

VICENTE GARCIA, BENJAMIN GARCIA, ANATALIA GARCIA, FABIAN GARCIA, TRANQUILINO GARCIA AND RAYMUNDO MERIS-MORALES, PLAINTIFFS AND APPELLANTS, VS, JOSE FENOY, DEFENDANT AND APPELLEE.

G. R. No. L-17560. October 31, 1962

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

This is an appeal taken by the plaintiffs from an order of the Court of First Instance of Pangasinan dismissing the case without costs on motion of defendant Jose Fenoy.

It is alleged in the complaint that plaintiffs Vicente Garcia, Benjamin Garcia and Anatalia Garcia are, also, the plaintiffs in Civil Case No. 13847 of the Court of First Instance of Pangasinan, in which a notice of lis pendens was filed with the office of the Register of Deeds of Pangasinan; that Pedro de Guzman, the defendant in said Case No. 13847, was the plaintiff in Civil Case No. 8425 of the same court, in which he obtained judgment for the sum of P55,754.26, plus interest, as compensation for part of the land involved in Case No. 13847 which had been taken by the Government for the Agno River Control Project in the Barrio of Mabalbalino, Municipality of San Carlos, Province of Pangasinan; that Pedro de Guzman had some difficulty in securing payment of the amount of said judgment, owing seemingly to the notice of lis pendens annotated on Original Certificate of Title No. 25381 of Pangasinan in his name, covering the property involved in said Civil Case No. 13847, which included the land taken by the Government for said Agno River Control Project, to which said Civil Case No. 8425 refers; that defendant Jose Fenoy, was counsel for said Pedro de Guzman, as plaintiff in said Case No. 8425; that on April 28, 1960, defendant Fenoy, as such counsel for de Guzman, urged plaintiff Meris-Morales, as counsel for the plaintiffs in said Civil Case No. 13847, to sign a communication addressed to the Register of Deeds of Pangasinan asking the latter to take note of the fact that the aforementioned notice of lis pendens refers only to so much of the land covered by said Original Certificate of Title No. 25381 as is left after excluding the portion acquired by the Government as above stated; that, in order to induce plaintiff Meris-Morales to sign the aforementioned communication, defendant Fenoy promised in writing to give him and his clients one-fourth (1/4) of the amount to be collected from the Government as compensation for the property expropriated from De Guzman; that, with the consent of his clients, plaintiff Meris-Morales accepted said promise of defendant Fenoy and signed the aforementioned communication addressed to the Register of Deeds of Pangasinan; that after the filing of said communication with the latter's office, or on May 12, 1960, De Guzman collected from the Government the aforementioned sum of P55,754.26; that on June 7, 1960, plaintiffs demanded compliance with the aforementioned promise of Fenoy, who then informed the plaintiffs that his client, De Guzman, was not agreeable to pay the promised amount until the final determination of said Civil Case No. 13847; that Fenoy is personally bound to comply with the aforementioned promise, he having been guilty of deceit and fraud in securing the signature of plaintiff Meris-Morales on the communication above referred to, thereby causing damages to plaintiffs herein, who, accordingly, prayed that Fenoy be sentenced to pay them one-fourth (1/4) of said sum of

P55/754.26, in addition to attorney's fees and expenses of litigation.

Upon being summoned, defendant Fenoy filed a motion for the production of the actionable document, in pursuance of Section 7 of Rule 15 of the Rules of Court, and the suspension, in the meanwhile, of the period within which to answer the complaint. This motion having been granted, plaintiffs submitted a statement from which it appears that said document reads as follows:

"Segun al resultado del asunto en la Corte Suprema, dare una cuarta (1/4) parte del dinero que se saque del dique, al-abogado-Meris-para el y su clientes.

Dagupan, Enero 31, 1960.

Alleging that the words "segun el resultado del asunto en la Corte Suprema" were crossed out, without any signature or initial of the person who did it, and that said deletion, did not exist when he signed the instrument, defendant Fenoy moved, soon thereafter, to dismiss the complaint upon the ground that it states no cause of action, and that the plaintiffs' cause of action has not accrued against him. Plaintiffs objected to this motion, but, this notwithstanding, the lower court issued an order dated August 6, 1960, granting said motion, upon the theory that defendant does not appear to have been authorized by his client to promise to give a sum of money belonging to the latter and that, until a final decision shall have been rendered in said Civil Case No. 13847—which was then pending on appeal in the Supreme Court as G. R. No. L-15988—in favor of plaintiffs herein, the latter could have no possible cause of action against defendant herein. Hence this appeal by plaintiffs herein.

Plaintiffs-appellants maintain that the lower court erred in not holding that defendant-appellee is in estoppel to deny his authority to make the promise relied upon by tile plaintiffs; but we do not deem it necessary to pass upon this question for the reasons presently to be stated.

It should be noted, that, in said Civil Case No. 13847, plaintiffs herein, as plaintiffs therein, sought to cancel Original Certificate of Title No. 25381, in the name of Pedro de Guzman, and/or to compel the latter to convey to them the land covered by said title, upon the ground that the same had been fraudulently secured by De Guzman. However, the latter moved for the dismissal of the complaint therein for the reason that the cause of action of plaintiffs therein is barred by a prior judgment, as well as by the statute of limitations. The lower court having granted this motion, plaintiffs moved for a reconsideration, which was denied. Hence, plaintiffs appealed to the Supreme Court, which, in a decision promulgated on August 30, 1962 (G. R. No. L-15988), affirmed the order appealed from it appearing that the property covered by said Original Certificate of Title No. 25381 was claimed by the plaintiffs as heirs of its original owner, their father, Juan Garcia; that on June 1, 1918, the latter executed a deed of donation—which plaintiffs brand as fraudulent—in favor of Pedro de Guzman, who, on October 18, 1918, applied for the registration of said land and, on January 30, 1923, obtained judgment for the registration of said land in his name; that, accordingly, Original Certificate of Title No. 25381 was issued on July 18, 1923, in the name of De Guzman; and that, consequently, plaintiffs' claim in that case was barred, no only by said decree of registration, but, also, by the statute of limitations, plaintiffs' complaint having been filed on March 24, 1959.

It is now incontestable, therefore, that plaintiffs herein have no right whatsoever to the land involved in said Civil Cases Nos. 8425 and 13847, so that the partial cancellation of their notice of lis pendens in the latter was—independently of the circumstances under which such partial cancellation had been secured by defendant Fenoy—caused them no damage whatsoever and they have no cause of action therefor against him.

Wherefore, the order appealed from is hereby affirmed, with costs against plaintiffs-appellants. It is so ordered.

Padilla, Bautista Angelo, Labrador, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concur.

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