

VENANCIA B. MAGAY, ASSISTED BY HER HUSBAND, VICTORIANO R. MAGAY, PLAINTIFF-APPELLEE, VS. EUGENIO L. ESTIANDAN, DEFENDANT-APPELLANT.

G.R. No. L-28975. February 27, 1976

Ponente: ANTONIO, J.

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ANTONIO, J.:

Appeal from the judgment of the Court of First Instance of Palawan in an accion publiciana filed by plaintiff-appellee Venancia B. Magay, assisted by her husband, Victoriano R. Magay, against the defendant-appellant Eugenio L. Estiandan in Civil Case No. 518, finding plaintiff-appellee as the registered owner of the land in question under Transfer Certificate of Title No. 2004, ordering defendant-appellant to vacate the property within fifteen (15) days after the decision has become final, and to pay plaintiff-appellee the amount of Ten Pesos (P10.00) monthly as rentals on the land from October 1965 until he vacates the premises, and to pay the amount of Six Hundred Pesos (P600.00) by way of attorney's fees and the costs of the suit.

The facts of the case as found by the trial court are as follows:

"During the hearing of this case, the Court gathered from the evidence of the plaintiff, that the plaintiff Venancia B. Magay bought the land in question from her mother-in-law, Soledad de los Reyes. The land was formerly titled in the name of Soledad de los Reyes under Original Certificate of Title No. E-2020 which was subsequently cancelled and transferred in the name of the herein plaintiff under Transfer Certificate of Title No. 2004, Exhibit 'A'. The area bought by the plaintiff from Soledad de los Reyes was resurveyed, Exhibit 'A-1'. Exhibit 'A-1-a' is lot No. 1 of Exhibit 'A-1' which is the land in question. The defendant has constructed two houses in the land in question: Exhibit 'A-1-a-1' which is an old house and Exhibit 'A-1-a-2' which is a new house. Before this property was sold by Soledad de los Reyes to the plaintiff, the former sent two letters, Exhibits 'C' and 'D' to the defendant telling him to vacate the premises. After the plaintiff has acquired the property in question, she sent other letters to the defendant advising him to vacate the premises, Exhibits 'E' and 'F'. The plaintiff has declared the property in question for purposes of taxation, Exhibit 'G' and has paid the real estate taxes, Exhibit 'H'. Due to the refusal of the defendant to vacate the premises in question, the plaintiff was obliged to hire the services of a lawyer and spent P600.00 for attorney's fees.

"On the other hand, the defendant testified that he has filed a miscellaneous sales application, Exhibit '6' over the land in question. Said application, according to him, is now pending in the Bureau of Lands and it has neither been rejected nor approved. The defendant bases his application on the decision rendered by Judge Bartolome Revilla in the case of *El Gobierno de las Islas Filipinas contra Antonio Aborot y otros*, Exhibit '5', adjudicating the land in question in favor of the Government of the Philippines. Moreover, the defendant questions the validity of the title issued to Soledad de los Reyes, alleging that the issuance and reconstitution thereof was done under anomalous circumstances."

Appellant brought this case on appeal directly to this Court on the representation that only questions of law are involved. After a careful analysis of the issues raised, it appears that the principal question to be resolved is whether appellant can question in this proceedings the validity of Original Certificate of Title No. E-2020 issued

to Soledad de los Reyes, now deceased, and of the subsequent issuance of Transfer Certificate of Title No. 2004 by the Register of Deeds to plaintiff-appellee as a consequence of the registration of the deed of sale executed by Soledad de los Reyes in favor of plaintiff-appellee dated June 26, 1963, on the ground that Original Certificate of Title No. E-2020 was allegedly "fraudulently issued" to the late Soledad de los Reyes in 1948.

It is well-settled that a torrens title cannot be collaterally attacked. The issue on the validity of the title can only be raised in an action expressly instituted for that purpose.[1] Even assuming that the land in question is still part of the public domain, then the appellant is not the proper party to institute the reversion of the land but it must be the Solicitor General in the name of the Republic of the Philippines.[2]

Finally, We also find no merit in appellant's contention that the lower Court erred in assuming jurisdiction over the case. As clearly emphasized by Justice Fred Ruiz Castro (now Chief Justice of this Court) in *Serrano vs. Muñoz (Hi) Motors, Inc.*,[3] "jurisdiction over the subject matter is determined by the allegations of the complaint, irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein – a matter that can be resolved only after and as a result of the trial. Nor may the jurisdiction of the court be made to depend upon the defenses set up in the answer or upon the motion to dismiss, for, were we to be governed by such rule, the question of jurisdiction could depend almost entirely upon the defendant." The lower court did not commit any error in declaring that plaintiff-appellee's complaint is actually an *accion publiciana* rather than one for unlawful detainer, within the intendment of Section 1, Rule 70 of the procedural law.

Wherefore, in view of the foregoing, the judgment appealed from is hereby affirmed, with costs against the appellant.

Fernando (Chairman), Barredo, Aquino, and Concepcion, Jr., JJ., concur.

[1] *Legarda and Prieto vs. Saleeby*, 31 Phil. 590; *Director of Lands vs. Gan Tan*, 89 Phil. 184; *Henderson vs. Garrido*, 90 Phil. 624; *Samonte, et al. vs. Sambilon, et al.*, 107 Phil. 198.

[2] *Director of Lands vs. Lelita Jugado, et al.*, 111 Phil. 1057.

[3] 27 SCRA 1085.

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