

SOFIA LAVARRO ET AL., PLAINTIFFS AND APPELLANTS, VS. REGINA LABITORIA ET AL., DEFENDANTS AND APPELLANTS.*G.R. No. L-32030. July 02, 1930*

Ponente: OSTRAND, J.

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body { font-family: Verdana, Geneva, Arial, helvetica, sans-serif; font-size:80%; background-color:#FFFFFF; margin:0 2% 0 2%; text-align: justify; } h1 { font-family:times; } h2 { background-color:#cccccc; padding:10px 0 10px 0; font-weight: bold; text-align: center; } h3 { font-weight: bold; text-transform: uppercase; text-align: center; } div#footer { font-size:9px; }

Anastacio Labitoria, who died over thirty years ago, was the original owner of a tract of land divided into three parcels and situated in the barrio of Mangilag, municipality of Candelaria, Province of Tayabas. He left four children, Francisco, Liberata, Tirso, and Eustacio Labitoria. Francisco acquired the shares of Tirso and Eustacio together with the greater part of that of Liberata, and thus became the owner of nearly all of the land. After his death, his children, Maeario and Regina Labitoria, became the owners of his interest in the land.

Sofia Lavarro is the daughter of Liberata Labitoria, and in or about the year 1897, her first husband, Crispulo Alcantara, borrowed P330 from Francisco Labitoria on the condition that Alcantara should plant 3,300 coconut palms on the land to be divided in equal shares between the parties, the loan to be paid back by turning over to the creditor 330 coconut palms out of the share of Alcantara and Sofia. Under this agreement, about 1,700 palms were planted by Alcantara, but later on, further plantings were made by his wife, Sofia Lavarro.

In July, 1916, the land was registered in the names of Macario Labitoria, Regina Labitoria, Bernardo Labitoria, Vidal Labitoria, Ariston Lavarro, Sofia Lavarro, and Isidro Lavaris. Nothing seems to have been said about the improvements on the land and no special mention of them appears in the certificate of title. Neither were the respective shares of the persons to whom the land was adjudicated definitely determined.

On October 31, 1916, Maeario, Regina, and Bernardo Labitoria and Ariston Lavarro brought an action against Sofia Lavarro and her then husband, Emeterio Pureza, for the partition of the land with its improvements. The action is civil case No. 351 of the Court of First Instance of Tayabas. In her answer in that case, Sofia Lavarro set up a cross-complaint alleging, among other things, that she was a coowner of the land and was entitled to a large proportion of the coconut palms thereon. The prayer of the cross-complaint reads as follows:

"Wherefore, by this cross-complaint Sofia Lavarro and Emeterio Pureza, through their undersigned attorney, pray the court to decree the partition of the three parcels of land described above, with all the improvements thereon, allotting to Sofia Lavarro and Emeterio Pureza their rightful portion, and ordering Macario Labitoria to render the proper accounts, and to deliver to his coheirs their proportionate part of the fruits and products of said lands, with costs against the cross-complaint defendants." (Italics supplied.)

Upon trial partition was ordered, and Sofia Lavarro was awarded 520 coconut trees and 43,391 square meters of land. She thereupon appealed to the Supreme Court, and a decision was rendered by that court on March 24,

1927,[1]in which it was held that Sofia Lavarro was entitled to 1/28 of the land. In all other respects, the decision of the Court of First Instance was affirmed. The partition seems to have been carried out in conformity with the decision of the Supreme Court, and Sofia was awarded 6 hectares, 88 ares, and 77 centiares of land, together with 850 coconut palms instead of 520.

The present action was initiated by Sofia Lavarro and her daughters, Apolonia and Isabel Alcantara, on August 15, 1927, against Regina Labitoria and Marciano Labitoria, the latter as administrator of the estate of the deceased Macario Labitoria. In their amended complaint, the plaintiffs allege that on or about the year 1897, Sofia Lavarro and her husband, Crispulo Alcantara, planted 2,850 coconut palms on the land above-mentioned, of which 1,970 trees were actually alive and bearing fruit; that after the death of Crispulo Alcantara in the year 1910, Sofia Lavarro, being then a widow, planted 2,200 coconut palms on the same tract of land, 2,000 palms being still in existence and the greater part of them bearing fruit; that from the year 1897, the plaintiffs had been in possession of the above- mentioned plantings and had collected the fruits, but that the defendants were now endeavoring to take possession of said coconut palms; and that each coconut palm was worth P12. The plaintiffs therefore prayed that unless the defendants paid to the plaintiffs the sum of P47,640, the value of the 3,970 palms planted, it be ordered that said plaintiffs be allowed to continue in possession of said coconut palms in accordance with the law.

In their answer to the complaint, the defendants set up as special defenses *res judicata* and prescription.

Upon trial, the court below, basing its decision on the case of *Bautista vs. Jimenez* (24 Phil., Ill), and article 361 of the Civil Code, ordered the defendants to pay the plaintiffs the sum of P4,820 for 1,205 coconut palms or to require the plaintiffs to purchase the land, the plaintiffs to retain the coconut palms until the aforesaid sum was paid. From this judgment both the plaintiffs and defendants appealed.

It is very obvious that the court below erred in rendering judgment in favor of the plaintiffs. This is an action for compensation for improvements alleged to have been made by the plaintiffs on the land awarded to the defendants and is brought notwithstanding the fact that the question of improvements was put in issue in case No. 351 and that the portion of land due Sofia Lavarro, and the improvements as well, were determined and adjudicated by the court in that case. Her rights in regard to the improvements are consequently *res judicata*.

But it is intimated that, while in the earlier case the issues related to the ownership of the improvements, the issue here is only a question of money payment and that therefore the causes of action are different. Assuming, without conceding, that such is the case, the result would be the same. The issues in both cases arose from the same source or transactions and should have been determined in the same case (sec. 97, Code of Civil Procedure). A judgment upon the merits bars a subsequent suit upon the same cause, though brought in a different form of action. (*White vs. Martin*, 1 Port. [Ala.], 215.) "The principle is firmly established that a party will not be permitted to split up a single cause of action and make it the basis for several suits. If several suits be brought for different parts of such a claim, the pendency of the first may be pleaded in abatement of the others, and a recovery of any part of the cause of action will be a bar to an action brought upon the other part. Not only is it a bar to a suit, but the plaintiff in the former action cannot subsequently avail himself of the residue by way of offset in an action against him by the opposite party." (15 R. C L., 965.) In passing, it may be noted that a close examination of the facts in the case of *Bautista vs. Jimenez* (24 Phil., Ill), will show that it differs materially from the present case; the case of *Berses vs. Villanueva* (25 Phil., 473), is more in point.

As to the other plaintiffs, Apolonia and Isabel Alcantara, it is sufficient to say that if they had any claim to the property or improvements, such claims should have been presented in the registration proceedings in 1916; trees and plants annexed to the land are parts thereof and unless rights or interests in such trees or plants are claimed in the registration proceedings by others, they become the property of the persons to whom the land is adjudicated.

By timely proceedings in equity, matters of that character, if fraudulent, may sometimes be corrected, but in the present case, the plaintiffs Apolonia and Isabel Alcantara did not prosecute their alleged rights until eleven years after the registration of the property, and it is obvious that whatever rights they may have had are now lost by prescription.

The judgment of the court below is therefore reversed, and the case is dismissed with the costs¹ in both instances against the plaintiffs, jointly and severally. So ordered.

Malcolm, Villamor, Johns, Romualdez and Villa-Real, JJ., concur.

[1] G. R. No. 25385. Labitoria vs, Lavarro, not reported.

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