

THE HEIRS OF GREGORIO ACUESTA ET AL., PLAINTIFFS-APPELLANTS, VS. SEVERO LOZANTO ET AL. DEFENDANT-APPELLEES.

G.R. No. L-7249. March 06, 1956

Ponente: PARAS, C.J.

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PARAS, C.J.:

On September 20, 1926, the heirs of the deceased Gregorio Acuesta (present plaintiffs) filed a case for reivindicacion against Brigido Losanto (father of present defendants), which was decided against Lozanto by the Court of First Instance of Masbate on March 8, 1928. Upon appeal by Lozanto, the Supreme Court affirmed the judgment on April 21, 1950. As five years had elapsed without the plaintiffs having obtained, the necessary execution, they instituted on September 3, 1937, an action to enforce said judgment in the Court of First Instance of Masbate, Case No. 854, which was disposed of in favor of the plaintiffs on March 15, 1940, the dispositive part of the decision reading as follows:

“POR TANTO, se dicta sentencia, ordenando la ejecucion de la referida sentencia en la causa civil No. 487 en cuanto a la entrega del terreno en cuestion en dicha causa, entendiendose que dicha entrega debe verificarse previo pago por los demandantes al demandado de la suma de P221.74; sin pronunciamiento en cuento a las costas.”

This decision was likewise not executed within the statutory period of five years. However, in November, 1946, Brigido Lozanto received from the plaintiffs the amount mentioned therein. The plaintiffs were not able to take possession of the land in question because the present defendants refused to vacate the same. Consequently, the plaintiffs instituted in the justice of the peace court of Cataingan, Masbate, on December 14, 1946, an action for unlawful detainer which was however dismissed at their instance to give way to another action for possession and ownership filed by them on August 5, 1949 in the Court of First Instance of Masbate against the present defendants. Plaintiffs' right of action was premised on the allegation of ownership in virtue of the decision in Civil Case No. 854. In their answer the defendants alleged in substance that the decision in Case No. 854 had lapsed and therefore could no longer be enforced against them who, moreover, were not parties to said case; that they not only had acquired ownership over the land in question as a result of plaintiffs' failure to enforce their judgment within the statutory period but also had acquired title to and over said land by acquisitive prescription by actual, continuous, open, notorious, hostile, peaceful, public and uninterrupted possession for more than forty years. The case was submitted for decision upon the following stipulation of facts;

"Come now the plaintiffs and the defendants by their undersigned attorneys, and to this Honorable Court respectfully submit the above case for decision on the following stipulation of facts In the above entitled case as follows:

"1. That on September 20, 1926, the heirs of the late Gregorio Acuesta, the present plaintiffs, filed a case for re-ivindicacion against Brigido Lozanto, the father of the herein defendants which was decided against Brigido Lozanto by the Court of First Instance of Masbate on March 8, 1928. This decision was appealed by the

defendant Brigido Lozanto and was affirmed by the Supreme Court on April 21, 1930, copies of the decision of the Court of First Instance of Masbate and the Supreme Court marked as annex 'A' and 'B' respectively are herewith enclosed and made part of this stipulation.

"2. That no execution was issued to enforce the judgment of the Supreme Court before the five years period elapsed so that the plaintiffs on September 2, 1937, filed an action to enforce the judgment of the Supreme Court which was docketed as Case No. 854 of the Court of First Instance of Masbate. The case was decided in favor of the plaintiffs on March 15, 1940, but this decision was not also executed within the five years period provided by law. However, on November, 1946, Brigido Lozanto received from the plaintiffs the amount mentioned in the judgment of 1930, as well as of 1940, above mentioned. Copy of the judgment of the Court of First Instance of Masbate in Case No. 854 is herewith marked as annex "C' made part of this stipulation.

"3. That when the plaintiffs tried to take possession of the land, after paying Brigido Lozanto as stated above, the present defendants in this instant case (Case No. 212), namely: Severe, Celestino and Eugenio, all surnamed Lozanto refused to surrender the possession of the land claiming ownership of the same by acquisitive prescription because the judgment above mentioned have elapsed. As a consequence, the present plaintiffs filed a case of unlawful detainer in the Justice of the Peace Court of Cataingan, Masbate, on December 14, 1946, which at the instance of the plaintiffs the same was dismissed on February, 1947 to give way to the present action for possession and ownership which was filed on August 3, 1949. Copy of the decision of the justice of the peace court of Cataingan, Masbate is herewith marked as annex 'D' and made a part of this stipulation.

"4. That during all the time that the above mentioned cases Nos, 487, 854, 44 (in the justice of the peace court), and the present case were 212, the plaintiffs in this case were never placed in possession of the land in question.

"5. That the land in question in this case No. 212, is the same land in question in case Nos. 487, 854 and No. 44 of the justice of the peace court,

On December 15, 1950, the Court of First instance of Masbate rendered a decision with the following dispositive part: "WHEREFORE, from all the foregoing, the conclusion is inevitable that the plaintiffs did not acquire the parcel of land in question by virtue of the judgment of 1940, the basis of the action of the plaintiffs, and therefore, the plaintiffs have no right to bring the present action against the present defendants, who as aforesaid were not parties to the suit which gave rise to the judgment of 1940 (Sec, 44, par. (b) Rule 39 of the Rules of Court; *Acasic vs. Albao*, 10 Phil., 410; *Rabino vs. Ravida*, 14 Phil., 704; *Martinez vs. Diza*, 20 Phil., 498; *Cho Chun Chao vs. Garcia*, 47 Phil., 530; *Razote vs. Razote*, 49 Phil., 181; *Provincia del Santisimo Nombre de Jesus vs. Conrad*, 59 Phil., 503; and *Lilius vs. Manila Railroad Co.*, 62 Phil., 56) and this Court has no other alternative than to dismiss this case with costs against the plaintiffs." From this decision the plaintiffs have appealed.

The lower court sustained the proposition that plaintiffs action is one for the enforcement of the judgment in Case No. 854. In our opinion this is erroneous. While the complaint mentions the decision in Case No, 854, the purpose obviously was not to enforce it but merely to set it forth as a basis for or evidence of plaintiffs' ownership; and this is clear from the allegation in the complaint to the effect that the defendants are "three of the children of Brigido Lozanto from whom the plaintiffs acquired the land above-described by virtue of the decision rendered by this Honorable Court of First Instance of Masbate in Civil Case No. 854", and also from the allegation that "pursuant to the tenor of the said decision the plaintiffs paid Brigido Lozanto the sum of P221.74 for the coconut trees planted by him on the said land, after which, on November 11, 1946, the said Brigido Lozanto delivered the possession of the land above described to the herein plaintiffs,"

As a matter of fact, there was no need for any action to enforce the decision in Case Mo, 854, because Brigido Lozanto had voluntarily accepted from the plaintiffs the payment ordered therein, and there is nothing in the stipulation of facts to show that Lozanto had refused or failed to perform his obligation under said decision; the stipulation merely reciting that the defendants had refused to surrender possession of the land under claim of ownership by acquisitive prescription through lapse of judgment.

What has been stated is sufficient for a reversal of the appealed decision and a judgment in plaintiffs' favor. In the interest of equity, however, in view of the allegation in the answer that the defendants have acquired ownership through adverse possession for more than forty years, and it being agreed that the plaintiffs were never in occupancy, the case will be, as it is hereby so ordered, remanded to the court below for the ventilation of the defendants' claim of ownership by adverse possession. Without pronouncement as to costs.

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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