

**JOSE MARIA SALVADOR AND MARIA PANIS,
PLAINTIFFS-APPELLANTS, VS. ROSENDO FRIO AND JUAN VERDAD,
DEFENDANTS-APPELLEES.**

G.R. No. L-25352. May 29, 1970

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

Appeal from orders of the Court of First Instance of Camarines Sur granting defendants' motion to dismiss plaintiffs' complaint on the ground of failure to state a cause of action and denying plaintiffs' motion for reconsideration for an opportunity to file proper amendments to their complaint.

Plaintiffs-spouses originally filed on February 7, 1962 their complaint alleging that they are the absolute owners of a fenced parcel of land containing an area of 2 hectares, 09 ares and 52 centares, declared under Tax No. 2728 in the name of plaintiff Jose Maria Salvador; that their and their predecessors' possession of said land has for over 50 years now been "quiet, peaceful, public, continuous, adverse to the whole world and in concept of owner;" that just three (3) days ago, the defendants, confederating together and acting in collusion with one another, without any right at all and without any justification whatsoever and under a false and malicious claim of ownership, entered the land described above and destroyed the fence of the plaintiffs and now by means of force, violence and intimidation, threaten to expel the plaintiffs therefrom;" that "the defendant, Juan Verdad, alleges ownership of the above-described parcel of land by virtue of an alleged deed of sale executed in his favor by his co-defendant, Rosendo Frio, who, in turn, claims ownership thereon under Free Patent No. V-39104, Certificate of Title No. 5321;" that "the defendant, Rosendo Frio, was never the owner and was never in possession of the above-described parcel of land and therefore the inclusion of the same in Certificate of Title No. 5321 is fraudulent and illegal;" and "consequently, the defendant, Rosendo Frio has no right whatsoever to execute a deed of sale in favor of his co-defendant, Juan Verdad, regarding the land in question x x." Alleging to have suffered damages of no less than P1,000.00 from defendants' illegal acts, plaintiffs prayed for judgment declaring them the owners of the land with right of possession, and for the court to order defendant Rosendo Frio to reconvey to them the land, annulling whatever sale defendant Frio may have executed in favor of his co-defendant Juan Verdad, as well as to sentence both defendants jointly and severally to pay them damages of P1,000.00, plus costs of suit, and praying for any other just and equitable relief.

Defendant Verdad filed on April 5, 1962 in due course his answer traversing the allegations of plaintiffs' complaint and setting up as an affirmative defense that he had purchased in good faith the parcel of land, with an area of 6.2761 hectares, declared under Tax No. 2511 and covered by O.C.T. No. 5321 in the name of his co-defendant Frio, of which parcel a portion of about 3 hectares was being claimed in ownership by plaintiffs who had on February 9, 1962 forcibly expelled him therefrom. Said defendant thus claimed to be deprived of P2,400.00 yearly representing the average rice yield of the land usurped and prayed for judgment on his counterclaim against plaintiffs for said amounts, besides P2,000.00-attorneys' fees, and to be restored in possession of the disputed land. Defendant Verdad further filed a cross-claim against his co-defendant Frio for

the latter to pay him the said damages besides reimbursing him the sum of P1,500.00 representing the purchase price at P500.00 per hectare that he had paid Frio for the 3-hectare portion claimed by plaintiffs, should the court render judgment in plaintiffs' favor.

The record does not show that defendant Frio ever filed an answer to plaintiffs' complaint or to defendant Verdad's cross-claim against him. Neither does the record show that any move was ever made by either plaintiffs or defendant Verdad to declare defendant Frio in default by virtue thereof. Peculiarly, however, on September 18, 1963, or over a year and 5 months after the filing of defendant Verdad's answer, his lawyers appearing now as counsels for both defendants (rather than for defendant Verdad alone, per their, answer on his behalf) filed a motion to dismiss the case on the ground that the complaint states no cause of action in that allegedly it failed to state positively and directly that plaintiffs are the owners of the property, that the same has not been transferred to "an innocent purchaser for value" and that the circumstances constituting the fraud committed in procuring the title to the property have not been stated with particularity. In their motion, defendants further claimed that the property covered by O.C.T. No. 5321 in the name of defendant Frio is "now covered by Transfer Certificate of Title No. 4960" in the name of the co-defendant Verdad.

Plaintiffs did not challenge either defendant Frio's capacity to file the motion and sudden appearance, notwithstanding his failure to file his answer to the complaint for which he should have been defaulted, nor the propriety of such a motion to dismiss long after the responsive pleading or answer had already been filed by defendant Verdad, contrary to Rule 16, section 1. Instead, they filed a regular opposition that the title secured by defendants was of no avail because the land claimed by them, as alleged in their complaint, was private land, and that assuming that their complaint alleged insufficient facts they should be allowed to amend the same. The lower court, however, issued on February 29, 1964 its order dismissing the complaint for the reason that "it appearing that the plaintiffs did not allege in their complaint the circumstances constituting the fraud committed by the defendant, Rosendo Frio in procuring the Certificate of Title to the property, beside the fact that it was also alleged in the said complaint that the same parcel of land covered by a certificate of title has been transferred to the defendant, Juan Verdad thru purchase, it is clear that the complaint states no cause of action against the defendant in the present case for the reconveyance of real property."

Plaintiffs filed in due course their motion for reconsideration, specifying the allegations in their complaint as to the violation of their rights of ownership and the fraudulent collusion between defendants and again praying that if the court deem the alleged circumstances constituting the fraud to be not definite enough, that they be allowed to file proper amendments.

Defendants filed their opposition thereto and the lower court issued its Order of September 30, 1964 denying the motion for reconsideration as "without merit, the plaintiffs having failed to state with particularity the circumstances constituting the fraud allegedly committed in procuring the title of the property in question which is mandatory requirement under Section 5, Rule 8 of the Rules of Court, and to state that the same property in question has not as yet been transferred to an innocent purchaser for value in their complaint for the reconveyance of a real property covered by a title."

In their appeal, plaintiffs allege that the lower court erred in ordering the dismissal of their complaint and in not permitting them to amend the same.

The appeal is manifestly meritorious for several reasons:

1. The lower court's ruling that the complaint did not state with particularity the circumstances constituting the fraud is not borne out by the pleadings. Plaintiffs sufficiently alleged collusion between the defendants and fraud on the part of defendant Frio in securing title to the land of which "he was never the owner and was never in

possession." Assuming that these allegations were not sufficiently particular to satisfy the lower court, its proper course was not to dismiss the complaint but to treat the motion as one for a bill of particulars and require plaintiffs to submit a more definite statement or bill of particulars in accordance with Rule 12, section 1 of the Rules of Court.[1]

2. The lower court's other ruling that plaintiffs' complaint fails to state a cause of action because it failed to allege that the property has not as yet been transferred to an innocent purchaser for value mistakes defendant Verdad's defense of being such an innocent purchaser for failure to state a cause of action. Plaintiffs alleged fraudulent collusion between the defendants and the latter's violating their rights "under a false and malicious claim of ownership," particularly, that defendant Frio fraudulently and illegally secured title to their property and then executed an alleged deed of sale in favor of defendant Verdad. While imprecisely and imperfectly worded, it was sufficient to challenge Verdad's claim of being an innocent purchaser. It was error for the lower court to require that plaintiffs' complaint should have specifically "stated that the same property in question has not as yet been transferred to an innocent purchaser for value" under penalty of dismissal. This was defendant Verdad's defense duly averred in his answer and was a proper matter of evidence to be weighed and determined upon trial on the merits. The manifestation of defendants in their belated motion to dismiss that defendant Verdad transferred the title to his name by virtue of Frio's deed of sale in his favor, over a year after the filing of the complaint and of his answer thereto, has an important bearing on plaintiffs' adverse claim of absolute ownership with over 50 years of uncontested possession over the same property.

3. The lower court's grave error was in not adhering to the time-honored doctrine that where defendants move to dismiss a complaint on the ground of failure to state a cause of action, the ground must appear on the face of the complaint, and that to determine the sufficiency of the cause of action, only the facts alleged in the complaint -- which are deemed hypothetically admitted by defendants-movants -- and no other allegations, should be considered.[2] Thus viewing the allegations of the complaint, their constituting a sufficient cause of action upon which the court could render a valid judgment as prayed for cannot be gainsaid. The matters raised by defendants in their Motion to dismiss for lack of cause of action as well as in their brief, such as Verdad's being an innocent purchaser for value and indefeasibility of title and prescription of action after the one-year period from date of issuance and registration of title to the property, are matters of defense which may properly be considered after trial on the merits (with the exception of the last two defenses which were not even raised in defendant Verdad's answer). The same holds true of defendants' argument that since Frio is alleged to have obtained fraudulently a free patent to the property, it therefore pertained to land of the public domain and could not be private land, as alleged in the complaint. The character of the land would have to be determined at the trial, in view of plaintiffs' allegations that it is private land. Plaintiffs' allegations may still be substantiated at the trial, for it would not be the first time that private land is shown to have been fraudulently or erroneously titled under a "free patent" or public land, already awarded to one applicant and therefore withdrawn from the disposable land of the domain is wrongfully titled to another under a void grant.[3]

4. Finally, assuming that the lower court had basis for granting defendants' motion to dismiss on the grounds stated in its orders, it should have granted plaintiffs' repeated prayers to be allowed to file proper amendments should it find their allegations inadequate, in accordance with the mandate of the Rules of Court that amendments to pleadings are favored and should be liberally allowed, particularly in the early stages of the lawsuit, "so that the actual merits of the controversy may speedily be determined without regard to technicalities, and in the most expeditious and inexpensive manner." [4] As stated in the early case of *Macapinlac vs. Repide*, [5] "it has been repeatedly held to be reversible error on the part of a Court of First Instance to dismiss a cause immediately upon sustaining a demurrer (now a motion to dismiss), without giving the plaintiff an opportunity to amend, if he so desires." Of course, the accepted procedure would have been for plaintiffs, after the order of dismissal, to file their

amended complaint with a motion for its admission so that the lower court could properly rule on their propriety and admissibility,[6] viz, whether or not the motion was made with intent to delay the action or the cause of action is substantially altered,[7] and should the lower court deny the amendment, the appellate courts would have before them the rejected amendment and be in a position to rule on the issue of its propriety and admissibility.[8] But with the Court's find-ing that the grounds relied upon by the lower court for its dismis-sal order were erroneous, plaintiffs' failure to follow the proper procedure has become a moot point, not to mention that there is ground to excuse their failure in this regard in view of the lower court's orders rejecting their pleas to be given an opportunity to file suitable amendments.

ACCORDINGLY, the orders appealed from are reversed and the case is hereby remanded to the lower court for further proceedings not inconsistent with this decision and for decision on the merits of the case after trial and recep-tion of the evidence of the parties. With costs in both instances against defendants.

SO ORDERED.

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

[1] "SECTION 1. Motion for bill of particulars. -- Before responding to a pleading, or if no responsive pleading is permitted by these Rules, within ten (10) days after service of the pleading upon him, a party may move for a more definite statement or for a bill of parti-culars of any matter which is not averred with suf-ficient definiteness or particularity to enable him properly to prepare his responsive pleading or to prepare for trial. Such motion shall point out the defects complained of and the details desired."

[2] I Moran's Comments, 418 et seq and cases cited.

[3] De los Angeles vs. Santos, G.R. No. L-19615, Dec. 24, 1964, 12 SCRA 622 and cases cited.

[4] Rule 10, section 1. See Constantino vs. Reyes, G.R. No. L-16870, June 29, 1963, 8 SCRA 379; Guirao vs. Ver, G.R. No. L-18570, Apr. 29, 1966, 16 SCRA 638; Malayan Ins. Co. vs. Delgado Shipping Agencies, G.R. No. L-22811, May 19, 1966, 17 SCRA 176; Dauden-Hernaez vs. Angeles, G.R. No. L-27010, Apr. 30, 1969, 27 SCRA 1276; Sing vs. Rep. of Phil. G.R. No. L-30149, Aug. 28, 1969, 29 SCRA 132.

[5] 43 Phil. 770 (1922), citing Molina vs. La Electricista, 6 Phil. 519 and Aldecoa vs. Fortis, 17 Phil. 82; notes in parentheses supplied

[6] Breslin vs. Luzsteveco, 84 Phil. 618.

[7] Rule 10, sec. 3.

[8] Constantino vs. Reyes, supra, fn. 4.

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