

CAMILO AGCANAS, PLAINTIFF-APPELLEE, VS. TEODORO NAGUM, DEFENDANT-APPELLANT.*G.R. No. L-20707. March 30, 1970*

Ponente: TEEHANKEE, J.

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In this appeal on questions of law from the summary judgment rendered by the Court of First Instance of Isabela ordering defendant-appellant to surrender possession of the disputed land to plaintiff-appellee, with damages and costs, the Court reiterates the established precept that trial courts have but limited authority to render summary judgments and may do so only in cases where there is clearly no genuine issue as to any material fact.

In substance the complaint for reivindicacion which was filed on July 10, 1956,[1] alleged that plaintiff-appellee "is the owner in fee simple and since 1945 or prior thereto, up to May 18, 1956, the one in actual possession" of the 6.1277 hectare-parcel of land described in the complaint, which he acquired under the free patent provisions of the Public Land Law, whereby the corresponding original certificate of title was issued in his name on December 16, 1955 by the Register of Deeds of Isabela; that defendant-appellant asserting his own ownership of the same land, "entered upon and took possession thereof without the consent of the plaintiff" and ignored plaintiff's demand to vacate the premises; and prayed for recovery of the land with damages, P500.00 - attorney's fees and costs.

In his answer of September 19, 1960 (sic),[2] defendant-appellant not only denied the material allegations of the complaint, but also averred special defenses supported by documents attached to his answer alleging that he has been in actual, peaceful and continuous and uninterrupted possession of the land in question since 1936, which he had fully cultivated with the help of his tenants and dedicated to the planting of upland corn and rice besides other fruit trees; that he applied for a homestead patent to the land on June 12, 1947, and his application was duly approved by the Director of Lands on April 14, 1948, and he had filed final proof of his said homestead on June 5, 1955 in compliance with the requirements for the issuance in his favor of the corresponding free patent and certificate of title; that plaintiff had been one of his tenants who worked for two agri-cultural years (1954-1955 and 1955-1956) on a portion of about one hectare of the land; that defendant only learned upon receiving a copy of the complaint in the lower court that plaintiff in bad faith and taking undue advantage of his (plaintiff's) stay on the land as a tenant, had surreptitiously and in collusion with some employees of the Bureau of Lands filed directly with the Bureau's central office in Manila, a homestead application for the same land on May 5, 1955, with the Bureau's central office's unscrupulous employees making it appear that the land in question was not claimed or occupied by any other person except plaintiff who allegedly made his entry therein since 1939, (which application, the record shows, was speedily approved on September 9, 1955); that consequently, he filed on November 26, 1956 with the Bureau of Lands "a petition for the cancellation of plaintiff's patent;" (the record shows that the Director of Lands in an order dated September 26, 1961, overruling plaintiff's opposition thereto, ordered an investigation, so that if the facts so warrant "appropriate legal remedies" [might be instituted] to correct any mistake, error or fraud which might have been committed in connection with the administration and

disposition" of public land); and prayed for the dismissal of the complaint and the issuance of an order cancelling plaintiff's free patent and title, with P1,000.00 attorney's fees and other equitable relief.

On September 25, 1956, plaintiff filed his "Answer to Counterclaim" in the form of special defenses in defendant's answer and traversed the allegations thereof. Thereafter on December 31, 1961, plaintiff filed a motion for summary judgment to which he attached his sworn statement and affidavits of a barrio-mate and his brother, Leon Agcanas, all executed on July 27, 1960, and supporting the averments in plaintiff's affidavit to the effect that plaintiff was never the tenant of defendant, for the latter is land-less while plaintiff's parents owned enough lands which were trans-mitted by inheritance to their children. Plaintiff in his affidavit claimed for the first time as against his allegations in his complaint that defendant entered upon the land without his consent, that defendant "armed with bolos together with his companions came to the land while I was working thereon with my brother and drove us away under pain of death if we attempted to come back and work there", an allegation that his brother Leon Agcanas is completely silent about in the latter's (Leon's) supporting affidavit. The documents supporting plaintiff's claim of title to the land and his declaration of the same in his name for tax purposes on May 3, 1956, and payment of the 1954-1955 tax thereon on the same date, were likewise attached to the motion.

Defendant filed on April 18, 1962 his opposition to the motion for summary judgment to which he attached the pertinent documents with regards to the fact of the Director of Lands' having ordered an investigation, over plaintiff's opposition, as to the issuance of the free patent in favor of plaintiff notwithstanding the previous approval of defendant's earlier application to the same land, and prayed that the case be held in abeyance until after the results of the Bureau's investigation.

The lower court nevertheless granted summary judgment on September 25, 1962, having previously conducted a hearing on the question of damages on July 21, 1962, and ordered defendant to vacate the land and surrender possession thereof to plaintiff, with damages at P220.00 per agricultural year plus costs.

Defendant was granted leave to prosecute his appeal as a pauper. An examination of the pleadings and the record readily shows that the lower court erred in rendering summary judgment, because the sharply conflicting claims of the parties tendered genuine issue as to the material facts for the determination of which a trial is indispensable.

1. Rule 34, section 3 (formerly Rule 36, sec. 3 of the Rules of Court) categorically provides that summary judgments may be rendered upon motion and after hearing only "if the pleadings, depositions, and admissions on file together with the affidavits, show that, except as to the amount of damages, there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law."

It is evident under this rule that a summary judgment can be rendered only where there are no questions of fact in issue or where the material allegations of the pleadings are not disputed.[3]

2. In *Gatchalian vs. Pabilin*,^[4] this Court, struck down a summary judgment erroneously rendered by the same lower court, notwithstanding the existence of material questions of fact requiring trial. We cited with approval the late Chief Justice Moran's exposition on the rule of summary judgments that "A summary judgment should not be granted unless the facts are clear and undisputed, and if there is a controversy upon any question of fact, there should be a trial of the action upon its merits" and that the rule "does not vest in the court jurisdiction summarily to try the issues on depositions and affidavits, but gives the court limited authority to enter summary judgment only if it clearly appears that there is no genuine issue of material fact. Upon a motion for summary judgment, the Court's sole function is to determine whether there is an issue of fact to be tried. In other words, the rule [Rule 36, (now Rule 34) sec. 3] does not invest the court with jurisdiction summarily to try the factual issues on affidavits, but authorizes summary judgment only if it clearly appears that there is no genuine issue as to only material fact."

In the present case, aside from the conflicting issues of fact above recited, appellant's counsel properly pointed out in his opposition to the motion for summary judgment that "various questions of fact are raised by the pleadings of both sides, such as (a) as to who is in actual possession of the land in controversy; (b) since when and how its occupants obtained possession thereof; (c) what improvements are found on the land; (d) of what do they consist; (e) in about what year they were planted or made, and by whom, etc. (Land Administrative Order No. 6). " These material issues of fact may not be resolved in a motion for summary judgment based on mere affidavits.

3. The lower court obviously was misled into rendering its summary judgment as a matter of law on the basis of its reasoning that "In gratia argumenti, and conceding hypothetically that the herein defendant can successfully prove their allegation of substantial material facts pre-existent and subsisting which should have legally demonstrated that the homestead patent should not have been granted to the herein plaintiff, due to the supposed lack on the part of the legal requirements of residence and cultivation and due to his subsequent abandonment of the homestead, the herein defendant has no legal personality to personally seek the nullification of the title of the plaintiff."

This Court has had previous occasion in *Balmonte vs. Mercado*[5] to annul another summary judgment erroneously rendered by the same lower court in a similar case, wherein it likewise ordered the therein defendant to surrender possession of the disputed land to therein plaintiff on the strength of the order of the Director of Lands upholding therein plaintiff's better right to the free patent notwithstanding that such order was pending review on appeal before the Secretary of Agriculture and Natural Resources. This Court held therein that "Inasmuch as both parties in this case claim to derive title from the Government, the final decision of the latter on their conflicting claim is essential to plaintiff's cause of action. Indeed, if the order of the Director of Lands of September 15, 1955, were reversed and the patent issued to the plaintiff cancelled by the Secretary of Agriculture and Natural Resources, plaintiff would have no cause of action against defendant herein. Hence, judicial action on the relief prayed for by Balmonte should be suspended until the appeal, taken by the Marcelos, from said order shall have been finally determined, for which reason evidence should be introduced in the lower court on the result of said appeal." [6] Our ruling in the *Balmonte* case quoted above applies with equal force to the present case, where appellant has shown a strong prima facie case of prior occupancy and prior approval of his earlier homestead application for the disputed land, and the matter was pending investigation by the Director of Lands at the time of the rendition of the summary judgment, as against the facts in *Balmonte* where the Director of Lands' investigation had upheld therein plaintiff Balmonte's better right to the land, which was however pending review and decision on appeal by the department head. For, indeed, prescinding from the eventuality that should defendant-appellant's prior right to the land be upheld administratively, plaintiff-appellee would have no cause of action against defendant-appellant, the legal question of whether appellee could obtain recovery of possession of land from defendant-appellant hinges on his establishing the disputed claim that he was in prior possession thereof and had been forceably ousted therefrom by appellant.

4. Plaintiff's right to recovery of the land may be determined only after the due process of trial and cross-examination of the witnesses. The record as it stands puts in grave doubt whether plaintiff would be able to do this: in his homestead application of May 21, 1955, he alleged that he was 24 years old; that would make him only 14 years old in 1945 when according to his complaint he was then "the owner in fee simple" and "the one in actual possession" of the land; and if we were to go by his homestead application, Exhibit D, where he makes no claim through occupancy of his ancestors (not having filled out as required in such cases Pars. 5, 6, 7 and 8 of his application), he asserts therein that he "entered upon and began cultivation of the (land)" and "continuously cultivated the same" since 1939, at which time he would have been only 8 years old. In contrast, per defendant's prior application of June 12, 1947, executed by defendant at the age of 46 years, defendant claimed to have first cultivated the land since 1936 when he was 35 years of age.

5. It would therefore be well for the trial court to whom this case is herein remanded to note this Court's injunction in the Gatchalian case, *supra*, through Mr. Justice Reyes, that "the questions of law should be resolved after, and not before, the questions of fact are properly litigated, since the facts proved may well affect the legal provisions applicable."

For should defendant-appellant succeed in substantiating the special defenses in his answer and establish that his prior homestead application had been duly approved by the Director of Lands and he had filed the final proof of his homestead on June 5, 1955, as alleged by him, the subject land would have thereby become segregated from the mass of public lands as of then, equivalent to a patent actually issued, since the issuance of a patent would be a mere ministerial act and duty of the Director of Lands and defendant's right to the land could no longer be affected by the subsequent void grant of the same land to plaintiff.[7]

Furthermore, should defendant-appellant succeed at the trial in establishing the fraud and breach of trust on the part of plaintiff as his alleged former tenant who allegedly maliciously and in bad faith took undue advantage as defendant's tenant on the land to grab the same from defendant, the recent decision of this Court in *Miguel vs. Court of Appeals et al*[8] would entitle defendant, on the principle of enforcement of a constructive trust, to obtain in the case below a judgment for the reconveyance of the land notwithstanding that the Director of Lands and the Register of Deeds have not been made parties to the case. In the said case of *Miguel vs. Court of Appeals*, this Court held that where the respondent in breach of fiduciary duty and through fraud succeeded in obtaining a sales patent and ultimately an original certificate of title over a parcel of land which was openly and continuously possessed by petitioner in the concept of owner, the respondent could be judicially compelled to reconvey or assign to petitioner the land thus unlawfully and in breach of trust titled by the respondent.

6. The Court deems it just and equitable in the light of the facts and circumstances of the case that reasonable attorney's fees should be recovered by defendant as prayed for.

ACCORDINGLY, the decision appealed from is hereby set aside and the record remanded to the lower court for trial on the merits after final termination of the administrative proceedings for cancellation of plaintiff's patent and title, and for a new judgment conformably with the views hereinabove set forth and as the facts, law and justice may warrant. Plaintiff-appellee is sentenced to pay defendant-appellant the sum of P1,000.00 as attorney's fees and the costs.

Let a copy of this decision be furnished to the Director of Lands so that the administrative investigation of defendant-appellant's complaint and petition for cancellation of the free patent and title issued in the name of plaintiff-appellee, if it is still pending, may be expedited and resolved without further delay.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, Fernando, and Villamor, JJ., concur.
Barredo, J., on official leave.

[1] Civil Case No. Br. II-92 of the Court of First Instance of Isabela.

[2] Per Rec. on App. p. 3; but the year should most probably be 1956, since plaintiff filed an answer to counterclaim on September 25, 1956.

[3] See *Ibañez et al. vs. North Negros Sugar Co., Inc., et al.*, L-6790, 96 Phil. 980.

[4] L-17619, October 31, 1962, 6 SCRA 508; emphasis supplied.

[5] L-12918, April 25, 1961, 1 SCRA 1028.

[6] Emphasis supplied; citing Miguel, et al. vs. Vda. de Reyes, et al., L-4851, July 31, 1953; Lubugan, et. al. vs. Castrillo, et al., L-10521, May 19, 1957; Geukeko vs. Araneta, L-10182, December 24, 1957; Vda. de Villanueva, et al. vs. Ortiz, et al., L-11412, May 28, 1958; Municipality of Hinabañgan, et al. vs. Municipality of Wright et al., L-12603, March 25, 1960.

[7] Corpus vs. Beltran, 97 Phil. 772; Balboa vs. Farrales, 41 Phil. 498.

[8] L-20724, October 30, 1969; a sequel of Miguel vs. Reyes, 93 Phil. 542 (1953), where the complaint was dismissed for non-exhaustion of administrative remedies.

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