued on 23rd March, 1949.

The plaintiffs-appellants rely on the survey plats of the claims of Albert Wright on the two mining claims, which plats were approved in 1907 by the Director of Lands and on a publication entitled "The Mineral Resources of the Philippine Islands for the Years 1921, 1922 and 1923" issued by the Division of Geology and Mines, Bureau of Mines, Manila, and which was printed in 1925 by the Bureau of Printing. The publication listed in tabular form "all the patented claims as well as all coal and petroleum leases, to and including December 31, 1923," in accordance with the present mining laws". Under the italicized heading "List of mineral land concessions granted and in force to December 31, 1923", Albert P. Wright appears as the "patentee, lessee, or permittee" to a lode patent and a placer patent, both located in Mankayan-Bontoc and with areas of 5.4953 and 5.5887 hectares,

respectively.

The plaintiffs' theory is that since Albert Wright was the owner of the mining claims in 1928, he could not have transferred, sold, or alienated to anyone the two mining claims; nor could his heirs, plaintiffs-appellants, at his death, since they were then minors, nor have they done so after becoming of age.

The reconstituted certificates of titles are four (4) in number, all transfer certificates (RT-18(117), RT-17 (116), RT-25(52) and RT-26(50)), all owner's duplicate certificates, and all certify that the corresponding land- "was originally registered on the 18th day of September, in the year nineteen hundred and eight ***, pursuant to a patent granted by the Governor-General of the Philippines, on the 7th day of July, in the year nineteen hundred and eight, under Act No. 496."

All the four reconstituted certificates bear on their page A a certification by the provincial fiscal and ex-officio register of deeds that reconstitution was effected pursuant to order of the Court of First Instance of Mt. Province, under the provisions of Republic Act No. 26. Two (2) reconstituted certificates, RT-17 (116), as Exhibit "8", and RT-25(52), as Exhibit "9", pertain to the "Lepanto Fraction Mineral Claim", the first being for 7/10 interest in the name of Lepanto Consolidated Mining Company, and the second being for 3/10 interest in the name of V.E. Lednicky; the two (2) other reconstituted certificates, RT-18 (117), as Exhibit "8-A", and RT-26(50), as Exhibit "9-B", pertain to the "Copper Placer Mining Claim", the first being for 7/10 interest in the name of the company, and the second being for 3/10 interest in the name of Lednicky. On page B (for Memorandum of Incumbrances) of both the titles in the name of Lednicky, there is an entry above the signature of the provincial fiscal and ex-officio register of deeds, as follows:

"Sold to Lepanto Consolidated Mining Company as per affidavit of V.E. Lednicky, dated February 2, 1948, and Court order of the Court of First Instance of Mt. Province, dated March 23, 1949."

The spaces intended for the signature of the register of deeds at the bottom of the first page of these Lednicky titles were unfilled.

We find that the action was properly dismissed. We can but agree with the trial court that one of the main obstacles to the maintenance of this suit by appellants are the final orders of reconstitution of the defendants' certificates of title (Exhibits 8, 8-A, 9 and 9-B), issued by the Court of first Instance as far back as 1949, conformably to the provisions of Republic Act No. 26. The reconstitution proceedings that culminated in said decrees were public proceedings in rem that bind all persons, including plaintiffs-appellants. Under section 7 of Republic Act No. 26, "Reconstituted titles shall have the same validity and legal effect as the originals thereof" unless the reconstitution was made extrajudicially, which is not the case. In view of said provision, it was incumbent upon appellants to show a better title in themselves, but they have not done so.

To overcome the force of the reconstituted certificates of appellees, it is not enough for appellants Wright to show that the title to the claims originally stood in the name of their father. They have the burden of showing clearly and positively that no transfer was ever made by him or by his agents, successors, or assigns up to the present time. That the mining patents should appear listed in the name of Albert P. Wright in the Bureau of Science Bulletin for 1923 does not preclude the existence of prior transfers, since the Bureau of Science was not the proper registry for them, and its data, at the most, would be hearsay and secondary in character, being derived from other sources.

In contrast with the plaintiffs-appellants, who have not even attempted to reconstitute the original certificate in the name of Albert P. Wright on which they base their claims, the defendants-appellees herein not only reconstituted diligently their transfer certificates of title, but have shown from clear documentary evidence that their right was derived from the trustees appointed by Philip C. Whitaker, who held a certificate of title to these claims, and

defendants' chain of title is shown to be complete from Whitaker down. The original TCT Nos. 89 and 88 were canceled in 1934 and replaced by TCT No. 98 and 97; these, in turn, were canceled and replaced by TCT Nos. 116 and 117, when the claims were acquired by Lepanto Consolidated Mining Co. in 1936. The only missing link is that of Wright to Whitaker, but the hiatus is adequately explained by the general and thorough destruction of title records due to the Pacific War.

It thus appears that appellee Lepanto Consolidated Mining Co. acquired these claims on the strength of certificates of title issued to its predecessors in interest, so that its possession since 1936 must be held to be in good faith, as the company was not required to look behind the certificates of title exhibited by its vendors. Thus, the presumption of just title established by the Civil Code in its Articles 433 and 541 in favor of an actual possessor in concept of owner is reinforced by the respect due to its Torrens certificates of Title, regular on their face.

We can not give much weight to the fact that appellee Lednicky gave two different versions of how he acquired his 3/10 interest in the mining claims at issue from Philip C. Whitaker (which he later transferred to its co-defendant Mining Co.). It is not unnatural for the memory of a man over 70 years old to display inconsistencies. At any rate, Lednicky's recollections cannot overcome the facts appearing in the authentic documents on record in this case.

Appellants lay considerable emphasis on the fact that the reconstituted titles of V. E. Lednicky (Exhibits 9-A and 9-B) do not show the signature of the Register of Deeds that issued the destroyed certificate, nor the particulars concerning the number and date of the preceding certificate from which the destroyed certificates were transferred. In thus arguing, appellants ignore the fact that titles are not reconstituted exclusively from certified copies; the law (R.A. No. 26) authorizes their reconstitution from whatever documents and evidence deemed satisfactory by the Court. Very often where both original and duplicate certificates have been destroyed, only the technical descriptions and numbers can be reconstituted with certainty, since it is not the notarial practice to reproduce verbatim in conveyances the entire contents of a certificate of title. We are not called upon to rule whether the order of reconstitution erred in permitting it without the data sought by appellants; said orders of reconstitution have long ago become final. Appellants could have intervened in the proceedings but did not; it is now too late for them to complain in this respect.

It is pertinent to note here that if the certificates (in the name of appellee Mining Company) were fully reconstituted it was because it managed to secure a certified copy of it obtained from the Register of Deeds by a Japanese named Aihara during the enemy occupation (Exh. 10-C).

The absence of a copy of the conveyance from Wright to Whitaker in the records of the old Bureau of Archives (now Bureau of Records Management) can not prejudice the parties to the conveyance or their successors, since it was not their duty to forward the records. That obligation devolved solely upon the notary that ratified the deeds, and his acts were not under the control of the parties.

Outstanding is the fact that appellants' possession of the disputed properties was under colour of title since 1936, if not earlier, and that from then onward, defendants have operated and developed the mines, and invested considerable sums of money in useful expenditures thereon, without appellants' lifting a finger to assert a contradictory title or right for over twenty-five years. Assuming that Albert P. Wright ever held a Torrens title to the claims (which is not adequately shown), and that his ownership and that of his heirs may not be defeated by prescription, still those rights have become barred by their inactivity and laches for nearly thirty-years. This long inaction, coupled with renewed activity after total destruction of official records, strongly indicate an unmeritorious claim.

Premises considered, the decision appealed from is affirmed. Costs against appellants.

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

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