

HONORATA, VICENTE, ANTONIO VIRGILIA, NESTORA, FRANCISCO, JR., AND FRANCISCO, ALL SURNAMED BETIA, PETITIONERS, VS. LEONARDO GABITO, CLAUDIO POSCABOL AND THE COURT OF APPEALS, RES...

G.R. No. L-7677. February 18, 1956

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This case was initiated by plaintiffs in the Court of First Instance of Iloilo to quiet title over two portions of land situated in barrio Salvacion, municipality of Buenavista, province of Iloilo, which are claimed to be illegally possessed by defendants, and to recover damages for their failure to gather and enjoy the products thereof resulting from such illegal possession.

The two portions of land are included in a parcel of land of a bigger area originally owned by Dalmacia Natividad to whom Original Certificate of Title No. 365 was issued on November 6, 1914. In a testament executed on September 27, 1919, Dalmacia Natividad bequeathed one-half of the land to Paulina Aungon and the other half to the children of her nephew Jose Maria Igpuaara, named Ramon, Jose Carmelo and Luis. When Dalmacia died, proceedings were instituted for the probate of her testament and the properties were adjudicated to the devisees in an order issued on September 7, 1920, as a result of which Original Certificate of Title No. 365 was cancelled and Transfer Certificate of Title No. 1128 issued in lieu thereof wherein the land was inscribed in their names in equal shares pro-indiviso. The portion belonging to the Igpuaaras was later sold to Filomena Fernandez and Concepcion Ferrer, and as a result Transfer Certificate of Title No. 2459 was issued on August 8, 1947 inscribing the land therein also pro indiviso and in equal shares in the names of Paulina Aungon and of the new owners Filomena and Concepcion. And on June 10, 1948, the latter two in turn sold their shares to Paulina A who became the sole owner of the land and to whom Transfer Certificate of Title No. T-4335 was issued on June 11, 1948. Paulina Aungon died on May 27, 1950 and she was succeeded by her children and husband, plaintiffs herein. In 1944 and 1946, Claudio Poscabol and Leonardo Gabito took possession of certain portions of the land claiming to be owners thereof by purchase and when the heirs of Paulina Aungon asked them to vacate the land under claim of ownership, they refused and hence they instituted the present action.

The trial court found that the plaintiffs were the exclusive owners pro indiviso of the portions of land in question which are covered by torrens title and sentenced the defendants to return them to the plaintiffs and to pay the corresponding damages. But when the case was taken on appeal to the Court of Appeals, the latter reversed the decision declaring the defendants owners of the land and dismissing the complaint. The case is now before us by virtue of a petition for review interposed by the plaintiffs.

There is no question that Paulina Aungon, predecessor-in-interest of the plaintiffs, acquired the whole parcel of land which was originally owned by Dalmacia Natividad. One-half thereof pro indiviso she inherited from Dalmacia as a devisee and the other half she acquired by purchase from Filomena Fernandez and Concepcion

Ferrer on June 10, 1948, and as a consequence she was issued Transfer Certificate of Title No. T-4535 on June 11, 1948, The portions of land now subject of controversy are included in this half and there is nothing in the evidence to show that when Paulina Aungon bought this half she knew that portions thereof were claimed or possessed by third persons.

The defendants, on the other hand, claim that the two portions herein controverted were originally owned by Eufemia Gallego who upon her death passed them to her heirs Florentin Gabiason and Evarista Gabiason; that the share corresponding to Florentin was later sold to Leonardo Gabito and that corresponding to Evarista to Bienvenido Gabito and Claudio foscabol, defendants herein; that these two portions were erroneously included in the survey of the land belonging to Delmacia Natividad and that when the latter's attention was called to the mistake she executed a document on May 15 ? 1919, wherein apparently she conveyed said portions to Florentin and Evarista Gabiason for the sum of P40.00 and turned over their possession to them. This document was never acknowledged before a notary public.

The question now to be determined hinges on the effect to be given to this private transfer on the acquisition made by Paulina Aungon of the land considering that she had purchased it in good faith and for value and a torrens title was issued in her name by the Register of Deeds,

The Court of Appeals found that this private transfer made thirty years ago should prevail even if the land in question is covered by a certificate of title which does not show any encumbrance on its face for the reason that said Paulina Aungon or her successors-in-interest. had acted in bad faith in acquiring the land because, we quote from the decision, "at the time of the purchase, they should have known and, in fact, they knew that the portions in question 'were occupied by appellants who themselves claimed to be owners thereof, Betia admitted."

This finding seems to be predicated on the sole testimony of Betia who became the administrator of the property after its acquisition by Paulina Aungon. But this finding is in our opinion-erroneous because it is based on knowledge acquired after the purchase and not before as to qualify the character of the acquisition. What Betia admitted is that when he became the administrator he found the defendants in possession of the land who claimed to be the owners thereof and this admission cannot certainly be a basis for concluding that his mother Paulina knew such adverse claim when she acquired the land. Bad faith cannot be presumed but must be established by clear and positive evidence. We therefore hold that this finding has no factual basis and cannot prevail over the fact shown by the record that Paulina Aungon is an innocent purchaser for value within the meaning of the law (Section 39, Act 496, as amended).

On the other hand, much can be said of the negligence or indifference of the defendants or their successors-in-interest to whom should be ascribed the sad plight which had fallen them., If it is true that the land was sold to their predecessors-in-interest way back in 1919 by virtue of a private document they should have taken steps there and then to have that document converted into a public instrument in the manner provided by law (Article 1279, old Civil Code), or should have taken the necessary action when the will of Dalmacia Natividad was probated by claiming the property from the administrator (Section 2, Rule 88, Rules of Court), They failed to take either action or step and slept on their rights thus allowing prescription to set in. Only themselves can be blamed for such a predicament. They failed to be vigilant in the protection of their interest.

Wherefore, the decision appealed from is reversed, with costs against respondents-appellees. The decision of the court of first instance is hereby revived and given effect.

Paras, C.J., Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., and Endencia, JJ., concur.

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