

ARING (BAGOBA), ET AL., PLAINTIFFS AND APPELLANTS, VS. JOSE (NAKAMURA) ORIGINAL, DEFENDANT AND APPELLEE.*G.R. No. L-18464. December 29, 1962*

Ponente: BAUTISTA ANGELO, J.

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On July 27, 1955, Jose (Nakamura) Original filed a complaint against Aring (Bagoba), et al. before the Court of First Instance of Davao, which was later amended, to recover the ownership and possession of two parcels of land, one known as Lot No. 162 covered by Original Certificate of Title No. 141, having an area of 216,473 sq. m., situated in Guianga, Davao City, and another located at Wangan, Davao City, covered by Original Certificate of Title No. 573, having an area of 150,000 sq. m., which through false representation were titled in the name of Aring (Bagoba), and were taken possession of by the latter, plus damages and attorney's fees. In said amended complaint, it was alleged that Jose (Nakamura) Original is the acknowledged natural son and only heir of Obot (Bagoba) who was the original owner of said two parcels of land (Civil Case No. 765).

In their answer the defendants, among other things, stated that they are presently not sure whether plaintiff is the same Jose (Nakamura) Original who was the acknowledged natural son of Obot (Bagoba) for the reason that the said son "after having rendered active services for the Japanese Imperial Forces, was believed to have been killed by the Guerrillas and/or other members of the USAFFE and that since his whereabouts were unaccounted for from the year 1945 everybody had taken him for dead and that the defendants do not really know whether the plaintiff who had allegedly executed a Power of Attorney in favor of Brigido R. Valencia is the same Jose (Nakamura) Original, the acknowledged natural child of Obot (Bagoba)."

After due trial, the court rendered decision on August 30, 1956 declaring plaintiff to be the owner of the two parcels of land in question and ordering that the titles thereto be issued in his name, cancelling those that were falsely issued in the name of defendants, ordering at the same time that their possession, together with the improvements existing thereon, be delivered to plaintiff. Defendants appealed this decision to the Court of Appeals, which in due time dismissed the appeal. Thereupon, plaintiff was placed in possession of the properties in question.

On January 11, 1961, or more than four years after the rendition of said decision, Aring (Bagoba), et al., who were the defendants in Civil Case No. 765, instituted before the same court of first instance the present action seeking the annulment of the decision rendered in said case, as well as the recovery of the title and possession of the same parcels of land involved therein, plus damages and attorney's fees (Civil Case No. 3465). The instant action is predicated on the grounds that (1) the decision in Civil Case No. 765 was obtained thru fraud; (2) defendant Jose (Nakamura) Original did not have a cause of action in said case; and (3) the court had no jurisdiction over Lot 162 involved in the same case.

Defendant Jose (Nakamura) Original filed a motion to dismiss on the grounds: (1) the action is already barred by a prior judgment; (2) the allegation of fraud is not true, and if fraud there was, it was not an extrinsic or collateral

fraud; and (3) plaintiffs were in estoppel en pais for having admitted in the former case that defendant is an acknowledged natural son of the deceased Obot (Bagoba) and the owner of the properties in question.

On February 22, 1961, the court a quo, in a brief order, dismissed the case stating: "On the ground that the cause of action is barred by a prior judgment, the above-entitled case is hereby dismissed without pronouncement as to costs."

Plaintiffs interposed the present appeal.

We find no error in the finding of the court a quo that the present action is already barred by a prior judgment for here all the elements for the application of the principle of res judicata are present. Indeed, in order that there may be res judicata, in accordance with a series of cases decided by this Court, the following elements must be present: (a) the former judgment must be final; (b) it must be rendered by a court of competent jurisdiction; (c) it must be a judgment on the merits; and (d) there must be between the first and the second action identity of parties, of subject matter, and of cause of action.[1] Here it cannot be denied that the decision rendered in Civil Case No. 765 has already become final and executory, it was rendered by a court of competent jurisdiction, it was a judgment on the merits, and both cases involve the same parties, the same parcels of land, and a similarity of causes of action. In other words, while the grounds on which the two cases were predicated are technically at variance, in substance they aim at the same objective: the recovery of the title and possession of the same properties.

On the other hand, we do not find tenable the contention that the judgment rendered in the former case was obtained by fraud in that appellee misrepresented to the court that he was the acknowledged natural child of the deceased Obot (Bagoba) who was the original owner of the lands and that guardianship proceedings were instituted over his person and properties under Special Proceedings No. 286 of the Court of First Instance of Davao. There is no such misrepresentation. As a matter of fact, appellee expressly alleged in his amended complaint that he was the duly acknowledged natural child of Obot (Bagoba) and the only heir of her properties, the same being the main basis of his claim of ownership and possession of the properties in litigation. And this allegation has not been disputed by appellants in their answer. In fact, appellants admitted that one Jose (Nakamura) Original was the acknowledged natural son of Obot (Bagoba) even though they were not sure that this son is the very plaintiff therein (herein appellee) for the reason that, according to their information, said son, after having rendered service to the Japanese Imperial Forces, was believed to have been killed by the guerrillas or by the members of the USAFFE and since then his whereabouts were unaccounted for And appellee was able to prove to the satisfaction of the court that he is really the same Jose (Nakamura) Original therein referred to. Appellee, therefore, did not commit any fraudulent representation and, if fraud there was, the same is not extrinsic or collateral that can serve as basis for annulment of judgment.

The contention that the court that took cognizance of Civil Case No. 765 insofar as Lot 162 is concerned acted without jurisdiction has likewise no merit, it appearing that the nature of the action is not a petition for review of the decision of the Director of Lands but one for annulment of the title falsely obtained by appellants. It appears that Patent V-1007 was issued by the Director of Lands covering Lot 162 in the name of the heirs of Obot (Bagoba), and when the latter died, appellants, upon the claim that they were the only heirs of the deceased, were able to obtain another title in their name to the prejudice of appellee who Was then in Japan. It is for the purpose of annulling this title that he brought Civil Case 765. His action cannot, therefore, be said to be in the nature of a petition for review under Section 38 of Act 496, which prescribes after one year from the issuance of the decree. Rather, it is an action for annulment of the new title issued to appellants on the ground of fraud.

Wherefore, the order appealed from is affirmed, with costs against appellants.

Padilla, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

[1] San Diego v. Cordona, 72 Phil., 281, Agricultural Credit and Cooperative Financing Corporation (ACCFA) vs. Goyena Lumber Company, et al., G. R. No. L-18078, October 31, 1962.

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