

DOMINGA JAVIER, VIRGINIA MARFIL, JUGO MARFIL, MARCIANO MARFIL AND ESTELITO MARFIL, PLAINTIFFS AND APPELLEES, VS. SABAS MARFIL, TUA GO, NARCISO SERBESE, GORGONIO MARFIL, TEODORO ...

G.R. No. L-29128. May 28, 1975

Ponente: MAKALINTAL, C.J.

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MAKALINTAL, C.J.:

On the bases of the allegations in the complaint (Civil Case No. 351, CFI, Masbate), among which are the following:

"3. That the plaintiffs are the owners with a continuous possession for along time of three (3) parcels of land situated in the barrio of Aguada, Placer, Masbate, which parcels of land are particularly described as follows:

FIRST PARCEL:

xxx xxx xxx

SECOND PARCEL:

xxx xxx xxx

THIRD PARCEL:

A parcel of cogon, corn and rice land under Tax Declaration No. 1350, containing an area of around 68 hectares bounded on the North-by Homestead of Agapito Marfil, on the East-by Ceferino Marfil, on the South-by Guillermo Duan and on the West-by Evangelista Duan, with an assessed value of P2,720.00

xxx xxx xxx

6. That somewhere in the years 1945 and 1946, the defendants, Marcelo Arreglo and Santiago Marfil without any color of title whatsoever, unlawfully entered and occupied 3 hectares of land of the southern portion of the Third Parcel described in paragraph 3 of the complaint which is under Tax Declaration No. 1350." (Italics supplied)

the plaintiffs seek to recover from several defendants ownership and possession of the parcels of land therein described.

The defendants, on their part, claim to be the owners entitled to possession, with defendant Santiago Marfil in particular setting up his defense in this wise:

"12. That the defendant Santiago Marfil is the equitable owner and in actual possession of two parcels of land described and bounded as follows:

First Parcel

North-by the land of Santiago Marfil

East-by the land of Eusebio Ranco

South-by the land of Jose Pepito

West-by the land of Eulogio Marfil

Tax Declaration No. 6873

Second Parcel

North-by the land of Severino Marfil

East-by the land of Santiago Guanzon & others

South-by the land of Santiago Marfil

West-by the land of Nicolas Tenorio

Declared Owner — Santiago Marfil

Tax Declaration No. 1368

The defendant (Santiago Marfil) had been in possession of the above-described property, continuously, openly, publicly and adversely against private complainants from 1931 as regards the first parcel and 1929 as regards the second parcel up to the present time, cultivating the same and introducing improvements thereon."

The lower court, after appropriate proceedings, rendered judgment on December 2, 1958, the dispositive portion of which reads:

"FOR THE FOREGOING REASONS, the Court hereby orders the dismissal of the complaint with costs against the plaintiffs; and that the defendants have a better right to the possession of the lands in question, without special pronouncement as to damages, the same not having been satisfactorily proved."

The decision was eventually affirmed by the Court of Appeals on November 11, 1960, and has since become final.

On November 5, 1962 defendant Santiago Marfil alone moved for the issuance of a writ of execution for the purpose of having himself placed in possession of the entire parcel 3 described in the complaint, citing a portion of the lower court's decision which reads:

"After a careful consideration of the records of the case together with the transcripts of the stenographic notes and the evaluation of the documentary evidence submitted and the memoranda of the parties, the Court has come to the conclusion that the plaintiffs have failed to establish by preponderance of evidence their right to the ownership and possession over the lands in question, and, therefore, the Court holds that the defendants have a better right over the same."

as well as the confirmatory decision of the Court of Appeals which states in part: "(A)ccordingly, appellants (plaintiffs) have failed to establish the identity of the property in question. Therefore, this action for the recovery of ownership and possession cannot prosper for an action for recovery, the property must be identified and the plaintiffs must rely on the strength of his title and not on the weakness of defendant's claim." It is movant's theory that inasmuch as the lower court had decided that plaintiffs "have failed to establish by preponderance of evidence their right to the ownership and possession over the lands in question," he should be placed in possession of the whole of parcel 3, to which he claimed to be entitled in his answer.

Finding the motion for execution unmeritorious, the lower court denied the same in an order dated November 28, 1962, observing that since the defendants were already in possession of the lands in question, there was no need to issue a writ of execution to enforce the judgment except for the payment of the costs adjudged against the plaintiffs. Referring in particular to Santiago Marfil's plea to be placed in possession of the entire parcel 3 described in the complaint, the lower court took pains to point out that when the dispositive portion of the decision ruled that "defendants have a better right to the possession of the lands in question," it meant that whole of parcels 1 and 2 and the 3-hectare portion of parcel 3 identified in paragraph 6 of the basic complaint. From the order denying his motion Santiago Marfil interposed an appeal to the Court of Appeals (CA-G. R. No. 32179-R), which subsequently indorsed the case to this Court, it appearing that the question involved is the correct interpretation to be given to a decision which has become final.

Although Santiago Marfil concedes that what the plaintiffs sought to recover from him was limited to 3 hectares of the southern portion of parcel 3, he insists that when he subsequently claimed rights of ownership and possession to the 2 parcels of land he described in paragraph 12 of his answer — which 2 parcels, he maintains, actually correspond to the whole of parcel 3 — the entire parcel 3, not just a 3-hectare portion thereof, became part of the lands in question. And as a consequence of the lower court's decision upholding the defendant's claims, Santiago Marfil argues that he, being one of the defendants, should be entitled to the possession of the entire parcel 3.

We are unable to appreciate the merit of Marfil's conclusion on this point.

There is nothing in the basic answer filed by the defendants which indicates that Santiago Marfil ever asserted rights of ownership or possession over the entire parcel 3 described in the complaint. All that Santiago Marfil in particular claimed was that for more than 20 years he had been in continuous, public and adverse possession of the 2 parcels of land he identified in paragraph 12 of his answer. And these same 2 parcels of land, contrary to Santiago Marfil's claim, have not been positively established in the lower court's decision to be identical to parcel 3.

If anything, Marfil's prayer in his motion for execution that he be placed in possession of the entire parcel 3 would confirm the fact that he had never been in possession of the entirety thereof. If the 2 parcels of land he claimed in his answer were really the same as parcel 3, there would have been no need for him to ask that he be placed in its possession, considering the allegation in his answer that he has been "in possession . . . , continuously, openly, publicly and adversely against private claimants." This allegation as to possession evidently refers not to the entire parcel 3, but only to the 3-hectare southern portion thereof. When the lower court dismissed the complaint because the "plaintiffs have failed to establish the identity of the property in question" — which they described as parcels 1, 2 and a 3-hectare portion of 3 — it meant that such failure, insofar as Santiago Marfil was concerned, referred to the said 3-hectare portion allegedly illegally occupied by him.

WHEREFORE, the order appealed from is affirmed, with costs against appellant Santiago Marfil.

Castro, Teehankee, Makasiar, Esguerra and Muñoz Palma, JJ., concur.

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