

PAZ ONGSIACO, AND THE HEIRS OF THE LATE AUGUSTO ONGSIACO, NAMELY, AUGUSTO ONGSIACO, JR. Y DIRIC, FERNANDO ONGSIACO Y DIRIC, JORGE ONGSIACO Y DIRIC, RODOLFO ONGSIACO Y GARCIA, PA...

G.R. No. L-27451. February 28, 1969

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

The plaintiffs below (respondents here) filed a complaint[1] against herein petitioners alleging ownership of a parcel of land situated in the municipality of Cuyapo, Nueva Ecija, with an area of 255 hectares, more or less, and praying that the defendants be ordered to surrender possession to the plaintiffs and to pay damages, attorney's fees and costs. The said parcel is described in the complaint as follows:

"A PARCEL OF LAND ADJOINED IN MASSE

INDICATED "LOT X"

"(Between the red and green lines) on the plan S.W.O. 24137, portion of our actual LANDHOLDINGS. Bounded on the North, North-west, West, South-west and South by the property of the defendants, registered in 1910 in their registration case 5550 covered in O.C.T. 139 and on the East are numerous individual lots owned by the plaintiffs; containing an area of TWO HUNDRED FIFTY FIVE (255) hectares, more or less, situated in the aforesaid barrios of the municipality of Cuyapo, Province of Nueva Ecija. This property is assessed for the amount of P76,500.00, at P300.00 per hectare, as per schedule of values in the municipality of Cuyapo, Province of Nueva Ecija."

The defendants moved to dismiss on the following grounds:

- "1. That the cause of action if any is already barred by the statute of limitations.
2. The Court has no jurisdiction over the nature of the action as in effect it seeks to annul or revoke decisions and resolutions of the Supreme Court considering that a court of first instance is not authorized to do this even assuming that the decisions or resolutions of the Supreme Court are wrong.
3. The complaint states no cause of action.
4. The cause of action is already barred by two prior judgments and several resolutions."

Respondent Court denied the motion to dismiss in its order of July 18, 1966, which states:

"One of the grounds of the Motion to Dismiss filed by the defendant Paz Ongsiako thru her counsel on June 8, 1966 is that the cause of action is already barred by two prior judgments and several resolutions. However, the complaint on its face appears to have a different cause of action than the two prior cases and it is up to the defendants to prove their defense of res judicata. Further-more, the allegation of the plaintiffs that the

defendants are encroaching upon the boundaries of their property is also a matter of evidence."

It may be noted that the foregoing order of denial ruled merely on two of the grounds alleged in the motion to dismiss, namely, bar by prior judgments and lack of cause of action. It did not resolve the plea of prescription. This omission is now relied upon, among other reasons, in the instant petition for certiorari to set aside the order aforementioned, as well as a subsequent order denying petitioners' motion for reconsideration.

The voluminous pleadings, motions and memoranda filed here deal largely with the plea of *res judicata*, particularly with the question of identity between the land claimed by respondents as an integral portion of the lands involved in the previous litigations between the parties and/or their predecessors-in-interest, namely: *Government of the Philippine Islands vs. Leoncio Abad, et al.*, (47 Phil. 573); *Feliciano Abad, et al., vs. Government of the Philippines*, (103 Phil. 247); *Luis Antonio et al., vs. Jose Mariano de Santos, et al.*, Cad. Case No. 19 of the Court of First Instance of Nueva Ecija, and the resolutions of the Supreme Court of October 19, 1965 and December 3, 1965, dismissing the appeal in the last mentioned case.

For the resolution of the present petition it is not necessary to go into identity of the land as a point material to the question of *res judicata*. The issue of prescription is decisive, and the failure of respondent Court to resolve it constitutes a grave abuse of discretion correctible by certiorari.

Paragraph 7 of the complaint below contains the following allegation:

"That the defendants are illegally in possession, occupation and cultivation of the land indicated "LOT X" on plan SWO 2437, since 1924 after the cadastral Court's decision in 1924 and benefited on the crops raised thereon, to the prejudice of the plaintiffs. Such possession and cultivation by the defendants over the land in question are without just title, for it was not within the bounds of their registered property in 1910, covered by O.C.T. No. 139, issued by virtue of DECREE 4485-A in their Registration Case No. 5550."

Elaborating on the matter of possession, respondents state in their memorandum of September 18, 1967:

"x x x Notwithstanding the fact that plaintiffs' predecessors-in-interests were the original occupants over the land (Lot "X") since time immemorial, who cleared and introduced improvements thereon, such as the pilapils, dams, fruit trees, coconut plants and others on the land (Lot "X") and became productivity and cultivable (sic). However, on or before 1924 during the cadastral survey of Cuyapo, Nueva Ecija, they (defendants-petitioners) moved their monuments 450 meters, more or less, from their respective permanent places according to the technical description specified in the notice of publication in the Official Gazette of their Registration case 5550 in 1910. Thereafter, their Overseers, Encargados or Catiwalas informed to the people, (our predecessors-in-interests) that their boundary is up to the RED LINES, thus in 1924, our predecessors-in-interests left the premises (Lot "X") and stayed up to the RED LINE appearing on plan SWO-24137. However, such possession of the defendants-petitioners over the land (Lot "X") is possession in bad faith, which it would not ripen into ownership."

It is thus admitted that since 1924 or for a period of forty-two years before the basic complaint was filed in 1966, petitioners had been in possession of the land claimed by plaintiffs below, now respondents, and that such possession was adverse, or in concept of owner, although allegedly in bad faith. Under the Code of Civil Procedure formerly in force, good or bad faith was immaterial for purposes of acquisitive prescription. Adverse possession in either character ripened into ownership after the lapse of ten years.[2] In the same manner, an action to recover title to or possession of immovable property prescribed in the same period.[3]

There can be no doubt that the former laws on prescription apply here, pursuant to Article 1116 of the Civil Code.[4] Even the thirty-year period fixed in the new Civil Code for the acquisition of ownership by extraordinary prescription,[5] or for the extinction of the right of action (real) over immovables,[6] had expired when the

present action was filed.

Wherefore, the writ prayed for is granted. The orders complained of are set aside and the complaint filed by private respondents below is ordered dismissed, with costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Zaldivar, Sanchez, Castro, Capistrano, Teehankee, and Barredo, JJ., concur.

Fernando, J., did not take part.

[1] Civil Case No. 113-G, CFI, Nueva Ecija (Guimba Branch).

[2] "SEC. 41. Title to land by prescription. - Ten years actual adverse possession by any person claiming to be the owner for that time of any land or interest in land, uninterruptedly continued for ten years by occupancy, descent, grants, or otherwise, in whatever way such occupancy may have commenced or continued, shall vest in every actual occupant or possessor of such land a full and complete title" (Act No. 190)

[3] "SEC. 40. Period of prescription as to real estate. - An action for re-covery of title to, or possession of, real property, or an interest therein, can only be brought within ten years after the cause of such action accrues."

[4] "ART. 1116. Prescription already running before the effectivity of this Code shall be governed by laws previously in force, but if since the time this Code took effect the entire period herein required for prescription should elapse, the present Code shall be applicable even though by the former laws a longer period might be required."

[5] "ART. 1137. Ownership and other real rights over immovables also prescribe through uninterrupted adverse possession thereof for thirty years, without need of title or of good faith."

[6] "ART. 1141. Real actions over immovables prescribe after thirty years.

This provision is without prejudice to what is established for the acquisition of ownership and other real rights by prescription."

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