

PALINKUD SAMAL, PETITIONER, VS. THE COURT OF APPEALS AND GREGORIA VDA. DE PALMA GIL, NET AL., RESPONDENTS.

G.R. No. L-8579. May 25, 1956

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

This is a petition by way of certiorari to revise a decision of the Court of Appeals reversing the decision of the Court of First Instance of Davao dated April 18, 1952, dismissing Civil Case No-458 of that Court, on the ground that the same should be filed against the judicial administrator of the estate of Pascual Libudan, and declaring the estate of the late Jose L. Palma Gil owner of the land described in the complaint and ordering defendant-appellee to vacate it and surrender possession thereof to judicial administrator Emilio Palma Gil. Pertinent to this case are the following facts found by the Court of Appeals in its appealed decision.

On February 21, 1950, Gregoria Vda. de Palma Gil, as administratrix of the estate of her deceased husband Jose L. Palma Gil, later substituted by Emilio Palma Gil, as administrator of the same estate, commenced the present action in the Court of First Instance of Davao to recover possession and ownership of a parcel of land located in Babao, Samal, Davao, with an area of 31,040 square meters, against Palinkud Samal, widow of Pascual Lubudan and four other defendants. The principal defendant is Palinkud Samal because her co-defendants disclaim ownership or interest in the property in litigation, which may be the reason why Palinkud is the only one prosecuting this appeal for the decision of the Court of Appeals.

In Civil Case No. 204 entitled "Jose Palma Gil vs. Pascual Libudan, et al.," of the Justice of the Peace Court of Samal, to satisfy the judgment obtained by plaintiff Palma Gil, the parcel of land in question was sold at public auction by the Acting Provincial Sheriff of Davao to plaintiff Palma Gil himself on December 27, 1940. The land was supposedly the property of Pascual Libudan, one of the defendant in the said case. Because of his failure to redeem the property the Sheriff issued the final deed of sale in favor of Jose Palma Gil sometime in December 1943, and possession thereof was delivered to him through his representative, said final deed of sale being recorded in the office of the Register of Deeds of Davao. Palma Gil died in December 1944, and the herein defendants taking advantage of his death and of the chaotic conditions therein obtaining just after the last Pacific war, illegally entered the land in question and gathered the coconut fruits therein. Pascual Libudan died in 1946.

At the trial, the defense tried to prove that the land in question was covered by two free patent applications approved by the Director of Lands way back in 1934 in favor of Pascual Libudan and one Estanislao Malise (Samal). The trouble according to the Court of Appeals is that the defense did not present any oral evidence to identify the land said to be covered by said two free patent applications to establish their relation, if any, to the land in question. The Court of Appeals further found that as a result of the application for registration filed by Pascual Libudan in Registration Case No. 281, G.L.R.O. Receipt No. 51986, the Court of First Instance of Davao in an order dated September 7, 1940, decreed the registration and issuance of a title in the name of said Pascual Libudan over a parcel of land, which judging from the boundary owners indicated in the Surveyor's plan, is the same parcel now in litigation; that although as already stated, this land was sold to Palma Gil by the Acting

Provincial Sheriff in the execution sale in 1940 and the final sale was issued to him in 1943, followed by the delivery of possession, Pascual Libudan up to his death in 1946, did not contest the regularity or validity of the execution sale nor did his heirs do so up to the filing of the complaint in this case. From all this, it is clear that regardless of the claims of the defense that Pascual Libudan and Estanislao Malise (Samal) had filed free patent applications later approved by the Director of Lands in 1934, the fact is that the land in question was decreed and registered in the name of Pascual Libudan in the Court of First Instance of Davao in September 1940, and it was sold in December of the same year as his property by the Acting Provincial Sheriff to Jose Palma Gil, the final certificate of sale having been issued in 1943, followed by the delivery of possession to Jose Palma Gil. It is also clear that the defendants herein, particularly Palinkud Samal, had no right to enter the land in 1945 because all rights and interest thereto of Pascual Libudan had been legally transferred to Jose Palma Gil.

Now, as regards the question of procedure, as already said, the trial court in a decision dismissed the complaint without prejudice to filing a new suit against the administrator of the estate of Pascual Libudan. In reversing said decision, the Court of Appeals held that there was no need of filing an action against said administrator because at the commencement of the present action in 1950, the estate of Pascual Libudan no longer had any right or interest in the property. Ordinarily, when an order of dismissal issued by the trial court is reversed on appeal, the case is remanded to said trial court for further proceedings, particularly for the reception of evidence. In the present case, however, the trial court had already received all the evidence presented by both parties, consequently, the Court of Appeals was in a position to pass upon as it did said evidence and decide the case on (its merits, and there was no necessity for remanding the case.

Finding the decision of the Court of Appeals to be in conformity with its findings of fact and in accordance with law, the same is hereby affirmed. No costs.

Paras, C. J., Bengzon, Padilla, Reyes, A., Jugo, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L, and Endencia, JJ., concur.

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