

OMBE (BAGOBA), PLAINTIFF AND APPELLANT, VS. VICENTE DIGA, DEFENDANT AND APPELLEE.*G.R. No. L-15743. July 26, 1960*

Ponente: BARRERA, J.

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On June 2, 1956, plaintiff Ombe (Bagoba) filed with the Court of First Instance of Davao, a verified petition praying for the cancellation in Original Certificate of Title No. P-1108 [Psu-63251] (which covers a parcel of land located at barrio Baracatan, Sta. Cruz, Davao, containing an area of 121,761 square meters, more or less) of the words "married to Vicente Diga", and in lieu thereof, the insertion of her true status as "single" in the same. While said petition was pending in said court, defendant Vicente Diga, allegedly, gathered crops on said land, to the exclusion of plaintiff. Plaintiff, therefore, on July 28, 1956, filed with the above-mentioned court, a separate action for injunction against defendant with prayer for a preliminary injunction. On July 31, 1956, upon plaintiff's filing a bond in the amount of P1,000.00, the court issued, ex parte, a writ of preliminary injunction, ordering defendant, his representatives, agents, laborers, and other persons working under him to desist or refrain from entering the land in question and taking the products harvested thereon, pending the termination of the litigation.

On August 10, 1956, defendant filed his answer alleging, inter alia, that as early as 1946, plaintiff lived with him as his common-law wife; that since plaintiff and her children lived with him, he had been treated as the father of the family, and he was the one taking care of the land in question and supporting plaintiff and her children; that it is not true that he collected the share of the crops thereon against plaintiff's will; and that he is not a usurper. Defendant filed a counterclaim against plaintiff in the sum of P2,000.00 for expenses incurred as a result of the suit, and prayed, among others, that plaintiff be ordered to give to him ½ of the property. On August 20, 1956, plaintiff filed her answer to the counterclaim.

On February 6, 1957, the parties submitted the following:

"STIPULATION OF FACTS

"That the plaintiff OMBE (BAGOBA) is ignorant, illiterate and unlettered being a member of the non-Christian Tribes of Davao, particularly the Bagobo Tribe.

"That the defendant Vicente Diga, is a native of San Isidro, Leyte, Philippines, having come to the Province and City of Davao, sometime in 1941 and resided at Calinan, Davao City.

"That the plaintiff OMBE (Bagoba) originally caused the private land survey of one (1) parcel of land situated in the Barrio of Baracatan, Municipality of Sta. Cruz, Province of Davao, identified as Psu-63251 duly approved by the Director of Lands, * * *.

"That since 1928, and even prior to that date, the herein plaintiff OMBE (Bagoba), thru her predecessor-in-interest and by herself has occupied, possessed and cultivated, as well as claimed as owner, the parcel of land covered by Psu-63251, publicly, openly, and continuously, and in fact has consistently declared the land subject of Psu-63251 for taxation purposes, * * *.

"That plaintiff OMBE (Bagoba), long before the Pacific War in 1941, filed a Free Patent Application for the parcel of land covered by Psu-63251, but said application including all the records of the same are inexistent, by reason of loss, destruction, or misplacement, * * *.

"That the plaintiff Ombe (Bagoba) has two recognized natural children, namely, Julia and Prosina, both surnamed Otic.

"That after the Pacific War, the plaintiff OMBE (Bagoba) renewed her Free Patent Application over the parcel of land covered by Psu-63251, and the same was given due course and is numbered in the Land Records as F-V-4426 (Psu-63251), * * *.

"That on November 26, 1947, the defendant Vicente Diga, married the plaintiff OMBE (BAGOBA), in accordance with the Bagobo rites and customs.

"That in the aforesaid Certificate of Title No. P-1108, it is made to appear that plaintiff Ombe (Bagoba), 'is married to Vicente Diga, the defendant in this case, * * *.

"That there is not any legal marriage whatsoever between the herein plaintiff Ombe (Bagoba) and defendant Vicente Diga, as shown by the Certificate of the Local Civil Registrar of the Municipality of Sta. Cruz, Davao, * * *.

"That the defendant Vicente Diga has spent for the improvement thereon, as a matter of fact he has planted with his own hands 250 coconut trees.

"That the herein parties hereby waive and abandon their right to present any evidence with respect to their claim for damages and improvements as contained in their pleadings; * * *."

On the basis of the foregoing Stipulation of Facts the court, holding that the title to the land in question was acquired during the cohabitation of plaintiff and defendant, and applying Articles 144 and 486 of the New Civil Code,[1] rendered a decision on May 28,1957 the dispositive part of which, reads:

"The Court therefore renders judgment, dismissing the plaintiff's complaint; and declares the property covered by Original Certificate of Title No. P-1108 of the Register of Deeds of the province of Davao to belong in common to Ombe (Bagoba) and Vicente Diga share and share alike. The Register of Deeds of the province of Davao is hereby directed to cancel Original Certificate of Title No. P-1108 and to issue in lieu thereof another in the name of Ombe (Bagoba) and Vicente Diga as co-owners thereof share and share alike. The Writ of Preliminary Injunction issued by this Court dated July 31, 1956, is hereby cancelled. No pronouncement is made as to costs, and no award of damages is hereby made."

From this decision, plaintiff appealed to the Court of Appeals, but said court, in its resolution of June 6, 1959, certified the case to us, on the ground that it involves only questions of law.

Plaintiff, in this appeal, claims that the lower court erred in dismissing her complaint, and in declaring the land in question as owned in common by her and defendant.

We agree with the plaintiff. From the stipulation of facts, it appears that plaintiff had originally caused the survey of the land in question. Since 1928, and even prior thereto, she had by herself arid through her predecessor-in-interest, occupied, possessed, and cultivated said land under claim of ownership, publicly, openly, and continuously. She had consistently declared the same for taxation purposes in her name and paid the corresponding taxes. Long before the outbreak of World War II, she had actually filed an application for a free patent title to said land. Since the records relative to said application were lost or destroyed on account of said war, she renewed said application thereafter, which application was given due course or acted upon by the Bureau of Lands, resulting in the issuance to her of a free patent on August 2, 1951 and a certificate of title on October 1,

1951.

In the case of Naval, et al. vs. Junsay, et al. 95 Phil., 939; 50 Off. Gaz., [10] 4792,[2] this Court held:

"* * * Occupation and cultivation of the land in question since 1907 unquestionably gave Elias Naval the right to apply for a free patent therefor under the provisions of the Public Land Law. But in order that that right might ripen into a free patent title, it was necessary, among other things, that an application be actually filed. Without this requisite no such title could be acquired, so that if Elias Naval had never filed his application he could have acquired no right of ownership which he could transmit to his heirs. As was said in a case, it is an erroneous theory, adopted by some courts, that the entryman acquired an equitable title piecemeal, or in the installment plan, until he earned a perfect or complete title by having complied with all the conditions prerequisite to obtaining a patent. The entry man in fact acquired nothing until the instant he was entitled to everything. If his compliance with the statutory conditions fell short in any essential, he had nothing, but the instant he had fully complied with them, the equitable estate burst into full blossom as his property, and simultaneously therewith he acquired the right to a patent. (Petition of S.R.A. Inc., 18 NW 2d 447, 449)." [Emphasis supplied.]

In the light of the above ruling, plaintiff acquired a perfect or complete title to the land in question, when she complied with all the conditions prerequisite to obtaining a free patent title thereto, namely, her occupation, possession, and cultivation under claim of ownership and publicly, openly, and continuously (by herself and through her predecessor-in-interest) of said land since 1928 and even prior thereto, and lastly, her filing of an application for a free patent title to said land prior to the outbreak of the war. All these conditions she had complied with long before her marriage to defendant on November 26, 1947, which marriage is null and void, because the parties did not comply with the provisions of the Marriage Law. The issuance to her of a free patent on August 2, 1951 and of the certificate of title on October 1, 1951, served merely as a confirmation of her ownership of the land in question. The fact that defendant had subsequently labored and spent for some additional improvement of the land in question did not make him a co-owner of the same, for plaintiff's title had ripened long prior to their said invalid marriage in 1947, when she had already complied with all the requisites necessary to obtaining a free patent.

All things considered, we are of the opinion, and so hold, that plaintiff is the sole owner of the land in question.

No adjudication regarding the improvements introduced by defendant is made because of the waiver thereof contained in the last paragraph of the stipulation of facts.

Wherefore, the decision appealed from is hereby reversed and set aside. The Register of Deeds of Davao is ordered to cancel in Original Certificate of Title No. P-1108 (Psu-63251) covering the land in question, the words "married to Vicente Diga" and, in lieu thereof, to insert the word "single" to indicate plaintiff's true and actual status at the time of the issuance of the same. Without costs. So ordered.

Paras, C. J., Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Endencia, and Gutierrez David, JJ., concur.

[1] "Art. 144. When a man and a woman live together as husband and wife, but they are not married, or their marriage is void from the beginning, the property acquired by either or both of them through their work or industry or their wages and salaries, shall be governed by the rules on co-ownership."

"Art. 485. The shares of the co-owners, in the benefits as well as in the charges, shall be proportional to their respective interests. Any stipulation in the contract to the contrary shall be void.

"The portions belonging to the co-owners in the co-ownership shall be presumed equal, unless the contrary is proved."

[2] Which case is, incidentally, relied upon by the court a quo in sustaining the claim of defendant.

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