

ELMER ELADJOE, PLAINTIFF-APPELLEE, VS. DAVIS LEAÑO, DEFENDANT-APPELLANT.

G.R. No. L-24278. September 14, 1973

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

In this direct appeal on questions of law from the judgment of the lower court, the Court affirms the appealed judgment in favor of plaintiff. The lower court's findings of fact are amply supported by the evidence and they are beyond question by appellant since he did not appeal therefrom. Defendant-appellant has failed to discharge his burden in such cases of showing clearly and convincingly a void of evidence to support the appealed judgment that would warrant this Court's reversal of the judgment on the premise that a judgment unsupported by the evidence of record is an error of law that will be rectified on appeal with a setting aside of the judgment.

Upon a complaint filed on September 5, 1962 in the Baguio court of first instance by plaintiff-appellee as the registered owner of a 1,455-square meter parcel of land in Barrio Lucban, Municipality of Trinidad, Benguet (then a sub-province of the Mountain Province) against defendant-appellant for having forcibly seized possession of the land on or about July 26, 1961 with threats to inflict bodily harm upon plaintiff, the lower court, after trial, rendered judgment on September 10, 1963 in favor of plaintiff and ordered defendant to vacate the land and to pay plaintiff actual damages at P500.00 a year, and confirmed plaintiff's ownership over the land and torrens title thereto, with costs against defendant.

Defendant under his notice of appeal appealed from the lower court's adverse decision directly to this Court, stating that the decision "is con-trary to law and jurisprudence on the matter."

Hence, in defendant-appellant's brief on appeal he assigned four errors of law allegedly committed by the lower court, as follows:

"1. The trial court committed an error of law in disregarding defendant's documentary evidence showing the change of course of the Trinidad river, and in questioning the authenticity of the articles of agreement executed by plaintiff's predecessors in interest in the year 1926; 2. The trial court committed an error of law in holding that defendant's late father was a trustee of plaintiff's parents; 3. The trial court committed an error of law in not holding that the land in dispute is an accession of the land covered by Transfer Certificate of Title No. T-837 of defendant; and 4. The trial court committed an error of law in not ordering plaintiff to reconvey to the defendant the entire land formerly covered by original certificate of title No. 54 of Justo Leaño."

The errors assigned and the arguments advanced by defendant actually go into the evidence and claim that the lower court committed er-rors of law in disregarding the documentary evidence purportedly supporting his claim that the land in dispute is an accession of his parents' land and was wrongfully conveyed by his widowed mother in the proceedings for the settlement of his deceased father's estate, with due approval of the probate court, to plaintiff's parents, Akin and Golonan, from whom plaintiff inherited the same. Defendant-appellant obviously anchors his direct appeal on questions of law to this Court on the proposition that the question of whether a

judgment is totally unsupported by the evidence on record is a question of law. The burden lies heavily on appellant in such cases to show clearly and convincingly the void of evidence to support the judgment and that his evidence supports no other judgment than one that should be in his favor and that consequently, the lower court erred in law in disregarding his evidence and rendering adverse judgment against him.

Defendant-appellant has manifestly failed to discharge this burden and his appeal must therefore fail.

The facts found by the lower court are amply supported by the evidence (and therefore beyond question by appellant since he did not appeal therefrom) and no error of law can be attributed to its judgment in favor of plaintiff on the basis thereof.

It is undisputed that the land in question is duly registered in the name of plaintiff as owner under Transfer Certificate of Title No. T-1055, and the lower court found that plaintiff has been occupying continuously and improving this parcel of land, dating back to his parents and grandparents, until July 26, 1961 when, while already prepared for plaintiff, it was forcibly entered and seized by defendant who refused peaceably to vacate the same.[1]

The history of the land was duly traced by the lower court on the basis of the evidence, thus: "This land was formerly covered by Original Certificate of Title No. 54, appearing in the name of Justo Leño, the father of the defendant. In a certain petition marked Exh. 'G', the parents of the plaintiff, Golonan and Akin, filed in G. L. R. O. Rec. No. 50040, Case No. 111, it appears that said parents were the owners of the land appearing in Original Certificate of Title No. 54. Because of the ignorance of said parents, they requested their nephew, Justo Leño, father of the defendant, who was educated, to work for the issuance of the title of said land. Upon the issuance of Original Certificate of Title No. 54 in the name of Justo Leño, he immediately delivered the title to Golonan and Akin who are his aunt and uncle, respectively. Unfortunately, Justo Leño died during the Japanese occupation without transferring said property to Golonan and Akin in writing. Subsequently, Magdalena Leño, having knowledge of the said trust reposed on her husband, petitioned the Court, in Special Proceedings No. 101 (Exh. 'H'), to grant her the authority to execute a quit-claim or reconveyance in favor of Golonan and Akin. The order of the Court on said motion was held in abeyance pending the order of the Land Registration Court as regards the petition of Golonan and Akin (Exh. 'G'). Finally, an order of the Land Registration Court was issued on May 12, 1952, (Exh. 'G-3') ordering the transfer of the property covered by Original Certificate of Title No. 54 in the name of Justo Leño to the spouses Golonan and Akin. In compliance with said order, Magdalena Leño, with the aid of counsel Atty. Francisco Reyes, executed a Deed of Conveyance (Exh. 'D') in favor of Golonan and Akin, wherein Alexander Leño, who is the brother of the late Justo Leño and witness for the defendant herein, affixed his signature as one of the witnesses in the document. After the execution of said Deed, it was submitted to the Court and duly approved by Judge Jose Flores on July 15, 1962 (should be 1952) in Special Proceedings No. 101. Later the Plaintiff, being the heir of Golonan and Akin, inherited the property covered by Original Certificate of Title No. 54, which was replaced by Transfer Certificate of Title No. 418. The plaintiff sub-divided this parcel into several lots, one of which is the land in question (TCT No. 1055)."[2]

In the face of these documented facts, defendant pursues herein his claim and affirmative defense in the case below that it was only sometime in December, 1961 that he found a copy of an agreement executed before notary public ex-officio M. Montilla in 1926 whereby plaintiff's grandparents Comay and Biel and his parent Akin purportedly transferred all their claims and rights to apply for free patent on the tract of land (for which original certificate of title No. 54 was eventually issued in the name of their nephew, Justo Leño, father of defendant) in favor of Justo Leño's mother, Isabel Banilag; that plaintiff's parents therefore had no right to demand after the death of Justo Leño that the land be transferred to them to discharge Justo's trust, as Justo's widow (defendant's mother) did in fact with the approval of the probate court quitclaim and convey the land to plaintiff's parents, by

virtue whereof Justo's title No. 54 was cancelled and transfer certificate of title No. 418 was issued to them, and after their death, transfer certificate of title No. T-1055 covering the land[3] was issued to plaintiff by way of inheritance; and that from the discovery of said instrument or agreement over the land executed by plaintiff's parents in favor of Justo Leaño's mother, Isabel Banilag (defendant's grandmother), plaintiff's parents had no legal right to the conveyance of the land as made by his father's estate through his mother and approved by the probate court in 1952; and that as a consequence, plaintiff should reconvey the land as inherited by him to defendant.

The lower court properly disposed of defendant's tenuous claims attributing fraudulent representations of plaintiff's parents to obtain title to the land, in this wise: "(T)he defendant claims that the transfer of the land covered by Original Certificate of Title No. 54 to the parents of the plaintiff, Golonan and Akin, was due to the fraudulent representations of the transferees. We are not so naive as to give credence to this claim, because Magdalena Leaño was assisted by a very competent lawyer by the name of Atty. Francisco Reyes, who prepared the Deed of Conveyance and which was approved by the Court. According to Manresa, the fraud contemplated in the reconveyance of real property must be actual, and not constructive, and that there is no prescription on said kind of fraud. The Court holds the view that there is neither constructive nor actual fraud in the case at bar. The conveyance made by Magdalena Leaño, even assuming that she is ignorant and unlettered, was thru the assistance of a learned counsel whose integrity is unquestioned. The quitclaim or reconveyance prepared by her in Special Proceedings No. 101 (Exh. 'H') in favor of Golonan and Akin, and which was sanctioned by the Court, leaves no room for doubt. It is true that the Code of Mindanao and Sulu protects the illiterate non-Christians from deceit and fraud, and actuations without the aid of counsel, need the Governor's approval, pursuant to Sec. 145 and 146, but since Magdalena Leaño was well protected of her rights, it is hard to believe that she became a victim of fraud or deceit. Defendant himself had not disproved the allegations of good faith of plaintiff so that the former impliedly admits the absence of fraudulent representation alleged to have been committed by plaintiff's parents Golonan and Akin. Defendant also admitted that whatever he knows concerning the land in question is merely hearsay, since whatever he knows of the history of this land in question was merely revealed to him from his parents. To dispel now the claim of defendant in his Answer that there was fraudulent representation by the plaintiff is not tenable, because his own uncle Alexander Leaño, the brother of Justo Leaño, was a witness in the execution of the Deed of Conveyance (Exh. 'D'), and to top it all, he admitted that Golonan and Akin had been working on the land embraced in the Deed of Conveyance." [4]

It further pointed out that "(I)f, according to the defendant, he is 33 years old as of the date of the trial and the records show that the property covered by Original Certificate of Title No. 54 was registered on August 26, 1935, he was then approximately 5 years old, so that his mother Magdalena Leaño was already married to Justo Leaño 5 years after the issuance of the said title, thus she is positively presumed to know of the existing trust reposed on her husband, notwithstanding the fact that the title appears in the name of Justo Leaño when he was single."

The Court finds no error, and defendant has cited no incontestable proof or document to show error, in the lower court's rejection of defendant's claim to the land by right of accretion and accession (by the alleged change of course of the Trinidad river) with its finding that "defendant has not proven, neither by documentary nor parol evidence, (sic) that the land in question was the effect of such accretion."

Relating the same question of accretion to the documented fact that defendant's father Justo Leaño was the trustee of plaintiff's parents when the land was the subject of application for registration proceedings and originally titled in Justo's name, as borne out by the acknowledgment of his estate through his widow Magdalena Leaño which transferred the land to them as the real owners and occupants thereof, no error can be attributed to the lower court's findings that "the defendant in effect admits that Justo Leaño, the father of defendant was the trustee of the parents of plaintiff when the land in question was the subject of application for registration proceedings.

Alexander Leño, a witness for the defendant and brother of the late Justo Leño, the father of the defendant, testified that the land in question is under the continuous possession of the defendant because his land is bounded on the Northeast and East by the Trinidad River (Exh. '10-A', and '13-A'), and because of the dispute over the land in question, defendant went over their old records and accidentally found an agreement whereby Comay, Akin, and Biel acknowledged that the land described therein is the inheritance of Isabel Banilag, the mother of Justo Leño (Exh. '3-A,' '16', '16-A,' and 'C') for which the defendant instructed his lawyer to file his adverse claim, (Exh. '3' and '5-A'). The Court holds the view that this agreement came from doubtful sources, if not all together fictitious, because its genuineness and authenticity has not been duly proven. While it is correct under the Civil Code that accretions belong to the riparian owner from the time that the deposit created by the water becomes manifest, the new survey plan should have shown such accretion. Since Justo Leño was only the trustee of Akin and Golonan who are the actual owners of the land in question, any accretion must benefit them and the execution of the Deed of Conveyance by Magdalena Leño disproves the fact that her late husband was the riparian owner of the land to which the accretion became a part."^[5]

No compelling reason for overruling the lower court's rejection of the 1926 agreement purportedly executed by plaintiff's parents transferring their application rights for free patent to the land in favor of defendant's grandmother, allegedly belatedly discovered by defendant thirty-five years later in December, 1961 has been cited by defendant. It is straining credulity to have the Court simply assume that the agreement was lying around undiscovered for over a generation's time, and that defendant's widowed mother, with the assistance of a common counsel of good repute, would have acknowledged that the land really belonged to plaintiff's parents and was merely held by her deceased husband in trust for them, if such were not the truth.

Indeed, the said 1926 instrument, if it were genuine, could have been very well an instrument executed by plaintiff's parents to have Justo Leño execute the task entrusted by them to him of working for the issuance of title to the land, which property "claimed by Isabel Banilag and Biel (plaintiff's grand parent)" as per defendant's own brief, was caused to be surveyed on March 3, 1933 by Justo Leño and original certificate of title No. 54 thereto subsequently issued on August 26, 1935 in his name^[6] - which his widow and administrator acknowledged in the settlement proceedings of his estate to have been held in trust by him for plaintiff's parents and accordingly executed in their favor the corresponding quitclaim and reconveyance with due approval of the probate court.

As aptly stated by the lower court, "Akin and Golonan could not have taken advantage of the death of Justo Leño and the ignorance of Magdalena Leño because the former were ignorant themselves and that they have a common counsel in the name of Atty. Francisco Reyes, who, in the absence of deceit or misrepresentation, accomplished what is best and just to all his clients."^[7]

Finally, the lower court correctly held that it could "find no legal basis to disturb the order of the (probate) court approving said conveyance (by Justo Leño's estate in favor of plaintiff's parents) which has jurisdiction over the same."^[8] It may be noted furthermore that such order of the probate court approving the estate's conveyance of the land in favor of plaintiff's parents could not properly be the object of collateral attack in plaintiff's suit below for recovery of possession of the land wrongfully seized by defendant. Aside from the fact that defendant should attack the conveyance directly in the estate proceedings, rather than collaterally in the case below, (since jurisdiction properly belonged to the probate court which authorized and approved the conveyance in the first place), defendant has failed to show that he had the legal personality (as against his mother as administrator of the estate and his other co-heirs) to question and seek nullification of the quit-claim or reconveyance in favor of plaintiff's parents, as duly executed by his mother as such administrator with the proper authorization and approval of the probate court and to seek reconveyance thereof in his sole name and favor.

ACCORDINGLY, the appealed judgment is hereby affirmed in toto. With costs against defendant-appellant. Makalintal, Acting C.J., Zaldivar, Ruiz Castro, Fernando, Barredo, Makasiar, Antonio, and Esguerra, JJ., concur.

[1] Decision, Record on Appeal, pp. 21-22, 27.

[2] Idem, pp. 22-23; first note in parenthesis and emphasis furnished.

[3] Together with other T.C.T. Nos. T-1054, T-1056, T-1057 and T-1058 covering subdivided lots of the same parcel.

[4] Decision, Record on Appeal, pp. 23-25; emphasis furnished.

[5] Idem, pp. 26-27; emphasis furnished.

[6] Defendant-appellant's brief, pp. 4-5.

[7] Idem, p. 27; emphasis furnished.

[8] Idem, p. 27; notes in parenthesis furnished.

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