

REGINA ANTONIO, ET AL., PLAINTIFFS-APPELLANTS VS. PELAGIO BARROGA, ET AL., DEFENDANTS-APPELLEES.*G.R. No. L-23769. April 29, 1968*

Ponente: DIZON, J.

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Appeal interposed by Regina Antonio and others from an order of the Court of First Instance of Pangasinan in Civil Case No. U-553 dismissing their complaint filed against Pelagio Barroga, the Director of Lands and others.

Appellants' action was for the annulment of Free Patent No. 26383 and the corresponding original certificate of title No. 2799 both issued in the names of Pelagio and Marcelo Barroga. Their complaint substantially alleged that they were the children of the deceased Jorge Antonio who, during his lifetime, was the absolute owner of a parcel of land located in Barrio Nancamaliran, Urdaneta, Pangasinan, with an area of approximately 27,646 square meters and described in said pleading; that the defendants applied with the Bureau of Lands for a free patent in connection with said parcel of land, alleging that it was public land although they knew that it was the private property of Jorge Antonio; that subsequently, the free patent and certificate of title already mentioned were issued in the names of said defendants, who on March 26, 1961 mortgaged and/or sold the property to the defendants Francisca Bautista and Inocencio Salvador, for which reason the latter two were impleaded as defendants.

Within the reglementary period, appellees filed a motion to dismiss the complaint upon the ground that appellants' cause of action had already prescribed. Appellants filed a written opposition thereto and on May 28, 1962 the lower court denied the motion because the grounds relied upon had to be established by evidence. In view of this, appellees filed their answer alleging therein that the late Eusebio Rellera, their predecessor in interest, was the absolute owner of the land described in the complaint as evidenced by Titulo Real No. 12479 issued by the Chief of the Province of Pangasinan on July 22, 1894, and that Rellera's legal heirs had sold the same to Pelagio Barroga, as evidenced by the Deed of Absolute Sale appearing as Registry No. 175, p. 99, series of 1933 of an unnamed notary public.

On July 15, 1963, appellants filed an amended complaint — which was admitted by the lower court — to implead the Director of Lands as defendant. Within the reglementary period or more specifically on August 9 of the same year, the new, defendant filed a motion to dismiss the complaint upon the ground that it stated no cause of action and on the further ground that any cause of action in favor of the plaintiffs was already barred.

Appellants opposed the motion to dismiss alleging that the other defendants had admitted in their answer that their predecessor in interest, Eusebio Rellera, was the absolute owner of the land in question, his title thereto being evidenced by Titulo Real No. 12479 and that they acquired the property from Rellera's legal heirs. From this they concluded that the land was private property and that therefore the free patent and original certificate of title issued in favor of the Barrogas were void because the Director of Lands had no right to dispose of private property.

Upon the issues thus arising from the motion to dismiss and the opposition thereto, the lower court ruled that the

first was well founded and dismissed the complaint.

Appellants now raise in effect the same issue: namely, that the Barrogas are concluded by their admission that the land in question was private property; that, consequently, it was not within the authority of the Director of Lands to dispose of it in favor of any party, and that, as a result, the free patent and the original certificate of title mentioned heretofore issued in the name of the Barrogas were void and must be ordered cancelled.

We find no merit in appellants' contention.

It is not disputed that appellee Pelagio Barroga applied for a free patent over the land subject matter of the present case after he had purchased it from the heirs of Eusebio Rellera, and that, as a result of the proceedings had in relation to his application, Free Patent No. 26383 was issued in his name. Subsequently this was cancelled to be substituted by original certificate of title No. 2799 likewise issued in his name, and now partially cancelled by Transfer Certificate of Title No. 39487 issued in the name of Francisca Bautista, duly approved by the Secretary of Agriculture and Natural Resources.

It is true that by filing the application for a free patent Barroga impliedly admitted either the invalidity or insufficiency of Titulo Real No. 12479 issued in the name of his predecessor in interest on July 22, 1894, but neither the allegation made in his answer that his aforesaid predecessor in interest was the absolute owner of the property covered by said Titulo Real nor his implied admission of the latter's invalidity or insufficiency are grounds for the annulment of the free patent and original certificate of title in question. Evidently, it was Barroga's privilege to rely or not to rely upon his claim of private ownership in favor of his predecessor in interest and of whatever the latter's Titulo Real was worth. He decided not to rely upon them and to consider instead that the property covered by the Titulo Real was still part of the public domain. Acting accordingly he applied for a free patent and was successful. It must be borne in mind that the Titulo Real was not an indefeasible title and that its holder still had to prove that he had possessed the land covered by it without interruption during a period of ten years by virtue of a good title and in good faith (Royal Decree of June 25, 1880). We may well presume that Barroga felt that he had no sufficient evidence to prove this, for which reason he decided to acquire the land as part of the public domain.

Having arrived at this conclusion, We are constrained to agree with the trial court that because the record shows that the complaint was filed many years after the free patent and certificate of title it sought to annul had become final and indefeasible, the facts set forth in said pleading do not constitute a cause of action in favor of appellants.

WHEREFORE, the order appealed from is affirmed, with costs.

Reyes, J.B.L., (Acting C.J.), Makalintal, Bengzon, J.P., Zaldivar, Sanchez, Ruiz Castro, Angeles and Fernando, JJ., concur.

Order affirmed.

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