

SANTIAGO BALMONTE, PLAINTIFF AND APPELLEE, VS. JULIAN MARCELO AND ALEJANDRO MARCELO, DEFENDANTS AND APPELLANTS.*G.R. No. L-12918. April 25, 1961*

Ponente: CONCEPCION, J.

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The reversal of a decision and a supplemental decision of the Court of First Instance of Isabela is sought by defendants Julian Marcelo and Alejandro Marcelo. The case is before us, only questions of law being raised in the appeal.

The subject matter of litigation is a parcel of land known as Lot No. 2808 of the Cadastral Survey for the municipality of Santiago (Santiago B. L. Cadastre-211), province of Isabela. It was covered by a homestead application filed by plaintiff Santiago Balmonte sometime in 1937. Ten (10) years later, or in June 1947, it was the object of another homestead application filed by defendant Alejandro Marcelo. Subsequently, or on September 5, 1947, Balmonte filed with the District Land Officer of Isabela a complaint against Julian Marcelo, father of Alejandro Marcelo, for allegedly encroaching upon said land. After an investigation made ex parte, because the Marcelos did not appear, despite notices allegedly served on them, said officer issued, on May 24, 1948, an order dismissing the "claim" of the Marcelos over said land and giving due course to Balmonte's homestead application. Accordingly, on May 19, 1949, the Director of Lands ordered the corresponding patent issued to Balmonte, who got it on May 28, 1949. In pursuance of said patent, Original Certificate of Title No. P-692 was issued to Balmonte on June 10, 1949, by the Register of Deeds of Isabela. Thereafter, on August 15, 1949, said District Land Officer issued an order cancelling the homestead application of Alejandro Marcelo, upon the ground that it referred to the same land covered by Balmonte's patent. Two (2) days later, or on August 17, 1949, Alejandro Marcelo filed with the Bureau of Lands a protest against the issuance of said patent, upon the ground of alleged priority of occupation by the protestant. Hence, the Director of Lands ordered the District Land Officer of Isabela to investigate the matter.

Before the investigation had been completed, or on November 7, 1953, Balmonte began this action in the Court of First Instance of Isabela. He alleged in the complaint that he owns the land in question and has the aforementioned certificate of title thereto; that, taking advantage of his temporary absence from said land, in or about the year 1950, defendants Julian Marcelo and Alejandro Marcelo illegally took possession thereof and cultivated the same over his objection; and that, despite demands, the Marcelos had refused and still refuse to surrender the possession of said land, to his damage and prejudice. Balmonte prayed, therefore, that the Marcelos be ordered to vacate said property and to pay damages, apart from attorney's fees.

Defendants filed an answer alleging that plaintiff's certificate of title was secured through a homestead patent obtained by fraud and misrepresentation; that plaintiff had neither held nor cultivated the land in dispute, at any time from 1936 to the present, it having been, during said period, in their actual, open, peaceful and continuous

possession, owing to a homestead application filed by Julian Marcelo; that due to the loss of such homestead application during the last war, Julian Marcelo's son, Alejandro Marcelo, was permitted to file, and did file on June 6, 1949, in lieu thereof, another homestead application; that, after due investigation, an officer of the Bureau of Lands found that the land in litigation was "actually possessed and cultivated by the defendants * * * with a house of their own * * * and a pump well"; that said officer, accordingly, recommended approval of Alejandro Marcelo's homestead application and the Director of Lands approved it on January 31, 1948; that on February 7, 1949, Alejandro Marcelo filed the final proof in support of his homestead application; that, upon being informed of the issuance of plaintiff's certificate of title, on August 17, 1949, Alejandro Marcelo filed his protest with the Director of Lands, who ordered the aforementioned investigation and requested the Register of Deeds of Isabela to suspend registration of plaintiff's homestead patent; and that in view of the pendency of said investigation in the Bureau of Lands, the lower court had no jurisdiction to order the defendants to vacate the disputed land. Defendants, likewise, set up a P700 counterclaim, for damages allegedly sustained "by reason of the malicious and frivolous presentation of the complaint."

On September 15, 1955, the Director of Lands issued an order declaring that the claim of the Marcelos was belied by the result of the investigation already adverted to and that their homestead application shall, therefore, "stand as it is cancelled". Relying upon this order, and alleging that there is no longer any genuine issue of fact between the parties, and that the continued pendency of this case is unfair and unjust to him, plaintiff moved, on February 27, 1956, for a summary judgment. Defendants objected thereto, upon the ground, among others, that said order of the Director of Lands had not as yet become final and could still be appealed to the Secretary of Agriculture and Natural Resources. This notwithstanding, the lower court granted said motion and rendered a decision, dated July 12, 1956, declaring plaintiff the absolute owner of the land in question and ordering the defendants to vacate it and surrender its possession to the plaintiff, and setting the case for hearing "as to the damages claimed by the plaintiff."

Defendants moved that said decision be reconsidered and set aside, for the reason, inter alia, that Alejandro Marcelo had seasonably appealed from the order of the Director of Lands dated September 15, 1955 to the Secretary of Agriculture and Natural Resources, and that the appeal was still pending determination. This motion was denied and the lower court proceeded to hear the case as regards plaintiff's claim for damages, after which it rendered a supplemental decision, dated June 29, 1957, sentencing the defendants to pay to plaintiff the sum of P4,200.00, as damages from 1950 up to said date, in addition to P700.00 for each agricultural year, from the same date up to such time as the defendants shall have actually vacated the land in question and surrendered it to plaintiff herein. Hence this appeal by the defendants.

Plaintiff seeks to recover the possession of the disputed land and damages based upon his alleged title thereto because of a homestead patent granted him by the Government and the certificate of title issued in his favor upon the authority of said patent. Defendants assail the validity of plaintiff's alleged title for the reason that his patent had been allegedly secured through fraud. They, likewise, question the jurisdiction of the lower court to grant the relief prayed for by the plaintiff, because the issue whether plaintiff was guilty of fraud or not in obtaining said patent was pending administrative investigation in the Bureau of Lands, in connection with the protest filed by Alejandro Marcelo against the issuance of said patent. Seemingly, believing in the advisability of waiting for the result of said investigation, the lower court suspended the proceedings in this case until it was informed of the order of the Director of Lands dated September 15, 1955, overruling said protest and confirming a previous order cancelling the homestead application of Alejandro Marcelo. Thus, relying upon said order and acting upon the impression that the same had already become final, it rendered the summary judgment complained of, which, however, it refused to reconsider despite the fact—which was brought to its attention in defendants' motion for reconsideration—that Alejandro Marcelo had appealed from said order and that the appeal was pending

determination before the Secretary of Agriculture and Natural Resources, who is empowered by law to review said order.

Inasmuch as both parties in this case claim to derive title from the Government, the final decision of the latter on their conflicting claims is essential to plaintiff's cause of action. Indeed, if the order of the Director of Lands of September 15, 1955, were reversed and the patent issued to the plaintiff cancelled by the Secretary of Agriculture and Natural Resources, plaintiff would have no cause of action against defendants herein. Hence, judicial action on the relief prayed for by Balmonte should be suspended until the appeal, taken by the Marcelos, from said order shall have been finally determined, for which reason evidence should be introduced in the lower court on the result of said appeal (*Miguel et al. vs. Vda. de Reyes et al.*, 93 Phil., 542; *Lubugan et al. vs. Castrillo et al.*, L-10521, May 29, 1957; *Heirs of Lachica vs. Ducusin*, 102 Phil., 551; *Geukeko vs. Araneta*, 102 Phil., 705; *Vda. de Villanueva et al. vs. Ortiz et al.*, 103 Phil., 875; *Municipality of Hinabañgan et al. vs. Municipality of Wright et al.*, 107 Phil., 394).

Wherefore, the decision and the supplemental decision appealed from are hereby set aside and the records remanded to the lower court for further proceedings conformably with the view herein set forth, without special pronouncement as to costs. It is so ordered.

Bengzon, Acting C.J., Padilla, Bautista Angelo, Labrador, Reyes, J.B.L., Barrera, and Paredes, JJ., concur.

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