

ESTEBAN VILLANUEVA, PETITIONER, VS. MISAMIS LUMBER CO., INC., ET AL., RESPONDENTS.*G. R. Nos. L-16076-77. November 28, 1964*

Ponente: PAREDES, J.

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In 1929, the Misamis Lumber Co., Inc. filed a petition (Land Registration Case No. 110) for the registration under Act No. 496, of 11 parcels of land contiguous to one another, with an area of 709 hectares, located in Misamis (now Ozamiz City) Misamis Occidental. Title was premised on alleged deeds of sale from Vicente L. Neri and Salvador L. Neri and from Jose K. Ledesma, Concepcion Ledesma and Felicidad Ledesma who acquired the same from its primitive owner Simeon Ledesma, a holder of a possessory information title, registered on March 31, 1894. Opposition was filed by the Attorney General against the registration of 5 parcels with an area of 664.6605 hectares on the ground that the same were Public lands. More than 58 other private individuals likewise opposed the registration alleging ownership over Particular portions of the lot sought to be registered. The Supreme Court, on appeal, promulgated on February 21, 1933, a decision, dismissing the petition on the finding that at the time the applicant (Misamis Lumber Co.) took possession of the land therein, it was covered with forest and that the applicant failed to properly identify the land applied for. This case is now reported as *Misamis Lumber Co. vs. Director of Lands*, 57 Phil 881.

On September 3, 1934, the Director of Lands filed Cadastral Proceedings docketed as Case No. 17 G.L.R.O. Cad. Rec. No. 1640, covering Lot No. 5308, before the CFI of Misamis Occidental, under sec. 1855 of the Adm. Code. On August 14, 1935, the Director of Lands filed his claim over 18 lots including Lot No. 5308, on the ground that said lots belonged to the public domain.

On August 21, 1935, the Misamis Lumber Co., Inc. filed its answer to the said petitions claiming ownership over a portion of Lot No. 5308, with a total area of 3,711,460 square meters, more or less, basing its ownership thereof on the same possessory information title, mentioned in the first case (57 Phil. 881, *supra*).

Before the trial of the cadastral proceedings (Case No. 17) began, Esteban Villanueva filed on October 19, 1945, Civil Case No. 859 against Sinforoso Tagaytay and 15 others, seeking the recovery of possession and damages from them, of a certain parcel of agricultural land included in the area covered by the cadastral proceedings, over which Esteban Villanueva asserted ownership. On November 12, 1945, defendants answered, alleging that their occupancy of the land was based merely on contracts of tenancy with Misamis Lumber Co., Inc. which was allegedly the owner of the parcel of land claimed by Esteban Villanueva. On March 3, 1946, the Misamis Lumber Co. was joined as an indispensable party defendant. Concepcion Ledesma and Felicidad Ledesma and others, were also joined as party defendants. On November 7, 1947, the Director of Lands in the Case No. 17, filed a complaint in intervention in the Civil Case No. 859, thereby joining Esteban Villanueva, asserting that the lot claimed by said Villanueva, was part of the public domain but covered by sales application No. 8210, filed by Villanueva with the Bureau of Lands on June 22, 1926, for an area of 48 hectares, more or less, which was then pending approval by said Bureau, and that Villanueva had been in actual, peaceful, open, public and continuous

possession of the said parcel of land, in the concept of owner, since 1926 until 1936 or thereabouts, when the defendants allegedly disturbed his possession and unlawfully deprived him thereof through force, threat, strategy and stealth. Answers were filed to the complaint in intervention, defendants therein asserting ownership over the land claimed by Villanueva.

On November 4, 1948, Esteban Villanueva in Civil Case No. 859, filed his separate claims over portions of Lot No. 5808, involved in Cad. Proc. No. 17, asserting ownership over said portions, by reason of his sales application in the area, of some 503,373 square meters and by purchase from one Jose Medina, the alleged previous owner of another portion with an area of some 8 hectares inside Lot No. 5308.

On September 17, 1948, a joint trial was held of Cad. Case No. 17 and Civil Case No. 859. The CFI of Misamis Occidental rendered decision as follows:

"Premises considered, judgment is hereby rendered, declaring lot No. 5308 as part of the public domain under the control, administration and disposition of the Director of Lands and inasmuch its, according to the evidence the portion of said lot No. 5308 marked with number 13 in blue pencil in Exhibit 'X-4' has already been awarded and adjudicated by the Director of Lands to the plaintiff Esteban Villanueva, said portion is now private property of Esteban Villanueva, ordering the defendants to vacate said land and to deliver its possession to the plaintiff Esteban Villanueva; without special pronouncement as to damages and costs, considering that in the opinion of this Court the defendants in Civil Case No. 859 had occupied and possessed their respective portions of the 'and in question in good faith.'"

From the foregoing judgment, appeal was taken by the Misamis Lumber Co. and its tenants. Esteban Villanueva, likewise appealed because of the failure of the trial court to award him damages, rents, and cost.

The Court of Appeals entered the following:

"WHEREFORE, the judgment a quo is reversed, and another judgment entered:

(1) In CA-G.R. No. L-15472-R (Cad. Case No. 17, G.L.R.O. Record No. 1640), adjudicating in favor of the Misamis Lumber Company, Inc. the southern portion of Lot 0308 containing an area of 371 hectares, more or less, which is south of Capucao river down to Lubolan creek, as shown in the sketch attached to the answer of the company; ordering the Director of Lands to segregate the said portion from Lot No. 5308, to be known as Lot No. 5308-A; and ordering the registration of this segregated portion in the name of the Misamis Lumber Company, Inc., Subject, however, to the claims of Elpidio Balodo, Ireneo Campos, Simeon Sabrino, Heirs of Moises Gacasan, and Ramon Baomillas, which the company has recognized. The record is remanded to the lower court for implementation of our judgment and for compliance by the Director of Lands with our order.

(2) In CA-G.R. No. 15473-R (Civil Case No. 859), dismissing the complaint of Esteban Villanueva and absolving the defendant-appellant Misamis Lumber Company.

No special pronouncement as to costs in both cases."

In appealing this case to Us, the appellants submit that the decision of the Court of Appeals suffers from two defects, to wit:

- It has completely disregarded the findings of the Supreme Court in the case of Misamis Lumber Co. vs. Director of Lands, 57 Phil. 881, thereby rendering at naught the principle that a matter once definitely adjudged shall be considered forever adjudicated between the parties (estoppel by judgment or res-adjudicata).
- It has overlooked a settled land registration doctrine that only actual occupancy and possession of lands with imperfect incomplete title can ripen into ownership.

It appears that in Civil Case No. 859, entitled Esteban Villanueva versus Misamis Lumber Co., Inc., et al., and in Cad. Case No. 17, the land in issue is the southern portion of Lot No. 5308 of the Misamis Cadastre. In Civil Case No. 859, the defendants may be divided into 3 categories: the Misamis Lumber Co., Inc. (Company for short), those who were mere tenants of the Company and those who claim their respective holdings as their own private properties. In Cad. Case No. 17, the oppositors may be classified into 2 categories: those whose claims and oppositions are based on the contention of the Director of Lands that the entire lot 5308 is a public land and those who claim their respective holdings as their own individual properties.

The issue, as presented therefore, is whether the land in question is a public land subject to Esteban Villanueva's sales application which has already been approved and awarded, or is the private property of the Company and the other defendants. The Director of Lands maintains that the entire lot 5308 is a public land and that the area covered by Villanueva's sales application is a portion thereof.

In Cad. Case No. 17, the Company claims only the southern portion of lot 5303 containing an area of 371 hectares more or less, which is that south of the Capucan river down to Lubolan creek, with the Capucan river on the north and Lubolan Creek on the south, as its natural and fixed boundaries. The defendant Company asks that this portion be segregated to be known or identified as Lot 5308-A and adjudicated to it. In civil case 859, Villanueva seeks to recover from the Company, the possession of a portion of the same southern part of lot 5308, south of the Capucan river, of an area of about 30 hectares.

As found by the Court of Appeals, Simeon Ledesma acquired a possessory information title to a parcel having as natural and fixed boundaries, Capucan river on the north and Lubolan creek on the south, containing an area of 278 hectares, more or less, and situated in barrios Liposong, Dalapang and Capucan, Municipality of Misamis (now City of Ozamiz), province of Misamis (now Misamis Occidental). The title was registered in the Registry of Deeds of Cagayan de Misamis (now Cagayan de Oro City) on March 31, 1894. The title states that Simeon Ledesma was in possession of the land since 1887. The Court of Appeals found that there existed "sufficient reliable oral and documentary evidence that he (Simeon Ledesma) was actually in possession of the land." From the moment of his death in 1900, the inheritance having been accepted in the corresponding intestate proceeding (Exh. 4), the title to, and possession of, the land was transmitted to his children, Concepcion, Felicidad and Jose, all surnamed Ledesma. The Court also found that there is "sufficient reliable oral and documentary evidence that the said children were in actual possession of the land after their father's death." On July 28, 1925, by means of a public instrument, the Ledesmas sold 2/3 undivided share and interest in the land to Salvador Neri and Vicente Luis Neri (Exh. 4) who thereafter sold said share and interest on April 23, 1928 to the Misamis Lumber Company also by means of a public instrument (Exh. 7). The remaining 1/3 undivided share and interest was sold by the Ledesmas to the same company on May 31, 1929 by means of a public instrument (Exhs. 6 and 8-a). The Court of Appeals, likewise found that the evidence "amply shows that the Company took actual possession of a considerable portion of the land sold, or an area of about 50 hectares, by clearing the area of trees and cultivating the same, through tenants." The land was declared for taxation purposes by the Ledesmas in 1906 and thereafter (Exhs. 9, 9-a, 9-b, 9-c and 9-d) and in 1925 and 1929 by the purchasers, the Neris (Exh. 9-e) and the Company (Exhs. 9-g and 9-h).

Predicated, therefore, upon the above findings of facts, to which We are bound, it is evident that the possessory information title registered on March 31, 1894, of Simeon Ledesma could, as it did, ripen into a title of ownership on April 1, 1914, that is after 20 years of continuous possession, from the date of entry by him and from the moment of his death by his children, there being no evidence that the said possession had in the meantime been legally interrupted. We said in *Smith, Bell & Co. vs. Director of Lands*, 50 Phil. 882;

"It may further be noted that unless the defendant's possession of the land in the meantime had been legally

interrupted the possessory information recorded in April, 1804, became convertible into a title in 1914, and Hint therefore the land cannot now be considered public and subject to the provision of the Public Mineral Land Laws.”

Petitioner-appellant Villanueva urges that the respondent Court of Appeals "has overlooked a settled land registration doctrine that only actual occupancy and possession of the land with imperfect-incomplete title can ripen into ownership." In the first place, when the Neris, to whom the Ledesmas, as owners, had sold on July 28, 1925, 2/3 of the land, conveyed the same to the Company by means of a public instrument, and when the Company acquired the remaining 1/3 of the same land from the Ledesmas on May 31, 1929, also by means of a public instrument, such conveyances by symbolic tradition, were coupled by immediate possession, for factually, as has been definitely found by the Court of Appeals, the Company took actual possession of the land by clearing 30 hectares and cultivating the same through tenants, in the exercise of its right of ownership previously acquired. (Art. 1463, Old Civil Code; *Florendo vs. Foz*, 20 Phil. 388.) And such possession and cultivation of a part, is a constructive possession of the whole (*Ramos vs. Dir. of Lands*, 39 Phil. 175.), let alone the payment of taxes by the Company and its predecessors, since 1906, until the present.

Because of the Supreme Court's findings in the case of *Misamis Lumber Co. vs. Director of Lands*, supra, that as late as the year 1925 moat of the land involved on the said proceedings with an area of 709 hectares "was covered with forest," appellant Villanueva now contends that such finding "is indicative of the lack of occupancy and possession thereof by the Company and its predecessors-in-interest, and that the land was a public forest. In that decision, however, there was no finding that it was covered with virgin forest (*Li Sin Guiap & Co. vs. Director of Lands*, 55 Phil. 693). The decision said most of the 709 hectares were covered with forest, not all. And the possessory information title which was registered on March 31, 1894 relates that Simeon Ledesmas was in possession of the land since 1887. At least there is a strong presumption of possession since 1887, arising from such possessory information title.

In this connection, it is further claimed that the land in question is not identified with the land described in the possessory information title, because of discrepant areas. As found by the Court of Appeals, the pertinent oral and documentary evidence sufficiently establish the identity of the land. It is quite true that the possession information title described the land, as containing an estimated area of 278 hectares, according to the Spanish plan, and having as natural and fixed boundaries Capucao river on the north and Lubolan creek on the south. This land has a computed area of 371 hectares, according to the cadastral plan of that portion of lot 5308 south of the Capucao river down to Lubolan creek (sketch Exh. 17, attached to the answer of the Company). The configuration of the land in both the Spanish plan and the cadastral plan, the existence of the natural and fixed boundaries, and the oral and documentary evidence of record show the identity of the land. (*Sideco vs. Heirs of Balajadia, et al.*, 65 Phil. 364.) The difference between 371 and 278 or 93 hectares, areas shown in the two surveys, is attributable to the fact that the area in the Spanish survey was estimated, while the area in the Bureau of Lands survey was actually computed. The difference in this case is smaller than that encountered in *Smith, Bell vs. Dir. of Lands* (509 Phil. 882) which was 167 hectares (667 minus 500), between the old and the new survey. In the latter case, the registration of the land involved therein was ordered. And this must be so, because a piece of land is generally and better identified by its natural and fixed boundaries, such as creeks and rivers, like the present case, and not by its actual area. There are, of course, changes in the boundarymen of the land in question, particularly on the east and west. It should be noted, however, that more than 35 years had elapsed between the two surveys; "the population in the locality was of unsettled character," and the many changes of adobe would be likely to occur. (*Smith, Bell & Co. vs. Dir. of Lands*, supra.) Hermogenes Mejia, a licensed land surveyor who made a survey of the land in June and July of 1926, and whose survey was approved by the Acting Director of Lands on January 22, 1929 (Exh. 2), testified that the land mentioned in the possessory information title, is the land in question.

And even if there had been no registered possessory information title over the land, the Company's continuous possession, in the concept of owner, tacked to that of its predecessors-in-interest, which had begun as far back as 1887, is sufficient to confer upon it effective title of ownership which is registerable under the land registration laws. (Ch. VI, Act No. 926, as amended by Act No. 2874; *Susi vs. Razon and Dir. of Lands*, 48 Phil. 424.) Premises considered, We hold that when Villanueva's sales application was filed with the Bureau of Lands on June 22, 1926 or thereabouts, the land in question was already a private property of the Misamis Lumber Company, the pronouncements of the Bureau of Lands or the Bureau of Forestry, to the contrary notwithstanding.

Appellant Villanueva lastly claims that the decision in the said case of *Misamis Lumber Co. vs. Dir. of Lands*, supra, estoppel by judgment or res adjudicata, now operates against the Company in the present case, because this Court in said civil case found that "as late as the year 1925, most of the land involved in the present proceedings, with an area of 709 hectares, according to the opposition presented by the Director of Lands and also according to the decision of the court below, was covered with forest * * *; "that at the time the applicant took possession of the land in question it was covered with forest," the determination of the fact of occupancy, in said case is definitive and conclusive. In other words, appellee can not now validly claim that it had ever had actual possession or occupancy of the land earlier than 1925 and, therefore, what the possessory information title states that since 1887, Simeon Ledesma began possessing or occupying the land, lacks verity.

It should be recalled, however, that the denial of the application therein was principally based on the ground that the applicant failed to properly identify the land applied for. Whereas the possessory information title on which the Company based its claim showed an area of only 278 hectares, the area applied for was 668 hectares or almost 2-1/3 times as large. It cannot be gainsaid the fact that the denial of the application on that ground, was without prejudice. Moreover, it can not be said that the area covered with forest in that big tract of land mentioned in the former case, is the very same area identified as part of lot No. 5308, object of the present proceedings. The said decision states most (not all) of the area involved therein was covered with forest. It was not specified whether any of the area covered with forest, is the one now under consideration. Verily, there being no identity of the subject matter, the defense of estoppel by judgment or res judicata fails.

With respect to the area of 30 hectares, subject of the suit to recover possession, in civil case 859, claimed by Villanueva, to have been purchased by him under a miscellaneous sales application from the Bureau of Lands* We have examined the pertinent documentary evidence mid We agree, on the basis thereof, with the Director of Lands, that it is a part of lot 5308. However, it is the same* area that the Misamis Lumber Company cleared of trees and cultivated through tenants, soon after it purchased two-thirds of the land in 1925, and is part of the land acquired by the said company from the Ledesma children through the Neri brothers. In view hereof, Villanueva's action in civil case 859 to recover possession of 30 hectares of land from the Company must necessarily fall, for it is obvious that the Bureau of Lands could not validly sell land which was not part of the public domain, land which already belonged to a private person, in this case, the Misamis Lumber Company (*Garcia vs. Dinero*, 80 Phil., 474; *Lecaste vs. Dir. of Lands*, 63 Phil., 654; *Lizaga vs. Omauano*, 59 Phil, 547, 555).

In view of all the foregoing, the judgment of the Court of Appeals, should be, as it is hereby affirmed with costs against petitioner-appellant Esteban Villanueva.

Bautista Angelo, Concepcion, Dizon, Barrera, Regala, Bengzon, J. P. and Zaldivar, JJ. concur.

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