

ANDRES MANARPAAC, ET AL., PLAINTIFFS-APPELLANTS, VS. ROSALINO CABANATAN, THE DIRECTOR OF LANDS AND THE REGISTER OF DEEDS OF ILOCOS NORTE IN HIS CAPACITY AS SUCH, DEFENDANTS?APPE...*G.R. No. L-23300. October 31, 1967*

Ponente: ANGELES, J.

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On appeal from a decision of the Court of First Instance of Ilocos Norte dismissing the complaint, without costs.

On December 7, 1960, the plaintiffs, numbering 24 in all, surnamed Manarpaac, filed this action against Rosalino Cabanatan, the Director of Lands and the Register of Deeds of Laoag, Ilocos Norte, on a complaint which as amended on December 22, 1960, alleges that the plaintiffs have been, since time immemorial, in actual pos-session as owners of two parcels of land, the first, with an area of 8,742 sq. m. and assessed at P160.00 under tax declaration No. 034206, in the name of Rogaciano Manarpaac, the second, with an area of 12211 sq. m. and assessed at P390.00 under tax de-claration No. 030876, both parcels are situated at Barrio 15, Batac, Ilocos Norte, specifically described in paragraph "2" of the complaint; that such posses-sion has been public, uninterrupted and in the concept of owner; that they have their houses built on the land; that in the year 1956, the defendant Rosalino Cabanatan filed an application for free patent of a parcel of agricultural public land situated at Barrio Suyo, Batac, Ilocos Norte, with an area of 27,788 sq. m., and said defendant "taking advantage of the ig-norance and lack of education of the plaintiffs, wil-fully, fraudulently, maliciously, and surreptitiously without previous notice to the plaintiffs whatsoever, included the above described parcels of land" (par. "2" of the complaint) in his application for free pa-tent; that on November 7, 1959, a free patent was is-sued in the name of Rosalino Cabanatan by the Director of Lands, and on December 3, 1959, certificate of title No. V-105031 was issued in the name of Rosalino Cabanatan by the register of deeds; that said certi-ficate of title which included the land of the plaintiffs, is null and void, because the patent was obtained thru "fraudulent misrepresentation"; and that the proceed-ings leading to the investigation and survey of the land were without notice and without compliance with the requirements of the law. Plaintiffs, therefore, prayed that the free patent and the certificate of title be declared null and void, and the same should be cancelled; "4. That in case the title issued may not be annulled, that the defendant Rosalino Cabanatan be ordered to reconvey unto the plaintiffs their lands unlawfully and fraudulently included in said title"; that the defendant be ordered to pay attorney's fees in the amount of P1,000.00; and "6. That the plaintiffs pray for such further relief and remedy as may be deemed just and equitable in the premises."

The defendants filed separate answer.

In his answer dated February 8, 1961, Rosalino Cabanatan denied the material allegations in the com-plaint, and, as special defense alleged: (a) that the issuance of the free patent and certificate of title in his name were regular and after compliance with the requirements of the law; (b) that the plaintiffs never protested with the Director of Lands against the defendant's application for free patent; they did not appeal from the decision of the Director of

Lands awarding the land to said defendants; and the plain-tiffs have failed to exhaust the administrative reme-dies required by law, and, therefore, the decision of the Director of Lands has become final; (c) that the original complaint was for nullity of title, however, the amended complaint is for RECONVEYANCE which is le-gally impermissible, for it changed the cause of action, and hence, the amended complaint should have been dis-missed, and the plaintiffs required to file a new com-plaint.

In its answer dated January 6, 1961, the Direct-or of Lands alleged that the issuance of the free patent was regular and after compliance with the require-ments of the law; that "2. x x x he admits the allegation in paragraph 6 of the complaint to the effect that one year from the issuance of patent has not yet elapsed"; and that the plaintiffs never filed any pro-test with the Bureau of Lands against the application for free patent filed by Rosendo Cabanatan.

The Register of Deeds in his answer dated January 11, 1961, alleged that the issuance of the certificate of title in the name of Rosalino Cabanatan was in pur-suance of a decree of patent presented to its office, and that he merely acted in compliance of the law.

On September 22, 1962, Rosalino Cabanatan filed a motion to dismiss on the following ground: "That even assuming that plaintiffs have a right over the land in suit, their action has already prescribed and that the court, therefore, has no jurisdiction", predicated the contention on the rulings that "When any public lands are alienated, the same shall be brought forthwith un-der the operation of Section 22 of the Land Registra-tion Act and shall become registered land x x x and a certificate of title shall be issued as in other cases of registered land (Diwaling Sumail, et al. v. CFI of Cotabato, L-8287, April 20, 1955), and "the one year period under Section 38 of Act 496 should, in the case of public land grants (patent), be counted from the issuance of the patent by the Government under the Public Land Act (Nelayan v. Nelayan, 109 Phil. 183).

The plaintiffs opposed the motion to dismiss.

On September 23, 1963, the court issued an order dismissing the complaint holding that the free patent having been issued on November 3, 1959, and the first complaint was filed on December 7, 1960, the action for review of the decree was, therefore, filed more than one year after the issuance of the patent.

From this order, the plaintiffs appealed directly to this Court.

From the averment of facts in the complaint, it clearly appears that the plaintiffs have been, since time immemorial, in possession as owners of the dis-puted land, have declared the land for tax purposes the names of two of them and have built their houses on the land, but that through fraud and irregularity, de-fendant Rosalino Cabanatan succeeded in securing for himself, the certificate of title in question. The foregoing recital of facts in the complaint are sufficient averment of ownership. Possession since time immemorial, carries the presumption that the land had never been part of the public domain, or, that it had been a private property even before the Spanish con-quest. And so, we said in one case –

"x x x All lands that were not acquired from the Government, either by purchase or grant, be-long to the public domain. An exception to the rule would be any land that should have been in the possession of an occupant and of his predecessors in interest since time immemorial. FOR SUCH POSSESSION WOULD JUSTIFY THE PRE-SUMPTION THAT THE LAND HAVE NEVER BEEN PART OF THE PUBLIC DOMAIN OR THAT IT HAD BEEN A PRIVATE PROPERTY EVEN BEFORE THE SPANISH CON-QUEST." (Oh Cho v. Director of Lands, 75 Phil. 890, citing Cariño v. Insular Government, 212 U.S. 449, 53 L. Ed. 394.)

Whether this presumption should hold as a fact or not, is a question appropriately determinable only after the parties have adduced, or at least, are given the opportunity to adduce, their respective evidence.

The ruling in *Susi v. Razon and Director of Lands*, 48 Phil. 414 [re-affirmed in *Mesin v. Pineda*, 108 Phil. 251] sustained on all fours the validity of plaintiffs' theory, thus -

"In favor of Valentin Susi, there is, moreover, the presumption *juris et de jure* establish-ed in paragraph (b) of section 45 of Act No. 2874, amending Act No. 926, that all the necessary requirements for a grant by the Government were complied with, for he has been in actual and physical possession, personally and through his predecessors, of an agricultural land of the pub-lic domain openly, continuously, exclusively and publicly since July 26, 1894, with a right to a certificate of title to said land under the provisions of Chapter VIII of said Act. So that when Angela Razon applied for the grant in her favor, Va-lentin Susi had already acquired by operation of law, not only a right to a grant, but a grant of the Government, for it is not necessary that certificate of title should be issued in order that said grant may be sanctioned by the courts. If by legal fiction, Valentin Susi had acquired the land in question by a grant of the state, it had already ceased to be of the public domain and had become private property, at least by presumption, of Valentin Susi, beyond the control of the Director of Lands. Consequently, in selling the land in question to Angela Ra-zon, the Director of Lands disposed of a land over which he had no lon-ger any title or control and the sale thus made was void and of no effect, and Angela Razon did not thereby acquire any right.

"The Director of Lands con-tends that the land in question being of the public domain, the plaintiff-appellee cannot main-tain an action to recover poss-ession thereof.

"If, as above stated, that land, the possession of which is in dispute, had already become, by operation of law, private pro-perty, there is lacking only the judicial sanction of his title, Valentin Susi has the right to bring an action to recover the possession thereof and hold it."

In the case at bar, predicated upon the allega-tions in the complaint, together with the admission of defendant Cabanatan in his answer - that the amended complaint is an action for reconveyance, which are deemed admitted on a motion to dismiss, there can hardly be any debate that the complaint states a sufficient cause of action for recovery of possession of the land, for, settled is the rule that the remedy of the land-owner whose property has been wrongfully or erroneously registered in another's name is, after one year from the date of the decree, not to set aside the decree, but respecting the decree as incontrovertible and no longer open to review, to bring an ordinary action in the ordinary court of justice for reconveyance or, if the property has passed into the hands of an innocent purchaser for value, for damages. (*Casilan v. Espartero*, 95 Phil. 799.)

WHEREFORE, the order of dismissal appealed from is hereby set aside, and the case is ordered remanded to the lower court for further proceedings. Costs in this appeal against the defendant Rosalino Cabanatan.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, Castro, and Fernando, JJ., concur.

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