

DARIO N. LOZANO, IN HIS CAPACITY AS ADMINISTRATOR OF THE ESTATE OF THE DECEASED AUGUSTO N. LOZANO, PATROCINIO DEL PRADO AND ANTONIO LOZANO, PLAINTIFFS-APPELLANTS, VS. IGNACIO BA...

G.R. No. L-49470. April 08, 1991

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This is an appeal elevated to Us by the Court of Appeals on pure questions of law seeking the reversal of the decision of the respondent Court of First Instance of Pangasinan, Third Judicial District, Dagupan City in Civil Case No. D-2107 dismissing the complaint for lack of merit, declaring defendant Ignacio Ballesteros the absolute owner of the land in question, ordering the cancellation of the plaintiffs' adverse claim and the payment to defendant of damages, attorney's fees and cost of suit.

The antecedent facts of this case as recounted by the trial court and adopted partially from the parties' stipulation of facts are as follows:

Maria Nieves Nunez Tuazon, deceased mother of the plaintiffs, was the original registered exclusive owner of the land in question comprising Lots Q, B and O as evidenced by Original Certificate of Title no. 46076. However only Lot Q is the subject of this present action. On March 6, 1958, by virtue of a deed of absolute sale, Tuazon sold the land in question to Marciana de Dios.

On June 2, 1958, Augusto, Dario, Jaime, Cresencia, Lourdes and Alicia, all surnamed Lozano, together with Marciana de Dios filed a verified petition before the Court of First Instance of Pangasinan seeking the approval of the consolidation-subdivision plan and for the annotation of several documents at the back of the Original Certificate of Title no. 46076. Acting on the verified petition, the court approved the consolidation-subdivision plan and directed the inscription, among others, of said deed of sale at the back of the title.

Transfer Certificate of Title No. 26537 was issued in the name of Marciana de Dios who later mortgaged the land to Kaluyagan Rural Bank in San Carlos City, Pangasinan.

On January 22, 1963, plaintiffs caused the annotation of their adverse claim at the back of the title of the said lot.

Thereafter, a petition for the settlement of the estate of Augusto Lozano was filed by the plaintiffs in the Court of First Instance of Pangasinan. On November 18, 1965, plaintiffs through the administrator filed an inventory which included said lot Q.

On August 25, 1966, De Dios sold lot Q to defendant Ignacio Ballesteros and Transfer Certificate of Title No. 63171 was later transferred in his name.

On September 21, 1966, plaintiffs filed an action for reconveyance against De Dios in Civil Case No. D-1953, alleging that the estate of Augusto Lozano is the absolute owner of Lots Q, O and B. On June 8, 1967, the court

rendered a default decision in favor of the plaintiffs. However, the judgment was not satisfied on the ground that De Dios was insolvent and did not have any registered property.

Having failed to effect the recovery and /or reconveyance of the lots, plaintiffs filed several complaints in Civil Cases Nos. D-2107, D-2109 and D-2115 before the Court of First Instance of Pangasinan for reconveyance and recovery of possession. The trial court in Civil Case No. D-2107 rendered a decision on October 21, 1969, the dispositive portion is hereunder quoted as follows:

"IN VIEW OF THE FOREGOING CONSIDERATIONS, the court hereby renders judgment (1) dismissing the complaint for lack of merit; (2) declaring defendant Ignacio Ballesteros the absolute owner of the land in question; (3) ordering the cancellation of plaintiffs' adverse claim at the back of Transfer Certificate of Title No. 63171 at the expense of the plaintiffs; and (4) ordering plaintiffs to pay, jointly and severally, the herein defendant in the amount of P1,000.00 damages, and P500.00 for attorney's fees and the cost of suit.

SO ORDERED." (Record on Appeal, p. 35)

Hence, plaintiffs interposed an appeal to the Court of Appeals docketed as CA-G.R. No. 46169-R. However, the Court of Appeals in its resolution dated November 16, 1978 ruled that "the matter submitted for determination is purely a question of law that is beyond the jurisdiction of this court." (Rollo, p. 50). Thus, the records of the case were elevated to this Court, to wit:

"WHEREFORE, let the records of this case be elevated to the Honorable Supreme Court as a matter pertaining to its exclusive appellate jurisdiction.

"SO ORDERED." (Rollo, p. 50)

It should be noted that during the pendency of the appeal before the Court of Appeals, the appellants manifested in the motion for extension to file brief their intention of filing a joint brief for all cases pending before the same court because of the relationship and similarity of issues of the afore-mentioned cases.

Thereupon, said appellants as well as appellees filed their respective joint briefs.

The appellants raised the following seven (7) assignments of errors:

"I

" THE LOWER COURT ERRED IN NOT FINDING THAT THE ADVERSE CLAIM OF HEREIN PLAINTIFFS-APPELLANTS FILED AND ANNOTATED AT THE BACK OF THE PRIOR TITLES OF MARCIANA DE DIOS AS ENTRY NO. 194992 AND ENTRY NO. 197335 ARE BINDING AND VALID AS AGAINST DEFENDANTS-APPELLEES WHO ARE SUBSEQUENT PURCHASERS FROM MARCIANA DE DIOS.

"II

" THE LOWER COURT ERRED IN NOT FINDING THAT BY VIRTUE OF SAID ADVERSE CLAIM THE DEFENDANTS-APPELLEES PURCHASERS ARE BOUND BY THE DECISION AGAINST MARCIANA DE DIOS IN CIVIL CASE NO. D-1953 (EXHIBIT "I").

"III

" THE LOWER COURT ERRED IN DECLARING NULL AND VOID AS AGAINST THE DEFENDANTS-APPELLEES THE DECISION IN CIVIL CASE NO. D-1953.

"IV

" THE LOWER COURT ERRED IN NOT FINDING THAT AS LONG AS THE ADVERSE CLAIM REMAINS AS AN ENCUMBRANCE ON THE TITLES THE SAME IS DESIGNED TO PROTECT THE INTEREST OF THE ADVERSE CLAIMANTS AGAINST CLAIMS OF SUBSEQUENT PURCHASERS.

"V

" THE LOWER COURT ERRED IN NOT DECLARING THE DEFENDANTS-APPELLEES AS PURCHASERS IN BAD FAITH AS THEY HAVE KNOWLEDGE OF HEREIN PLAINTIFFS-APPELLANTS' CLAIMS AGAINST MARCIANA DE DIOS.

"VI

" THE LOWER COURT ERRED IN AWARDING DAMAGES AND ATTORNEY'S FEES TO THE DEFENDANTS-APPELLEES DESPITE THE LACK OF EVIDENCE OF DAMAGES AND DESPITE THE FACT THAT THERE IS NO EVIDENCE THAT HEREIN PLAINTIFFS' COMPLAINT WERE FILED IN GROSS BAD FAITH OR WITH MALICE.

"VII

" THE LOWER COURT ERRED IN DECIDING THE CASES IN FAVOR OF APPELLEES. (Rollo, pp. 49-50)

Appellants maintain that the first five assignments of errors should be discussed jointly because these errors boil down to the issue of the validity and effectivity of the adverse claim. The appellants insist that "the said adverse claim has been carried along in the subsequent titles of the defendants." (Joint Brief for Plaintiffs-Appellants, p. 7) Thus, they conclude that the consequence of this cautionary notice is that whatever would be the result of their claim against Marciana de Dios is binding on subsequent purchasers or successors-in-interest. They contend that the "defendants-appellees should have waited for the decision of the court on the question of the validity of the adverse claim or should have first moved for the removal or cancellation of the adverse claim." (Ibid, p. 8) Hence, appellants conclude that defendants-appellees are purchasers in bad faith as they have knowledge of the claims against De Dios.

However, the appellee stresses that "a cursory examination of the adverse claim filed by the plaintiffs-appellants x x x readily reveals that the same has failed to comply with the formal requirements of Section 110 of Act 496 with respect to adverse claims. And for which, and for all legal purposes, the adverse claim under comment is not valid and effective." (Joint Brief for Defendants-Appellees, pp. 15-16) Appellee argues that "there was a fatal non-joinder of necessary or indispensable parties." (Ibid, p. 21) Thus, the position of the appellants is untenable because "the non-joinder of necessary and indispensable parties renders null and void as against them any decision in a case in which they were not made parties-litigants." (Ibid, p. 23) Furthermore, appellee "submits that the protection given by the law to adverse claimants in regard to the property subject to an adverse claim is available only to the party whose registered adverse claim meets all the formal requisites of law, and not when the same is a nullity." (Ibid, p. 26) Hence, appellee concludes that "an invalid and ineffective adverse claim cannot validly serve as a notice or warning to third parties who may deal with the properties subject thereto because such adverse claim by reason of its nullity is deemed not existent and unregistered." (Ibid, p. 27)

The appellants claim that "there are several reasons why the decision of the lower court in the matter of damages and attorney's fees should be reversed, to wit:

"First, defendants did not present evidence on damages and attorney's fees.

"Second, there is no proof of mental suffering, mental anguish, fright, and the like to entitle defendants to moral damages.

"Third, there is no showing by the defendants that herein plaintiffs' complaints were filed in gross bad faith or malice.

"Fourth, the decision itself did not make finding of facts which would show that defendants are entitled to damages and attorney's fees. The reason for this is that these cases were submitted mainly on stipulation of facts and exhibits. In the stipulation of facts, there is no stipulation as to damages and attorney's fees.

"Fifth, the herein plaintiffs-appellants in coming to court are just pursuing a proprietary claim which has legal and factual basis." (Joint Brief for Plaintiffs-Appellants, p. 11)

However, the appellee argues that when he was unfoundedly sued by the appellants, the former was under pain of default. Whether he liked it or not, he had to come to court and defend himself. Thus, he was compelled to unnecessarily incur expenses for the services of their counsel. (Joint Brief for Defendants-Appellees, p. 33)

In sum, the appellants insist that "the lower court erred in deciding the cases in favor of appellees." (Joint Brief for Plaintiffs-Appellants, p. 1)

We find appellants' contentions devoid of merit except that pertaining to the award of damages and attorney's fees and therefore uphold the ruling of the lower court with modification.

The applicable law in the case at bar is still Section 110 of Act No. 496, otherwise known as the Land Registration Act despite the modification introduced by Section 70 of Presidential Decree No. 1529. The said section particularly deals with adverse claim, to wit:

"Whoever claims any part or interest in registered land adverse to the registered owner, arising subsequent to the date of the original registration, may, if no other provision is made in this Act for registering the same, make a statement in writing setting forth fully his alleged right or interest, and how or under whom acquired, and a reference to the volume and page of the certificate of title of the registered owner, and a description of the land in which the right or interest is claimed.

"The statement shall be signed and sworn to, and shall state the adverse claimant's residence, and designate a place at which all notices may be served upon him. This statement shall be entitled to registration as an adverse claim, and the court, upon a petition of any party in interest, shall grant a speedy hearing upon the question of the validity of such adverse claim and shall enter such decree therein as justice and equity may require. If the claim is adjudged to be invalid, the registration shall be cancelled. If in any case the court after notice and hearing shall find that a claim thus registered was frivolous or vexatious, it may tax the adverse claimant double or treble costs in its discretion."

Hence, for the purpose of registration and as required by the abovequoted provision, as amended, the following are the formal requisites of an adverse claim:

- the adverse claimant must state the following in writing:
 - a. his alleged right or interest;
 - b. how and under whom such alleged right or interest is acquired;
 - c. the description of the land in which the right or interest is claimed, and
 - d. the certificate of title number
- the statement must be signed and sworn to before a notary public or other officer authorized to administer oath; and
- the claimant should state his residence or the place to which all notices may be served upon him.

The lower court quoted in part the adverse claim filed by the plaintiffs, to wit:

"That this adverse claim is being filed prior to the filing of a court action because all the properties above-described formerly belong to my husband, the late Augusto Lozano." (Record on Appeal, p. 32)

However, the lower court noted that "the adverse claim filed and annotated on the back of the title of Marciana de Dios and later to the title of the herein defendant, did not meet the requirements provided for in Section 110 of Act 496, that is setting forth fully how or under whom the heirs of Lozano acquired the property." (Record on Appeal, p. 33)

We adhere to the lower court's findings and find appellee's position meritorious. A cursory reading of the aforequoted adverse claim filed by the plaintiffs shows that the same has failed to comply with the formal requisites of Section 110 of Act 496, more specifically the appellants' failure to state how and under whom their alleged right or interest is acquired. Thus, the effect of such non-compliance renders the adverse claim non-registrable and ineffective.

In a case where the adverse claim filed for registration did not fully comply with the formal requisites of Section 110 of Act No. 496, or more specifically, there being no description of the land in which right or interest is claimed nor the place to which all notices may be served upon the adverse claimant given, such adverse claim could not be registered. (LRC Consulta No. 144, Register of Deeds of Quezon City, pet., February 18, 1957)

Despite the appellee's alleged knowledge of the appellants' claims against De Dios, We still find the allegation of bad faith on the part of the appellee devoid of merit. It should be stressed that bad faith is inconsequential because of the ineffectiveness of the adverse claim.

Anent the appellants' contention that appellee is bound by the decision in the former reconveyance case against De Dios, the lower court stressed that it is convinced that the decision rendered in Civil Case No. D-1953 is a nullity, because an indispensable party like the defendant herein was not brought as party therein. The failure of the plaintiffs to implead the present defendant in that case, constituted a legal obstacle to the exercise of judicial power in said case, and rendered any judgment therein an absolute nullity. (Record on Appeal, p. 30)

Rule 3, Section 7 of the Revised Rules of Court provides that:

"Parties in interest without whom no final determination can be had of an action shall be joined either as plaintiffs or defendants."

We rule that "owners of property over which reconveyance is asserted are indispensable parties, without whom no relief is available and without whom the court can render no valid judgment." (see *Acting Registrars of Land Titles and Deeds of Pasay City, Pasig and Makati v. Regional Trial Court of Makati, Branch 57*, G.R. No. 81564, 24 April, 1990, 184 SCRA 622, 633)

As defined, "an indispensable party is one without whom the action cannot be finally determined, whose interests in the subject matter of the suit and in the relief sought are so bound up with that of the other parties that his legal presence as a party to the proceeding is an absolute necessity. (*Co v. Intermediate Appellate Court*, G.R. No. 65928, 21 June, 1988, 162 SCRA 390, 399)

On the basis of the above-mentioned definition, We believe that the point of the appellee was well taken by the court and We therefore conclude that the defendant-appellee was correctly considered as an indispensable party, ergo, the court cannot rule that said party is bound by the previous decision in favor of the appellants.

Finally, the appellants' claim against the lower court's award of damages and attorney's fees is meritorious.

The lower court is admonished in ordering the payment of damages without mentioning the specific type of damages being awarded. In view of the lower court's inaccuracy as well as its failure to state any basis for the award of the indemnity, the same must be deleted.

More specifically, We already emphasized that most of the items for which moral damages can be awarded under Article 2219 of the new Civil Code are such as affect the moral feelings and personal pride of the person seeking recovery, and they should be weighed in determining the indemnity to be awarded. (*Layda v. Court of Appeals, et. al.*, 90 Phil 724) Thus, if the court has no proof or evidence upon which the claim for moral damages could be based, such indemnity could not be outrightly awarded.

In relation to appellee's prayer for exemplary damages, it has been held that under Articles 2229, 2233 and 2234 of the New Civil Code, "exemplary damages may be imposed by way of example or correction only in addition, among others, to compensatory damages, but they cannot be recovered as a matter of right, their determination depending upon the discretion of the court. It further appears that the amount of exemplary damages need not be proved, because its determination depends upon the amount of compensatory damages that may be awarded to the claimant. If the amount of exemplary damages need not be proved, it need not also be alleged and the reason is obvious because it is merely incidental or dependent upon what the court may award as compensatory damages. Unless and until this premise is determined and established, what may be claimed as exemplary damages would amount to a mere surmise or speculation." (*Singson, et. al. v. Aragon and Lorza*, 92 Phil 515, 518)

Hence, in the absence of any claim and proof of compensatory damages, the award of exemplary damages has no leg to stand on.

Finally, the rule on the award of attorney's fees is that there must be a justification for the same. In the absence of a statement why attorney's fees were awarded, the same should be disallowed.

All premises considered, the Court is convinced that the lower court committed no error in adjudicating in favor of the defendant-appellee except as to the award of damages and attorney's fees which We find erroneous.

ACCORDINGLY, the appealed judgment of the lower court is hereby AFFIRMED with modification insofar as it awarded damages amounting to P1,000.00, and attorney's fees amounting to P500.00 which are hereby deleted.

SO ORDERED.

Narvasa, (Chairman), Cruz, and Griño-Aquino, JJ., concur.

Gancayco, J., no part.

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