

J. M. TUASON & CO., INC., PLAINTIFF AND APPELLEE, VS. AMBROSIO CABILDO, DEFENDANT AND APPELLANT.

G. R. No. L-17168. October 31, 1962

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

J. M. Tuason & Co., Inc., a duly organized corporation, filed on June 8, 1959 before the Court of First Instance of Rizal an action seeking to eject Ambrosio Cabildo from a parcel of land situated in Quezon City. It was claimed that Cabildo sometime in July, 1950 took possession thru force of said property which is included in the certificate of title issued to plaintiff by the register of deeds of said city.

Defendant in his defense claims to be the owner of the land he is occupying having acquired it from spouses Eugenio Ealdama and Asuncion B. Ealdama sometime in February, 1955; that said spouses in turn purchased the land from spouses Manuel Jacinto and Virginia L. Jacinto by virtue of a document executed on July 29, 1954; that the spouses Jacinto in turn acquired the land from one Silvestra Galing by virtue of a document executed on August 30, 1951; that Silvestra Galing in turn purchased the land from Pedro Deudor who claims to be the owner thereof by virtue of a possessory information issued in 1893 in favor of Telesforo Deudor, his predecessor-in-interest; that in 1949, Silvestra Galing constructed in good faith a house on the land which defendant has improved After he had acquired it. Defendant asked that he be paid damages in the amount of P12,000.00 as value of the improvements he introduced on the land should the court find that the same belongs to the plaintiff.

After the reception of the evidence, the court a quo rendered decision finding that the land in question is covered by a certificate of title issued in favor of plaintiff and so it ordered defendant to vacate the same by paying plaintiff a rental of P30.00 a month from July, 1950 until its possession is restored to plaintiff.

Defendant took this case on appeal directly to this Court purely on questions of law.

The present being a direct appeal from the court a quo the facts found by it in its decision should be deemed uncontroverted. These facts are: Plaintiff is the registered owner of a parcel of land located in Quezon City covered by Transfer Certificate of Title No. 1267. Sometime in July, 1950, defendant, without plaintiff's consent, entered into the possession of a portion of 100 sq. m. of the aforesaid parcel of land and constructed his house thereon. And as a consequence, plaintiff suffered damages in the sum of P30.00 monthly rental which defendant has failed to pay. The court also found that defendant purchased the land from one Asuncion Ealdama who in turn acquired it from Manuel Jacinto and his wife, the latter having in turn acquired it from one Silvestra Galing. Defendant introduced improvements on the land consisting of a building assessed at P7,550.00. And from the foregoing facts, the court a quo drew the conclusion that the land being covered by a certificate of title issued in the name of plaintiff its title cannot be defeated by the purchase made thereof by defendant from different persons who do not derive their title from the plaintiff. The court concluded that said transfers can not defeat the ownership of the plaintiff which is covered by a torrens title.

It appearing that the parcel of land which is occupied by defendant is covered by a torrens title issued in the name of plaintiff and that it was taken possession of by defendant without plaintiff's knowledge or consent, no other conclusion can be drawn than that defendant is a usurper and so he must vacate the land. In this respect, we do not find error in the finding of the court a quo.

It is, however, contended that the decision of the court a quo is null and void for the reason that it was rendered not on the basis of the evidence received by the court but by one Paulino Santillan who was appointed by the court as referee to receive the evidence. And the contention of appellant is based on the plea that under Section 1 of Rule 34 the reception of the evidence by a commissioner or referee can only be delegated if the parties should so agree and here there was no such agreement. The trial court merely made the designation *motu proprio*.

While there was no agreement made previous to the delegation of authority to receive evidence to Atty. Paulino Santillan, a court stenographer, it appears however that the court a quo suggested to both parties the necessity of submitting their evidence to a referee and both, thru their counsel, readily gave their conformity thereto. In fact, both appeared before the referee and examined and cross-examined the witnesses of both parties. They submitted to him their evidence. There is, therefore, a substantial compliance with Section 1, Rule 34, and no harm was done to the parties, including appellant. Moreover, this procedural question is being raised for the first time in this appeal and so the objection comes too late.

Appellant complains that the trial court has failed to entertain his claim for damages relative to the improvements he had introduced on the land after having ordered his ejectment therefrom. In this we find also no error considering that appellant was found to have acted in bad faith in acquiring the property (Article 449, new Civil code). It is undeniable that when he acquired the land from the Ealdama spouses he was expressly warned that there was a pending litigation on the property between J. M. Tuason & Co., Inc. and Pedro Deudor, who appellant well knew was the predecessor-in-interest of the Ealdamas. This warning was expressed in the very deed of sale. When he acquired the property he, therefore, knew that there was a flaw in the title of the spouses from whom he was purchasing the property. He is not, therefore, a purchaser in good faith.

We are aware of Republic Act No. 2616, as amended by Republic Act 3453, which provides that upon approval of the latter Act no ejectment proceedings shall be instituted and if one has already been commenced, the same shall not be continued, in order to give time to the expropriation of the property, but we are apprehensive as to its applicability to the present case considering that the government has not so far taken any action relative to the expropriation of the Tatalon Estate. Moreover, it is the intent of Congress in approving said Republic Act 3453 is to allow the suspension of an ejectment proceeding indefinitely even if no expropriation proceeding is started by the government, the same would be unconstitutional, for it would amount to confiscation of private property without due process in violation of our Constitution. Thus, in a recent case decided by this Court, we said:

"But the amendment wrought into Republic Act No. 2616 by Republic Act No. 3453 brushes aside all these requirements for the valid exercise of the power of eminent domain contemplated in our Constitution. It in effect commands that no ejectment proceedings shall be instituted, or if one shall have been commenced it shall be suspended, even if no expropriation proceedings shall have been filed by the government. This is indeed confiscatory, for its necessary implication is that as long as the government refrains from an action for expropriation the owner cannot enjoy its dominical * * * rights over the property. And if the government chooses not to take any action for expropriation indefinitely the occupant would remain in the illegal possession of the land also indefinitely. Such a situation cannot be sanctioned by this Court for it will result in a flagrant confiscation of private property without due process in violation of our Constitution. It is, therefore, imperative that we declare, as we now do, that Section 4 of Republic Act No. 3453 which prohibits the filing of an ejectment proceeding, or the continuance of one that has already been commenced, even in the absence of expropriation proceedings, offends our Constitution and, hence, is unenforceable." (Cuatico, et al., vs. Court

of Appeals, et al., G. R. Nos. L-20141-42, October 31, 1962; See also J. M. Tuazon & Co., Inc., et al., vs. Court of Appeals et al., and Republic of the Philippines vs. J. M. Tuazon & Co., Inc., et al., G. R. Nos L-18128 and L-18672, December 26, 1961; Teresa Realty, Inc. vs. State Construction & Supply Co., et al., 105 Phil., 353; Teresa Realty, Inc. vs. Maxima Blouse de Potenciano, G. R. No. L-17588, May 30, 1962.)

Wherefore, the decision appealed from is affirmed, with costs against appellant.

Bengzon, C. J., Padilla, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concur.

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