

GALICANO GOLLOY, PETITIONER, VS. HONORABLE COURT OF APPEALS, JOSE VALDEZ, JR., CONSOLACION VALDEZ, LOURDES VALDEZ, SOLEDAD VALDEZ AND BENNY MADRIAGA, RESPONDENTS.

G.R. No. L-47491. May 04, 1989

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review on certiorari of the September 29, 1977 Decision* of the Court of Appeals in CA-G.R. No. L-43359-R, entitled Galicano Golloy vs. Jose J. Valdez Jr., et al., affirming the judgment of the then Court of First Instance of Tarlac; and the November 29, 1977 Resolution of the same court denying the motion for reconsideration.

Herein petitioner, for more than twenty (20) years, has been the registered owner and in possession of a 41,545-square meter parcel of land covered by Transfer Certificate of Title No. 45764. The Southwest portion of this land is bounded by herein private respondents' land which is covered by Certificate of Title No. 8565. Sometime in February, 1966, private respondents subdivided their land among themselves. In the course of the subdivision, private respondents caused to be placed two (2) monuments inside the Southwest portion of petitioner's land. Hence, petitioner filed with the then Court of First Instance of Tarlac, presided over by Judge Arturo B. Santos, an action to quiet title. The same was docketed therein as Civil Case No. 4312.

Private respondents, in their filed motion to dismiss with counterclaim, alleged that they never encroached upon the landholding of petitioner and nothing has been placed on his land which would create any cloud thereon; and that the truth of the matter was that they merely subdivided their own land according to their title and therefore there was nothing for petitioner to quiet or remove cloud on his title.

In the pre-trial of December 12, 1967, the parties agreed that inasmuch as the only issue in dispute referred ultimately to the question of the boundaries of their respective lots, the same might be resolved by appointing a public surveyor of the Bureau of Lands to relocate the disputed area with the end in view of determining the true and correct boundaries of their parcels.

The trial court, in line with the above-said agreement, in an Order dated December 13, 1968, ordered the Director of Lands to appoint an impartial public land surveyor to conduct the relocation survey on the disputed area.

On May 20, 1968, Jovino B. Dauz, Surveyor of the Bureau of Lands, Dagupan City, submitted his Report (Record on Appeal, pp. 21-28, Rollo, p. 34), which states in substance, that petitioner's land is Lot A of the Subdivision plan, Psd-1413, being a portion of the land described in Original Certificate of Title No. 126 in the name of Agustin Golloy (No. 11, Record on Appeal, p. 23); that the land titled under OCT No. 126 was surveyed on March 18, 1918 and subsequently titled and registered on August 15, 1919 (No. 12, Ibid); that on the other hand, private respondents' land is Lot No. 1, 11-8218 in the name of Domingo Balanga, surveyed on March 11, 1913 and originally titled and registered on March 1, 1918 (No. 15, Ibid.); that there are overlappings on the boundaries of the two (2) lands (Nos. 226, 27, 28 and 29, Ibid.); and that the overlappings are due to the defect in the survey

on petitioner's land since it did not duly conform with the previously approved survey of Lot 1, 11-3218 under OCT 8565 (No. 25, Ibid). He ended his report by submitting that private respondents' land, TCT No. 8565, prevails over petitioner's land, TCT No. 45764, since the former was surveyed and titled ahead.

On July 8, 1968, petitioner filed a Memorandum (Record on Appeal, pp. 28-35).

On October 21, 1968, the trial court ruled in favor of private respondents. The decretal portion of the decision, reads:

"WHEREFORE, conformably to the agreement of the parties during the pre-trial on December 12, 1967, this Court renders judgment in accordance with the aforesaid surveyor's Report and Relocation Plan; and the plaintiff and the defendants are accordingly directed to abide by and respect the boundaries indicated on the relocation plan of Surveyor Dauz which he found to be the true and correct boundaries of the properties covered by TCT Nos. 8567 and 45764 of the land records of Tarlac.

"For lack of proof, the claim for damages by plaintiff and the defendants are both denied.

"No pronouncement on costs.

"SO ORDERED." (Rollo, p. 14)

Petitioner, after his motion for reconsideration was denied by the trial court, appealed the said decision, which was affirmed by the Court of Appeals, in a Decision promulgated on September 29, 1977 (Rollo, pp. 22-29). A motion for reconsideration was filed, but the same was denied in a Resolution promulgated on November 29, 1977 (Ibid., pp. 30-32). Hence, the instant petition.

The Second Division of this Court, in a Resolution dated January 4, 1978, resolved to require the respondents to comment (Ibid., p. 36); which comment was filed on February 14, 1978 (Ibid., pp. 41-42). Petitioners filed a reply thereto on March 27, 1978 (Ibid., p. 47) in compliance with the resolution of February 14, 1978 (Ibid., p. 44).

In a Resolution dated April 5, 1978 the Court gave due course to the petition (Ibid., p. 52). Petitioner filed his Brief on January 10, 1981 (Ibid., p. 60). Private respondents having failed to file their brief within the required period, the case was considered submitted for decision without private respondents' brief in the resolution of February 8, 1981 (Ibid., p. 66).

The sole issue in this case is - who between the two title holders is entitled to the land in dispute?

The instant petition is impressed with merit.

It must be stated that private respondents and their predecessor or predecessors never possessed, much less, claimed the overlapped portions. Petitioner has been always in possession of the same in the concept of an owner, and his possession was disturbed only in February, 1966, when the private respondents caused to be placed two (2) monuments inside his land. It will be recalled that, as per report of Surveyor Jovino B. Dauz (Record on Appeal, pp. 21-28), private respondents' land (TCT-8565 is Lot No. 1, 11-8218) was surveyed on March 11, 1913 and originally titled and registered on March 1, 1918 in the name of Dominga Balanga. On the other hand, petitioner's land (TCT No. 45764) is Lot-A of Subdivision plan, Psd-14013, a portion of land described in OCT No. 126) was surveyed on March 18, 1918 and subsequently titled and registered in the name of Agustin Galloy. The said lands, having been surveyed and thereafter registered, it follows that monuments were placed therein to indicate their respective boundaries. It is hardly persuasive that private respondents' predecessor, Dominga Balanga, believing that she has a rightful claim to the overlapped portions, did not make any move to question the placement of the monuments. She could have easily objected to the placement and pointed out that the placement of the monuments excluded the overlapped portions from her property. However, no such objection was made.

These facts could only be construed to mean that private respondents' predecessor, Dominga Balanga, never believed that she has a right and legal claim to the overlapped portion. There appears to be no evidence to support claims of repeated demands against petitioner to refrain from cultivating the contested portion, much less an action filed in court to enforce such demands.

Besides, considering that petitioner and his predecessor or predecessors have been in continuous possession in the concept of an owner, for almost fifty (50) years (from August 15, 1919, when the property was registered, up to February, 1966, when the private respondents caused the placement of two (2) monuments inside his land), the latter if they have any right at all to the overlapped portion, are guilty of laches.

In the case of *Caragay-Layno vs. Court of Appeals* (133 SCRA 718, 723-724 [1984]), this Court stated -

"Of significance is the fact, as disclosed by the evidence, that for twenty (20) years from the date of registration of title in 1947 up to 1967 when this suit for recovery of possession was instituted, neither the deceased DE VERA up to the time of his death in 1951, nor his successors-in-interest, had taken steps to possess or lay adverse claim to the disputed portion. They may, therefore be said to be guilty of laches as would effectively derail their cause action. Administrator ESTRADA took interest in recovering the said portion only when he noticed the discrepancy in areas in the Inventory of Property and in the title."

"The foregoing conclusion does not necessarily wreak havoc on the indefeasibility of a Torrens title. For, mere possession of certificate of title under the Torrens System is not conclusive as to the holder's true ownership of all the property described therein for he does not by virtue of said certificate alone become the owner of the land illegally included."

In a more recent case, the case of *Lola vs. Court of Appeals* (145 SCRA 439, 449 [1986]), this Court ruled:

"We also agree with the petitioners that laches effectively bars the respondent from recovering the lot in dispute.

"Although the defense of prescription is unavailing to the petitioners because, admittedly, the title to Lot No. 5517 is still registered in the name of respondent, still the petitioners have acquired title to it by virtue of the equitable principle of laches due to respondent's failure to assert her claims and ownership for thirty two (32) years.

"There are precedents for this ruling. In the following cases, we upheld the equitable defense of laches and ruled that the long inaction and delay of the title holder in asserting his right over the disputed lot bars him from recovering the same."

PREMISES CONSIDERED, the decision of the Court of Appeals under review is REVERSED and SET ASIDE and a new one rendered ordering private respondents to cause the segregation of the disputed portion presently occupied by the petitioner Galicano Golloy and reconvey the same to the latter and after the segregation to order the Register of Deeds of Tarlac to issue a new certificate of title covering said portion in favor of the petitioner.

SO ORDERED.

Padilla, Sarmiento, and Regalado, JJ., concur.

Melencio-Herrera, J., (Chairman), no part.

* Tenth Division; Penned by Justice Simeon M. Gopengco and concurred in by Justices Ameurфина Melencio-Herrera and Vicente G. Ericta.

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