

FABIAN B. S. ABELLERA, PLAINTIFF AND APPELLANT, VS. NARCISO DE GUZMAN ET AL., DEFENDANTS AND APPELLEES.*G.R. No. L-2269. March 14, 1950*

Ponente: PADILLA, J.

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On 22 March 1918 this Court affirmed a judgment rendered by the court of first instance of La Union dismissing the complaint, by which the plaintiff sought to eject nineteen (19) alleged trespassers or squatters from a tract of land described in the complaint, "on the ground that plaintiff failed to establish title in himself to the hacienda upon which he could maintain an action of ejectment." Plaintiff claimed title to the hacienda by virtue of a donation which he failed to accept in a public instrument as required in article 633 of the Civil Code (Abellera vs. Balanag, 37 Phil. 865). After the dismissal of the complaint, the plaintiff brought another action against the same defendants for ejectment (civil case No. 936 of the court of first instance of La Union). This second action was dismissed, on the ground that the title to the tract of land from which he sought to eject the defendants might well be litigated in the cadastral case then pending in the same court which included the tract of land, divided into lots and claimed by both the plaintiff and the defendants, the court of first instance being of the opinion that, should title to the tract of land be confirmed and decreed in the name of the plaintiff, the latter could bring an action against the defendants for damages. From this order of dismissal, the plaintiff did not appeal. When in the cadastral case, however, the answers of the plaintiff claiming the lots, into which the tract of land claimed by him as his property had been divided, were stricken out and he was prevented from presenting evidence to prove his title to the tract of land or to the lots into which it had been divided, he applied to the Supreme Court for a writ of certiorari, which was granted (Fabian B. S. Abellera vs. Hon. Meynardo M. Farol, Narciso de Guzman et al., G.R. No. 48480, 30 July 1943).[1] This Court in the last mentioned case reversed the order of the respondent cadastral court and directed it to allow the petitioner "to present evidence to prove his claim over the lots in question;" and, commenting on the judgment rendered in the previous case (Abellera vs. Balanag et al., supra), it made the following pronouncement: "* * * and we clearly refused to prevent Abellera from instituting a new action based upon his assertion that he had acquired title to the estate since the dismissal of his original action." So the plaintiff's claim in the cadastral case No. 5 of the municipality of Aringay, province of La Union, to the lots into which the tract of land was divided and from which he had sought defendants' ejectment in the two previous actions brought by him in the court of first instance of La Union, was pending when the record of the cadastral case was destroyed as a result of the battle for liberation; and, in view of the failure of the interested parties or of the Director of Lands to institute proceedings for its reconstitution, on 5 February 1946 the plaintiff in the two previous cases brought the present action for ejectment against the same defendants in the two previous cases (civil cases Nos. 773 and 936 of the court of first instance of La Union), or their successors-in-interest, including new or additional defendants who are the claimants of lots Nos. 5009, 5010 and 5540 in the cadastral case, which lie within the area of the tract of land claimed by the plaintiff, and prayed for judgment declaring him the owner of the tract of land from which he had sought defendants' ejectment in the two previous cases; for the possession of the lots unlawfully occupied or detained by the defendants; for the recovery of damages from each and

everyone of the defendants, amounting all in all to P40,000 and costs; and for general relief. Instead of answering the complaint the defendants moved for its dismissal, on the ground (1) that it states no cause of action; and (2) that there is another action pending between the same parties for the same cause. On 18 June 1946, acting upon the motion to dismiss filed by the defendants, the trial court sustained the second ground of the motion and dismissed the complaint without costs. In dismissing the complaint, the trial court was of the belief that in the certiorari case (Fabian B. 3. Abellera vs. Hon. Meynardo M. Farol, Narciso de Guzman et al., G. R. No. 48480, supra), this Court directed the plaintiff "not to file a new action, to have his claim over the lots in question asserted, but to present evidence to prove his claim over said lots in the Cadastral Proceedings, Cadastral Case No. 5, of Aringay, La Union." The plaintiff has appealed from this order of dismissal to the Court of Appeals. After reviewing the evidence, the latter court certified the appeal to this Court for the reason that only questions of law are raised or involved.

Although the present action is entitled "Recurso Declaratorio" and in paragraph seven (7) of the complaint, reference is made to section 1, Rule 66, of the Rules, it is really for ejectment and damages. The plaintiff asserts title to the tract of land which was divided into several lots when it was surveyed for the institution of cadastral proceedings and he filed answers to claim the lots as his property in the cadastral case. It is the third action brought to have the court declare that he is the owner and entitled to the possession of the tract of land divided into lots in the cadastral case, which are also claimed by the defendants, and to recover its possession and damages for the unlawful occupation and detention thereof. The complaint may appear clumsily drawn up, but there is no question that it is not for declaratory relief, as provided for in Rule 66 of the Rules of Court, but for ejectment (reivindicacion) and for damages. So, the first ground of the motion to dismiss the complaint is not well taken. The court below has made no comment on it, for it must have been of the opinion that the complaint states a cause of action.

The second ground for the dismissal of the complaint, to wit: that there is another action pending between the same parties for the same cause, upon which the order of dismissal appealed from is predicated, is likewise without merit, because even if the record of the cadastral case, where the lots into which the tract of land was divided, could be reconstituted, and for that reason plaintiff could present his claim and evidence to prove his title to the lots, nevertheless, the cadastral court possesses no authority to award damages, for its power is confined to the determination as to whether the claimants are really entitled to the lots, as alleged in their answers; and, after finding that they are, to the confirmation of their title to, and registration of, the lots in their name. In the present action for ejectment, not only does the plaintiff seek to have a judicial pronouncement that he is the owner of the tract of land which he claims is unlawfully occupied by the defendants but also to recover damages. After hearing, the cadastral court may declare the plaintiff the owner of the lots and entitled to their possession and may issue a writ directing the sheriff to put him in possession thereof, but it cannot award damages to the plaintiff. Where there is a case for ejectment between parties who, one against the other, claim the same parcel of land or lot in a cadastral case, it has been customary or the practice of courts to hold a joint hearing of both the ejectment and the cadastral cases in which the same parcel of land is litigated and to render a decision in both cases in its double role, as court of first instance of general jurisdiction and as cadastral court of limited jurisdiction.

The other question which might have been raised is whether the judgment rendered in the first case between the same parties, as reported in Volume 37, p. 865, of the Philippine Reports, bars the institution of the present action. In view of the fact that the defendants did not rely on that ground in their motion to dismiss, we do not deem it proper to take it up and pass upon it.

The order of dismissal appealed from is reversed, without pronouncement as to costs.

Ozaeta, Pablo, Bengzon, Tuason, Montemayor, and Reyes, JJ., concur.

Moran, C.J., and Paras, J., took no part.

[1] 74 Phil., 284.

PADILLA, J.:

I certify that Mr. Justice Torres voted for the reversal of the order appealed from.

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