

**ESTEFANIA PISALBON AND HER HUSBAND CARLOS PAET,
PLAINTIFFS AND APPELLANTS, VS. ENRIQUE BALMOJA, ET AL.,
DEFENDANTS AND APPELLEES.**

G.R. No. L-17517. August 31, 1965

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

The original complaint in this case was filed by the plaintiffs against the defendants in 1949 for partition of two parcels of land situated in the Municipality of San Manuel, Pangasinan. It was dismissed by the Court of First Instance of the said province on the ground that the lands had been the subject of free patent applications by defendants Enrique Balmoja and Federico Laserna and therefore could not be the subject of litigation between private parties. The order of dismissal was elevated to the Court of Appeals, which remanded the case below for trial on the merits.

In 1955 an amended complaint was filed by the plaintiffs, this time for annulment of the free patent title which had been issued in favor of defendants Eulalia de la Cruz and Federico Laserna. Specifically, as found by the lower court, free patent No. V-1052 had been granted on November 15, 1950 to defendant Eulalia de la Cruz, married to Enrique Balmoja, and by virtue thereof, original certificate of title No. P-256 was issued in her name, covering two parcels of land with a total area of 1.2422 hectares. The regularity and validity of that title was upheld by said court in its judgment dated March 26, 1960, and the complaint was dismissed accordingly.

In the present appeal taken by the plaintiffs directly to this Court they contend that the lower court erred: (1) in lifting the order of default it had issued against defendants Eulalia de la Cruz and Federico Laserna in 1955 for their failure to file an answer to the original complaint; (2) in finding that the issuance of the certificate of title to Eulalia de la Cruz was justified; and (3) in denying the plaintiffs' motion for new trial.

In connection with the third error assigned, it appears that on March 31, 1960, five (5) days after rendition of the judgment, the plaintiffs filed a motion for new trial or for permission to present additional evidence, which was denied by the Court on July 12, 1960 on the ground that said motion was "not sufficiently meritorious, considering that the facts therein alleged are not verified and that there is no statement as to what kind of evidence plaintiffs shall present to warrant the disturbance of the decision rendered by this Court." Upon the grounds stated; the motion for new trial was properly denied. Appellants now claim that they did not present all their evidence during the trial because they did not anticipate that defendant Eulalia de la Cruz would be permitted to adduce evidence" in her own behalf in view of the fact that she had been declared in default for failure to answer the original complaint in 1955.

But the record shows that the default had been lifted and her answer to the amended complaint admitted as early as February 2, 1960, prior to the trial held only on the following March 21st. It was incumbent on the plaintiffs then to present all their evidence and not gamble on the chance that the defendants, or some of them, would not be allowed to present their own.

With respect to the first and second errors we do not find it necessary to pass upon them considering the findings and conclusions of fact arrived at by the lower court in its decision—findings and conclusions that are neither questioned by appellants as erroneous nor within our competency to review and alter. The lower court not only found the evidence of the defendants, particularly Eulalia de la Cruz, sufficient to establish her ownership and possession of the lands in question as well as the regularity of the issuance of free patent title in her name, but also found, on the other hand, that satisfactory evidence to support appellants' claim was entirely wanting. We quote from the decision appealed from:

"It is queer in this case that although the complaint was first filed in the year 1949, yet the description of the land that plaintiffs want to vindicate or recover is extremely nebulous as not even the area is specified. In 1955 plaintiffs named as defendants in this case Eulalia de la Cruz, Enrique Balmoja, husband, Federico Laserna and the District Land Officer of Pangasinan but even in said amended complaint the land that plaintiffs would like to get, after due proceedings, has not been clearly delineated nor described."

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"As it has been said above, the claim of plaintiffs to an indefinite parcel of land owned or possessed years ago by Estanislao Pisalbon is so dark and inconclusive that not even the is mentioned and much less the documents of ownership of his first ancestor Estanislao Pisalbon; neither have the plaintiffs presented the land tax assessment or land tax payments made by plaintiffs or their ancestors."

In the light of the findings of the lower court above quoted, it is clear that even if the order of default against defendant Eulalia de la Cruz had not been lifted and no evidence in her behalf had been presented the complaint would have been dismissed just the same. For it is the rule that in an action to recover, the property must be identified, and the plaintiff must rely on the strength of his title and not on the weakness of the defendant's claim (Article 434, Civil Code).

With reference to the free patent title sought to be annulled, the lower court said:

"On the other hand, the defendants in this case, presented Inspector Segundo Llobrera of the Bureau of Lands who investigated the free patent application of Eulalia de la Cruz; this witness testified that the Land was surveyed without opposition of Estrella Pisalbon who knew about that survey; that Eulalia de la Cruz has been possessing said parcels of land; that she complied with all the requirements of law and standing regulations regarding the issuance of free patent title; and that finally the Director of Lands and the Department of Agriculture and Natural Resources approved the application and on December 13, 1950 issued a free patent V-1052 to Eulalia de la Cruz married to Enrique Balmoja. And on December 3, 1951 OCT P-256 was consequently granted."

The foregoing evidence having been accepted as true by the trial court, its conclusion based thereon is binding upon us.

The judgment appealed from is therefore affirmed with costs against plaintiffs-appellants.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J. B. L., Regala, Bengzon, J. P., and Zaldivar, JJ., concur.

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