

BERNABE LOPEZ (M.S.A. VI-1-35), MRS. GLORIA D. RAMA, ASSISTED BY HER HUSBAND FORTUNATO RAMA (M.S.A. VI-NEW), MELECIO CABIDO (M.S.A. NO. VI-1-167), SOTERO UBAL (M.S.A. NO. VI-1-2...

G.R. No. L-27559. May 18, 1972

Ponente: TEEHANKEE; J.

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TEEHANKEE; J.:

Direct appeal on questions of law from the orders of the Court of First Instance of Cebu dismissing plaintiffs' complaint.

Plaintiffs' complaint for cancellation of title and injunction with prayer for writ of preliminary mandatory injunction as filed on June 10, 1966, made the following allegations, as restated by them in their brief:

"That the late Juan Padilla, the predecessor in interest of defendants Emilio Padilla and Alberto Padilla, was the applicant of a public land under Homestead Application No. V-6992 filed with the Bureau of Lands on February 28, 1939 (par. 2, complaint; p. 2, record on appeal); that on December 27, 1965, the heirs of the said Juan Padilla were issued Original Certificate of Title No. 183 which was transcribed in the Registration Book of the Province of Cebu pursuant to the provisions of Section 41 of Act 496 on January 7, 1966, covering Lot Nos. 3986-A, 3986-C, and 3986-F described therein (par. 3, complaint; pp. 3-4, record on appeal);

"That sometime in the year 1958, the plaintiffs began reclaiming the area covered by the waters across the shores of Manibaling, Cebu City, and as soon as the same became tenantable, they constructed their dwellings thereon and consequently, they filed with the Bureau of Lands applications to lease the areas reclaimed and occupied by them for which they religiously paid the yearly rentals due thereon (par. 4, complaint; p. 4, record on appeal); that some of them also filed with the Bureau of Lands, miscellaneous sales applications under Republic Act No. 730 considering the long period of time within which plaintiffs were occupying the land in question in good faith, openly, continuously, publicly, notoriously and uninterruptedly, which individual applications are indicated therein (par. 4, *supra*);

"That the said Juan Padilla and later on his heirs, defendants Padillas, succeeded in obtaining the approval by the Director of Lands of their homestead application without excluding therefrom the foreshore and marshy lands as well as the areas reclaimed and occupied by the plaintiffs and covered by plaintiffs' applications to the great and irreparable damage of said plaintiffs (par. 5, complaint; p. 6, record on appeal); that the approval by the Director of Lands of the homestead application aforesaid and the subsequent proceedings leading to the issuance of the homestead patent in defendants' favor were done without the knowledge of herein plaintiffs and without consulting the records of the District Land Office in the province and city of Cebu, thru fraud and misrepresentation of the defendants Padillas (par. 6, complaint; p. 6, record on appeal); that the late Juan Padilla and later his heirs, the defendants Padillas, pretended to the Bureau of Lands, Manila, that their Homestead Application No. V-6992 entirely covered an area of land which they alone occupied and cultivated, the truth of the matter being that more than half of the area applied by them for homestead was foreshore, marshy, and covered by the sea, and a portion of which was reclaimed and occupied by herein plaintiffs long before the issuance of the patent and title in defendants' favor (par. 7, complaint; p. 6, record on appeal);

"That subsequent to the issuance of the patent and title aforesaid through fraud, deceit and misrepresentation, defendants Padillas sold the land to defendant Edgar Woolbright in open violation of Section 118 of Commonwealth Act No. 141, as amended by Commonwealth Act No. 456, as admitted by Edgar Woolbright himself in his letter dated May 20, 1966 to the District Land Officer, Land District No. VI-I, Bureau of Lands, Cebu City (par. 8, complaint; pp. 6-8, record on appeal);

"That the defendants Padillas wrote the plaintiffs demanding that the latter vacate the premises reclaimed and occupied by the said plaintiffs because said defendants would bulldoze, level or fill up the same in order to construct improvements thereon; that defendant Edgar Woolbright has purchased some of the houses within the portion reclaimed and occupied by said plaintiffs with the evident intent of destroying them and bulldozing the houses and/or the lot for the purpose of constructing improvements thereon (par. 9, complaint; p. 8, record on appeal);

"That notwithstanding the clear and lawful rights of plaintiffs over their respective lots as assigned and allocated to them by the Bureau of Lands through its regional office in Cebu City, Philippines, defendants conspiring and working together threatened and are still threatening to occupy the premises in question and forcibly oust plaintiffs from their humble homes, thereby compelling plaintiffs to retain the professional services of undersigned counsel in the sum of P20,000.00 as attorney's fees (par. 10, complaint; p. 8, record on appeal); that due to the refusal of defendants to see the side of the plaintiffs, they suffered damages to the tune of P50,000.00 by way of actual and moral damages (par. 11, complaint; p. 9, record on appeal); and that plaintiffs will suffer great and irreparable loss and injury in the event defendants Padillas and Woolbright will proceed to destroy the houses of plaintiffs and/or bulldoze, level or fill up the areas reclaimed and occupied by them, and in order to obviate the same, plaintiffs pray for the issuance of a Writ of Preliminary Mandatory Injunction enjoining defendants Padillas and Woolbright or their representatives and all persons acting under their orders from entering into the lands reclaimed and occupied by plaintiffs, from destroying and/or bulldozing plaintiffs' houses, and bulldozing, leveling, or filling up the areas aforesaid, while this case is still pending (par. 12, complaint; p. 9, record on appeal)."[1]

Plaintiffs accordingly prayed of the lower court to render judgment –

"1. Declaring Homestead Patent No. 112448 issued in favor of defendants Emilio Padilla and Alberto Padilla and its corresponding Original Certificate of Title No. 183 as procured thru actual fraud, deceit and misrepresentation, hence null and void, and in flagrant violation of Section 118 of Commonwealth Act No. 141, as amended by Commonwealth Act No. 456;

"2. Ordering the Director of Lands to exclude from the coverage of Homestead Application No. V-6992 the areas which are strictly foreshore and marshy lands as well as those portions which are still under the sea;

"3. Ordering the Director of Lands to exclude from the coverage as Homestead Application No. V-6992 of defendants Padillas that area reclaimed and presently occupied by plaintiffs as well as ordering said officer to approve the lease and miscellaneous sales applications of plaintiffs excluding only those portions which may be needed by the City of Cebu, which sales and lease applications had been given due course by the Bureau of Lands and are still pending action by the same to date;

"4. While this case is pending, a Writ of Preliminary Mandatory Injunction be issued enjoining defendants Padillas and Woolbright from

(a) Entering into the areas reclaimed and presently occupied by plaintiffs;

(b) Destroying and/or bulldozing plaintiffs' houses;

(c) Bulldozing, leveling or filling up the areas reclaimed and occupied by plaintiffs;

(d) Such act or acts prejudicial to plaintiffs in their occupation and use of the areas reclaimed and occupied by

them;

"5. Making permanent the preliminary mandatory injunction that may be issued by this Honorable Court;

"6. Sentencing defendants to pay jointly and severally to plaintiffs the sum of P20,000.00 as attorney's fees and the further sum of P50,000.00 as actual and moral damages;

"7. Granting such other reliefs and remedies as may be deemed just, proper and equitable in the premises." [2]

Private defendants, in due course filed their answer of June 16, 1966, disclaiming any intention to bulldoze or destroy plaintiffs' houses and averring that they have spent money to help those who realized that they were squatting on the land and accordingly removed their houses. They further set up special defenses in their answer based on the records of the subject property in the Bureau of Lands, as follows:

"13. That Juan Padilla in life, applied for a homestead patent, over Lot 3986, Cebu Cadastre, sometime in 1939. He then took possession of the land, and made improvements thereon, – planted coconut trees, filled up low places, constructed a small salt bed on the fringes bordering the sea.

"14. The landing American liberation forces made use of the homestead beach; U.S. tanks, heavy equipment, and trucks passed thru the homestead, and destroyed the coconut trees, salt beds, and dikes bordering the sea. After liberation, Juan Padilla and his sons Emilio and Alberto renewed building the dikes, and introduced improvements to comply with the requirements of the homestead law.

"15. In 1947 Juan Padilla died; the Heirs Emilio and Alberto Padilla were substituted applicants. They carried on the work, and pushed thru the Homestead application. In 1948, long before any of the plaintiffs-squatters complainant herein even knew of the homestead, the same, was, after due investigation by the Bureau of Lands, duly approved; and in December 1952, all the requirements of law having been satisfactorily met, the Director of Lands issued the decree for the issuance of Patent.

"16. There being delay in the issuance of patent, the Heirs of Juan Padilla, filed Civil Case No. 4041 entitled Heirs of Juan Padilla vs. Director of Lands, for Mandamus, and the Court of First Instance, thru then Presiding Judge Hon. Edmundo S. Piccio decided on November 11, 1955 in favor of the Padillas, and the Director of Lands was ordered to issue the patent.

"17. The intervention by the City of Cebu, in the Mandamus Civil Case No. 4041 having been dismissed as without merit, said Cebu City filed a separate civil suit for alleged recovery of title and damages, in Civil Case No. 4877 in 1955. This held up the issuance of the patent, – until December 27, 1965, when said case was decided by the Supreme Court on appeal; affirming the issuance of patent [3] and pursuant thereto Original Certificate of Title No. 183, was issued by the Director of Lands, in favor of the Heirs of Juan Padilla.

"18. Answering defendants hereby allege that the decree for the issuance of patent issued in December 1952 has long since become final, that Original Certificate of Title No. 183, issued by virtue thereof, and pursuant to the final judgment by the Hon. Supreme Court is valid, legal, final and indefeasible.

"19. Answering defendants aver that prior to the approval of the Homestead application in 1948, the Homestead site, Lot 3986 had already been segregated from the lands of the public domain and especially upon the decree of the issuance of patent in 1952, the same was being held and possessed as a private property by the Heirs of Juan Padilla who had vested equitable title thereto, and (as) such not any portion thereof is subject to any Application for Revocable Permit; RPA or Miscellaneous sale, as all the plaintiffs now pretend to claim to have made such applications in 1958 and thereafter.

"20. That assuming but not admitting that any such RPA or Miscellaneous Sale Applications were ever filed in 1958 or thereafter, for any portion of the Homestead, Lot 3986 O.C.T. No. 183, – the same must have been either rejected, unacted or if accepted such acceptance must necessarily be illegal, null and void, for the Bureau

of Lands or any of its Officers and employees has no right to sell or lease privately owned estates." [4]

Private defendants further filed under date of June 28, 1966 a motion to dismiss the complaint, asserting that since plaintiffs admit in their complaint that "(a) they are, as they have been, since 1958, occupying the lots described in the complaint; (b) that the areas occupied are within the homestead grant of which the defendant Heirs of Juan Padilla were issued Original Certificate of Title pursuant to a valid decree, affirmed by the Hon. Supreme Court, now final and indefeasible; (c) that plaintiffs have never filed any opposition against the issuance of the patent, and that in open court, they manifested thru counsel they have not instituted any proceedings against the Land authorities, so therefore have not exhausted the administrative remedies, a requisite sine qua non prior to instituting a civil action as required by law," the complaint should be dismissed since plaintiffs not only are improper parties but have no cause of action against defendants, and the lower court is without jurisdiction over the subject matter.

After hearing plaintiffs' opposition, the lower court presided by Judge (now appellate justice) Mateo Canonoy, issued his order of July 13, 1966 dismissing the complaint with costs against petitioners. The lower court after citing the applicable legal principles, ruled that "The fact that the plaintiffs herein allege that they have pending MSA applications over portions of the land in question with the Bureau of Lands, negates any claim on their part that they own the said portions as their private property. So, even if they succeed in annulling the title of the respondents to the property in question, they do not thereby become the owners of the same. Hence, they have no interest in the land in question which would entitle them to invoke the protection of the Court. Again, even if this action were to be considered as one for the reversion of the homestead to the government, it is the Solicitor General or his representative and not the plaintiffs herein who have the personality to file the action."

Plaintiffs filed their motion for reconsideration insisting that they had the right under section 38 of Act 496 within the one-year period therein provided to declare null and void the homestead patent and Original Certificate of Title issued in pursuance thereof on December 7, 1965 – on the ground that the same were obtained through fraud and deceit. The lower court denied reconsideration per its order of August 3, 1966, wherein it ruled that defendants' torrens title was no longer susceptible to collateral attack through plaintiffs' action and again stressed plaintiffs' lack of personality or legal interest to assail defendants' title, thus:

"It is a rule in this jurisdiction that once a public land has been brought under the Land Registration Act, the Torrens title issued thereto is indefeasible. It is entitled to the same regard as one issued in a judicial proceeding. The Torrens title is not susceptible to collateral attack. The decree (or order of the Director of Lands for the issuance of the patent in the case of a homestead) may be reviewed under Sec. 38 of the Land Registration Act by filing the appropriate petition within one year from the issuance of the said decree or from the issuance of the order for the issuance of the patent. Or an appeal may be taken to the appellate court within the reglementary period from the decision of the Court; and in the case of the homestead, the administrative remedies may be pursued. These are the methods of direct attack.

"In the case at bar, this Court sitting as a court of general jurisdiction has no power to annul the Torrens title issued to the defendant, Woolbright, and others, because this is an ordinary civil action and it is a collateral attack.

"During the discussion of the main motion to dismiss the complaint and the motion for re-consideration, what is manifest is that the various plaintiffs have filed Miscellaneous Applications covering various portions of the lots in question. It is not shown that the applications have already been approved. It is more consistent with the fact and law to state that the Director of Lands would abstain from acting on the applications in view of the existence of Torrens title to the land in question, for he is presumed to know that the property is no longer public land, but private property; hence the Bureau of Lands would have no jurisdiction over the same."

Hence, this appeal from the lower court's dismissal order. Plaintiffs-appellants themselves formulate the "fundamental issues" raised by them, as follows:

"(1) Whether or not the case at bar falls within the scope of the provisions of Section 38 of Act 496, otherwise known as the Land Registration Act.

"(2) Whether or not the plaintiffs are the proper parties to bring the action.

"(3) Whether or not the Court of First Instance of Cebu has jurisdiction over the subject-matter of the action as well as the power to cancel the patent and title issued to the defendants on the ground of fraud."

1. On appellants' first issue, the lower court correctly held that "in ordinary registration proceedings involving private lands, courts may reopen proceedings already closed by final decision or decree, only when application for review is filed by the party aggrieved within one year from the issuance of the decree of registration. Applied to homesteads the decree of registration corresponds to the promulgation of the order of the Director of Lands for the issuance of the patent and not the actual issue of the patent. (Tinio vs. Frances, 21 O.G. 6205; Balboa vs. Ferales, 51 Phil. 498; Recido, et al., vs. Refaso, et al., G.R. No. L-16641, prom. June 24, 1965)."[5]

The facts of record, including this Court's own decision of January 30, 1965 in *City of Cebu vs. Padilla*,^[6] show that the order for the issuance of the patent for the 53,000 square meter homestead lot in question in favor of the Padillas was issued by the Director of Lands on December 16, 1952, which was upheld by this Court even as against the adverse claim and opposition of the City of Cebu in said case; the sale to defendant Woolbright was made on June 2, 1966, and the present action was filed on June 10, 1966. The lower court accordingly held correctly that "the period within which to file the action for review of the title and to annul the sale to Woolbright has already expired, "on the strength of the ruling of *Recido*,^[7] "that the patent is deemed issued upon promulgation of the order of the Director of Lands for the issuance thereof."

2. On appellants' second issue, the lower court likewise correctly ruled that plaintiffs could not properly institute the action for cancellation of defendants' homestead patent No. 112148 and original certificate of title No. 183 issued in pursuance thereof, since the land clearly had ceased to be public land and private ownership thereof had vested in favor of defendants Padillas and their transferee Woolbright. Granting *arguendo* plaintiffs' allegations of fraud and deceit against defendants and their alleged preferential right under Republic Act 730 to purchase the portions of the homestead lot occupied by them in 1958 – which they insist should be deemed conceded for purposes of the motion to dismiss filed by defendants-appellees – section 101 of the Public Land Act vests only in the Solicitor General or the officer acting in his stead the authority to institute the action on behalf of the Republic for cancellation of defendants' title and for reversion of the homestead to the Government.^[8] This Court has recognized as exceptions cases where plaintiff-claimant has sought direct reconveyance from defendant of public land unlawfully and in breach of trust titled by defendant, on the principle of enforcement of a constructive trust, but such principle is in no way applicable or invoked in the case at bar.^[9]

3 Appellants' third issue insisting that the lower court has jurisdiction over the subject matter of the action and authority to cancel defendants' homestead patent and torrens title, must necessarily fail. As succinctly held by the lower court, the torrens title issued to defendants in pursuance the homestead patent is no longer susceptible to collateral attack through the present action filed by plaintiffs, who as mere applicants of revocable lease permits or miscellaneous applications of what is now concededly titled property of private ownership, have no personality or legal interest in the first place to institute the action, nor to question the sale of the homestead allegedly within the five-year prohibitory period of section 118 of the Public Land Act. Since there is no showing that their applications have been approved by the Director of Lands, who could not be expected to do so knowing that he has since 1952 decreed the issuance of a patent therefor and the property has long ceased to be of the public

domain, the lower court correctly ruled itself to be bereft of authority to grant the relief sought by plaintiffs-appellants on the basis of their lack of a valid cause of action.

ACCORDINGLY, finding no error in the lower court's appealed orders dismissing the complaint, the same are hereby affirmed. Without pronouncement as to costs.

Reyes, J.B.L., Acting C.J., Makalintal, Zaldivar, Fernando, Barredo, Makasiar, and Antonio, JJ., concur.

Concepcion, C.J., on official leave.

Castro, J., took no part.

[1] Plaintiffs-Appellants' brief, pp. 57-61; italics supplied.

[2] *Idem*, pp. 61-62.

[3] The case referred to is G.R. No. L-20393 decided January 30, 1965 and entitled "City of Cebu, plaintiff-appellant vs. Emilio Padilla, et al., defendants-appellees." (13 SCRA 147). The decision recounts that the Padillas' petition for mandamus against the Director of Lands to compel him to issue the homestead patent over Lot 3986 in favor of the Padillas as ordered on December 16, 1952, was granted by the Cebu CFI in Civil Case No. R-4041 and that the Director of Lands later withdrew his proposed appeal therefrom. The City of Cebu thereafter filed sometime in 1956 its complaint in the Cebu CFI questioning anew the homestead granted the Padillas and to declare null and void the mandamus writ issued by the Cebu court in favor of the Padillas. The Padillas' motion for dismissal of the city's complaint for lack of cause of action was granted by the lower court. Thereafter, on appeal, a motion for confirmation of agreement was submitted by the parties and approved by this Court in its judgment as follows:

"We observe that in 1954, the City of Cebu, per Resolutions Nos. 806 and 1119 of the municipal board, requested the President of the Philippines to reserve the lot in question for its exclusive use. The records do not show, however, any action taken thereon by the President. It is not hard to see why Lot No. 3986 was not reserved for the City of Cebu as requested by said resolutions: Lot 3986 was being claimed by the Padillas. The confirmation of the agreement between the City of Cebu and the Padillas will pave the way for the reservation by the Chief Executive of the three sites within Lot 3986 to be segregated from the Padillas' homestead.

"WHEREFORE, the order of dismissal is set aside and the 'Motion for Confirmation of Agreement' is hereby granted. Judgment is rendered approving the agreement of the parties, in consonance with which the Director of Lands and the Secretary of Agriculture and Natural Resources are ordered to exclude the sites for the proposed city abattoir, extension of Salvador Street and channelization of the Kinalumsan Rivet from the homestead patent that may be issued to Emilio and Alberto Padilla for Lot No. 3986. The acquisition and/or exclusive use by the City of Cebu of the portions so excluded is subject to the compliance of the provisions of law. No costs. So ordered."

[4] Rec. on Appeal, pp. 17-20; italics supplied.

[5] Reported in 14 SCRA 443.

[6] *Supra*, fn. 4.

[7] *Supra*, fn. 5 and cases cited, per Bengzon, C.J. In this case, the Court upheld the sale of the homestead in 1948 before the actual issuance of the patent in 1949, as the order for its issuance was promulgated since 7 years ago by the Director of Lands. See also *Beniga vs. Bugas*, 35 SCRA 111 (Sept. 29, 1970), per Reyes, J.

[8] See *Sumail vs. Judge of CFI Cotobato*, 96 Phil. 946 (Apr. 30 1955).

[9] See *Agcanas vs. Nagum*, 32 SCRA 298 (Mar. 30 1970).

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