

FABIAN BORLAS, PETITIONER, VS. COURT OF APPEALS, SERGIO SANTOS AND JULIANA ORTIZ, RESPONDENTS.

G.R. No. L-40101. May 31, 1982

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

Originally filed in the Municipal Court of Navotas, Rizal, this unlawful detainer case was decided therein in favor of plaintiffs Sergio Santos and Juliana Ortiz, spouses, against Fabian Borlas, defendant, now the herein petitioner. This petition seeks a review of the decision of the Court of Appeals also in favor of the aforementioned plaintiffs now the private respondents herein, reversing the decision of the Court of First Instance of Rizal to which the decision of the Municipal Court of Navotas had earlier been appealed by herein petitioner.

The facts as found by the Court of Appeals, being considered final and conclusive upon this Court, We quote from its decision, for a statement of said facts, the following:

"The evidence of the plaintiffs is that they are the registered owners of a parcel of land situated in Tangos, Navotas, Rizal embraced in TCT No. 177436 of the Registry of Deeds of Rizal with an area of 555 square meters, more or less; that sometime in June 1966 the defendant and plaintiffs entered into a verbal contract of lease of the above-mentioned land on a month-to-month basis at a monthly rental of P10.00; that defendant entered upon the land and occupied a house which he allegedly bought from one Concordia Pascual; that defendant continued to pay the rental until December 1966 when he stopped doing so; and that despite repeated demands, oral and written, the defendant refused to vacate the premises in question."

"The defendant adduced evidence that he is the possessor of a portion of 259 square meters foreshore area in Navotas, Rizal since 1955; that he acquired the land from one Concordia Pascual; that the possession of defendant was peaceful, continuous and adverse against all except the government; that on January 14, 1963 the defendant filed a sales application with the Bureau of Lands in order to formalize his ownership of the land he was occupying; that previous to the filing of this application, the defendant was given a permit by the Bureau of Lands over the land where his house and store is located; that on March 12, 1966 the plaintiff was able to secure OCT No. 5279 covering a parcel of land with an area of 555 square meters within the same vicinity where the defendant's house and store are located; that thereafter OCT No. 5279 was cancelled and TCT No. 176788 covering a parcel of land with an area of 1,465 square meters, TCT No. 176789 covering a parcel of land with an area of 2,078 and TCT No. 177436 covering a parcel of land with an area of 555 square meters were issued to the plaintiffs; that later plaintiff sold the land covered by TCT Nos. 176788 and 176789 to one Jose Maronilla; and the plaintiffs retained an area of 555 square meters under TCT No. 177436.

"There can be no doubt that the plaintiffs were in the prior possession of the land described in paragraph 2 of the complaint. The fact that OCT No. 5279 was issued to the plaintiffs is indubitable evidence that they have been in possession of the land embraced therein for at least thirty years prior to the commencement of the registration proceedings.

"The complaint expressly alleges that the defendant occupied a portion of the land described in paragraph 2 thereof. Hence the identity of the land in question has been sufficiently established.

"That the defendant is a lessee of the plaintiffs was practically admitted by said defendant when he testified thus:

"Q - In 1966, were you in occupation of the premises where the store previously owned by Mrs. Pascual was acquired by you?

"A - Yes, sir.

"Q - Was there anybody who may claim over the land or collect anything from you by way of rental?

"A - No one was collecting from me, except Juliana Ortiz, who claims that this land was hers.

"The defendant does not claim to be the owner of the land in question. He bases his right to occupy said land on a permit issued to him by the Bureau of Lands. But the land described in paragraph 2 of the complaint is covered by a Torrens Title which cannot be attacked collaterally in this unlawful detain-er case. (Loo Soo vs. Osorio, 89 Phil. 135) As long as the title is not set aside by a competent court it should be respected." [1]

The legal question presented for resolution to this Court is whether respondent court is legally correct in basing its conclusion that private respondents were in prior possession of the land in question, the decisive issue in this unlawful detainer case, on private respondent's OCT No. 5279 covering said land.

To begin with, the error assigned bearing on the identity of the land, subject matter of this unlawful detainer case, is without merit. Petitioner himself, in questioning the finding of the respondent court that private respondents were in prior possession of the land described in the complaint based on the Torrens Certificate of Title of said respondents because the said certificate was later cancelled, impliedly admits that the land in question was properly identified. At any rate, this is a question of fact as to which respondent court's finding must be deemed final.

Now, going back to the legal question as earlier defined, the pertinent finding of the respondent court is that portion of its decision which reads as follows:

"There can be no doubt that the plaintiffs were in the prior possession of the land described in paragraph 2 of the complaint. The fact that OCT No. 5279 was issued to the plaintiffs is indubitable evidence that they have been in possession of the land embraced therein for at least thirty years prior to the commencement of the registration proceedings.[2]

Petitioner contends that OCT No. 5279 having been cancelled with the issuance of TCT No. 176788, TCT No. 176789 and TCT No. 177436, the above-quoted conclusion of respondent court would have no more legal basis. The alleged cancellation of OCT No. 5279 is premised on the fact that the aforementioned Transfer Certificates of Titles Nos. 176788, 176789 and 177436 have been cancelled due to certain irregularities or anomalies in their issuance because of their greatly expanded areas. But it is not disputed that while private respondents sold the lands covered by TCT Nos. 176788 and 176789, they retained TCT No. 177436 covering the area of 555 square meters, the very same original area described in OCT No. 5279. Moreover, OCT No. 5279 was restored on application of the private owners, by the Court of First Instance of Rizal as shown by an order of Judge Serafin Salvador dated October 2, 1973.[3]

It would appear, therefore, that the integrity of OCT No. 5279 has never been impaired and may properly serve as basis for the finding of respondent court that private respondents had been in prior possessions of the land in question. It has been also shown by private respondents[4] that the land covered by TCT No. 177436, the one mentioned in the complaint, bears exactly the same description as that covered by OCT No. 5279.

It is, however, urged that petitioner's evidence of possession consisting of his alleged acquisition of the land from

one Concordia Pascual, after which he filed a sales application after having been in possession by virtue of a permit issued by the Bureau of Lands, should outweigh the mere circumstantial evidence which was what the respondent court considered in finding prior possession in favor of private respondents--OCT No. 5278. There is no merit in this contention of petitioner.

In the first place, petitioner's sales application was denied. This must be due to the fact that the land was covered already by a Torrens Title-OCT No. 5278, in the name of private respondents--the issuance of which indicates that said respondents had been in possession of the land long before the issuance of the certificate of title, which is the vital requisite that entitled them to the registration of the land.

Secondly, as correctly observed by respondent court, the certificate of title cannot be collaterally attacked in these proceedings.[5] Also impeccably correct is the observation of same court that the question of ownership of the land should be raised in the proper action by the real parties in interest.

WHEREFORE, finding no reversible error in the appealed decision, the same is hereby affirmed and the instant petition dismissed. Costs against petitioner.

SO ORDERED.

Barredo, (Chairman), Aquino, Guerrero, Abad Santos, and Escolin, JJ., concur.
Concepcion, Jr., J., is on official leave.

[1] pp. 1-3, Brief for Private Respondents; p. 76, Rollo.

[2] p. 2, Id.

[3] Annex A to Petitioner's Brief; p. 74, Rollo.

[4] pp. 10-11, Respondents' Brief; p. 76, Rollo.

[5] Loo Soo vs. Osorio, 89 Phil. 135.

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