

EDUARDO VILLANUEVA, FLORITA VILLANUEVA, AGRIPINA VILLANUEVA, ANTONIO VILLANUEVA, SALVACION VILLANUEVA, AURORA VILLANUEVA AND ALESSANDRO VILLANUEVA, PLAINTIFFS-APPELLANTS, VS. PR...

G.R. No. L-27002. August 27, 1969

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

Appeal by the plaintiffs from an order of dismissal of the Court of First Instance of Iloilo.

In their complaint, plaintiffs Eduardo, Florita, Agripina, Antonio, Salvacion, Aurora and Alessandro, all surnamed Villanueva, substantially allege:

(a) that they are the legitimate children and successors in interest of Alberto Villanueva and Paz Galberion - hereinafter re-ferred to as Mr. & Mrs. Villanueva - who, during their lifetime, were the absolute owners of half of a land of about 7.1186 hectares, situated in Gaud, Cabatuan, Iloilo, more particularly described in the complaint and designated as Lot No. 2309 of the Cabatuan Cadas-tre;

(b) that said lot is a private agricultural land whose original owner, Jose Jiloca, first mortgaged and then sold one-half (1/2) thereof to Mr. & Mrs. Villanueva, as evidenced by a deed of sale in their favor, dated April 28, 1941, copy of which is attached to the complaint as Annex A;

(c) that, since April 28, 1941, Mr. & Mrs. Villanueva had occupied and worked on said land peacefully, continuously, publicly and adversely to the whole world, as owners thereof, until their de-mise, when their children, plaintiffs herein, took over and continued to possess the land, in the same concept, up to the present;

(d) that, plaintiff Antonio Villanueva was surprised when he was summoned in connection with a complaint for unlawful detainer filed, against him and his co-plaintiffs, by herein defendants Priscilo Portigo and Fe Tabares - hereinafter referred to as the Portigos -in the municipal court of Cabatuan, Iloilo;

(e) that upon a thorough investigation, thereafter, plaintiffs herein discovered and found that herein defendants Aurora Jiloca - a daughter of Jose Jiloca, the original owner - and her husband, Juan Perez - both hereinafter referred to as the Pereces - had surrepti-tiously applied for a free patent to said Lot 2309, alleging falsely that the same is a public land, not claimed by any person, and that said applicants were cultivating the land, "knowing fully well that these allegations are not true because the plaintiffs and their prede-cessors in interest are the ones possessing the land in question," (although the annexes attached to the petition suggest that Mrs. Perez, or Aurora Jiloca, was the only applicant for a free patent);

(f) that notice of said free patent application was never published and, hence, plaintiffs herein had no opportunity to con-test it;

(g) that, in consequence of said fraudulent acts and untruth-ful statements of the Pereces, the Director of Lands -

who is, also, a defendant in this case - was misled into approving said free patent application and causing to be issued, on June 14, 1956, in their (Pereces) favor, Free Patent No. V-43391, which is reproduced in Original Certificate of Title No. 181, copy of which is attached to the complaint, as Annex C (which shows, however, that the, patent and OCT No. 181 were issued to "Aurora J. de Perez" only);

(h) that, being a private land, the one in question could not have been the subject of an application for free patent, and the Director of Lands had no authority to cause the same to be issued;

(i) that, on January 18, 1966, the Pereces fraudulently executed a deed of sale - copy of which is attached to the complaint as Annex D - of the land in question to the Portigos - in whose favor Transfer Certificate of Title No. T-1355, copy of which is attached to the complaint as Annex B, was issued - who "were very much aware that the plaintiffs have always been in possession" of said land since the death of their parents, and that plaintiffs are owners there-of, as evidenced by the aforementioned deed of conveyance Annex A (Annex D was executed by Aurora J. de Perez, with the marital consent of her husband);

(j) that, pretending to act in good faith and in order to harass the plaintiffs, the Portigos filed said unlawful detainer case, in the municipal court of Cabatuan, alleging falsely that plaintiffs herein were illegally detaining the land in question; and

(k) that, owing to the foregoing illegal and fraudulent acts of the Pereces and the Portigos, plaintiffs herein have been constrained to engage the services of counsel, for which they have to pay P500, as attorney's fees, apart from suffering moral damages, in the sum of P7, 000, and incurring actual expenses in the sum of P300.

Plaintiffs prayed, therefore, that judgment be rendered annulling said Free Patent No. V-43391 and OCT No. 181, Annex C, as well as the deed of sale, Annex D, and TCT No. T-1355, Annex B, and that the Pereces and the Portigos be, moreover, sentenced to pay to the plaintiffs the abovementioned sums of P7, 000, as moral damages, P500, as attorney's fees, and P300, as actual expenses, apart from the costs.

The Director of Lands filed an answer admitting some allegations of the complaint, denying other allegations thereof and setting up special defenses. Upon being served with summons; the Pereces and the Portigos filed a motion to dismiss, alleging: (1) that "plaintiffs' action has prescribed", because Free Patent No. V-43391 and OCT No. 181, Annex C - in the name of Aurora J. de Perez - were issued on June 14, 1956, or over ten (10) years before the institution of the present case, On July 14, 1966; and (2) that the court had "no jurisdiction over the nature of the action or suit," inasmuch as, pursuant to "Section 107, Commonwealth Act No. 141, in relation to Section 122 of Article 496, lands covered by free patent partakes of the nature of registered land," so that "Original Certificate of Title No. 181" issued, in pursuance of Free Patent No. V-43391, in the name of Aurora J. de Perez, "has become indefeasible in accordance with law."

The Court of First Instance of Iloilo granted this motion to dismiss, not only for the reasons therein set forth, but, also, upon the additional ground that the present case "amounts to the reversion of Lot 2309 to form again part of the public domain." A reconsideration of the order of dismissal having been denied, plaintiffs now seek a review thereof by record on appeal.

The order of dismissal appealed from is manifestly erroneous. The present action can not possibly be regarded as an attempt to bring about a reversion of the lot in question to the public domain, for the simple reason that plaintiffs aver in their complaint - and this is deemed to be hypothetically admitted by the motion to dismiss - that said lot is privately owned by them, as it was privately owned by their parents, Mr. & Mrs. Villanueva, from whom they claim to have inherited it, and by their parents' predecessor in interest, Jose Jiloca - father of Mrs. Perez (Aurora Jiloca) - who (Jose Jiloca) conveyed it to Mr. & Mrs. Villanueva, on April 28, 1941, pursuant to the

deed of sale Annex A. In *Baladjay v. Castrillo*,^[1] we held, apply-ing previous rulings, that:

" x x x the legal provision giving the Govern-ment the exclusive authority to seek cancellation of a title issued in conformity with a homestead patent and reversion of a land to the public domain are, in the very nature of things, confined in their application to lands of the public domain which have been granted by virtue of such patent in pursuance of the Public Lands Act. They are inapplicable to private lands, not even to those acquired by the Government by purchase for resale to individuals (*Marukot vs. Jacinto*, G.R. No. L-8036-8038, December 29, 1955; *Geukeko vs. Araneta*, G.R. No. L--10182, December 24, 1957).

"The defendants herein claim, it is true, that Lot No. 2170 is part of the public domain. A motion to dismiss the complaint assumes, however, that its allegations are true, and plaintiff alleges in her complaint that said lot is her private property. In other words, the complaint does not indicate that plaintiff had derived his title from the Government or that said lot had ever been under the jurisdiction or management of the Director of Lands. Upon the allegations of fact made in said pleading, plaintiff was not bound, ' therefore, to resort to the administrative remedies provided in the Public Lands Act as a condition precedent to a judicial recourse for the protection of his alleged rights. Whether plaintiff is capable of proving the truth of said allegations is another thing. But this is a matter that will have to be determined after he has had an opportunity to introduce evidence thereon. It can not be taken up on motion to dismiss. "

If the land in question was and is of private ownership, the Director of Lands had no jurisdiction over it, and neither was it subject to ap-plications for free patent. As a consequence, that of Aurora J. de Perez should not have been entertained, and said officer had no authority to approve it, much less to cause to be issued said free patent, which, accordingly, was null and void ab initio.

The lower court held that the present action "has already pre-scribed" because 'Free Patent No. V-43391 was issued x x on June 14, 1956" and "became indefeasible after one year from said date", where-as the case at bar "was filed on July 14, 1966," or over ten (10) years later. This conclusion is untenable. To begin with, although Free Patent No. V-43391 is dated June 14, 1956, OCT No. 181 was not issued until September 28, 1956, when the patent was transcribed in the Re-gistration Book of the Office of the Register of Deeds for the Province of Iloilo, as attested to in Annex C and stated in Annex B. Indeed, it is well-settled that "the act of registration shall be the operative act to convey and affect the land. "2 Less than ten (10) years had elapsed from September 28, 1956, to the institution of this action, on July 14, 1966.

Then, again, plaintiffs herein seek a relief on the ground of fraud. The corresponding statute of limitations began to run from the accrual of the cause of action, or "the discovery of the fraud."³ Such discovery took place shortly after June 8, 1966, when the Portigos filed the unlawful detainer case against the plaintiffs. The case at bar was instituted on July 14, 1966, or barely a month later.

Last, but not least, it should be noted that, pursuant to explicit and repeated averments in the complaint, the Pereces and the Portigos had acted in bad faith, with full knowledge of the factual background of the case, particularly of the sale by Jose Jiloca to Mr. & Mrs. Villa-nueva, on April 28, 1941, of the public, continuous and adverse posses-sion of the latter, since that date, as owners of the property, and of the continuation of such possession, in the same concept, by plaintiffs herein, up to the present. Even without annulling the two certificates of title involved in this case, plaintiffs could, therefore, compel the Pereces and the Portigos to reconvey the land in question to them (plaintiffs), if the allegations of the complaint were true.⁴

The issuance of the patent and of OCT No. 181 in favor of Aurora J. de Perez, allegedly through fraud on her part, did not annul or even render ineffective the deed of conveyance executed by her father. Since her title to the land in question was derived from the latter, said OCT No. 181 vested in her the title thereto, but merely in trust, for the benefit of the Villanuevas.⁵ Hence, Article 1456 of the Civil Code of the Philippines provides that:

"If property is acquired through x x fraud, the person obtaining it is, by force of law, considered a trustee of an implied trust for the benefit of the person from whom the property comes."⁶

In short, prima facie, the complaint sets up a cause of action against the defendants, and plaintiffs are, consequently, entitled to an opportunity to prove the allegations in their aforementioned pleading.

WHEREFORE, the order appealed from should be, as it is hereby reversed, and this case is, accordingly, remanded to the lower court for further proceedings consistently with this decision, with the costs of this instance against the private defendants herein.

IT IS SO ORDERED.

Dizon, Makalintal, Zaldivar, Sanchez, Castro, Fernando, Capistrano, Teehankee and Barredo, JJ., concur.
Reyes, J., is on official leave abroad.

[1] G.R. No. L-14756, April 26, 1961.

2 Castro v. Auditor General, G.R. No. L-22403, Oct. 31, 1968; Abuyo v. De Suazo, G.R. No. L-21202, Oct. 29, 1966; Guerrero v. Maclang, G.R. No. L-18117, April 27, 1963; Paraiso v. Camon, 106 Phil. 187; Francisco College, Inc. v. Panganiban, 106 Phil. 619.

3 Bueno v. Reyes, G.R. No. L-22587, April 28, 1969; Fabian v. Fabian, G.R. No. L-20449, Jan. 29, 1968; Rosario v. Auditor General, G.R. No. L-11817, April 30, 1958; Raymundo v. Afable, 96 Phil. 655; Rone v. Claro, 91 Phil. 250; Jaen v. Agregado, G.R. No. L-7921, Sept. 28, 1955.

4 De Ocampo v. Zaporteza, 53 Phil. 442; Gayondato v. Treasurer of P.I., 49 Phil. 244; Gemora v. F.M. Yap Tico & Co., 52 Phil. 616; Fabian v. Fabian, supra.

5 Cabanos v. Register of Deeds, 40 Phil. 620.

6 Underscoring supplied.

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