

ANATALIA MENDOZA, ETC., PETITIONER, VS. SPECIAL DIVISION OF THE COURT OF APPEALS, RUFINA SANTIAGO, ET AL., RESPONDENTS.*G.R. No. L-3894. September 17, 1952*

Ponente: PARAS, C.J.

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The petitioner, Anatalia Mendoza, instituted an action in the Court of First Instance of Manila to obtain a judicial declaration that she is entitled to stall No. 571 of the Sampaloc public market, and to enjoin the respondents, Rufina Santiago and officials of the City of Manila in charge of the administration of the city markets, from ejecting the petitioner from said stall. In her complaint, the petitioner alleged that since July, 1942, she has been occupying stalls in said market after proper award by the proper authorities. In her answer, respondent Rufina Santiago alleged that she had been the lawful and physical possessor as lessee of stalls Nos. 570 and 571 of the Sampaloc public market until July, 1946, when the petitioner, through force, threat and intimidation, ousted her. The respondents, Mayor of Manila, City Treasurer of Manila, Market Administrator of Manila, and Market Master of Sampaloc public market, in their answer alleged that respondent Rufina Santiago had been the actual occupant of stalls Nos. 570 and 571 since the liberation in February, 1945, up to July, 1946, when she was, under threat and intimidation, ousted by the petitioner and her husband; that the petitioner had never applied for stalls Nos. 570 and 571 in accordance with market rules and regulations; and that the award made to the petitioner of stall No. 570 by the City Mayor was secured through fraud and misrepresentation. Respondent Rufina Santiago and respondent officials of the City of Manila both prayed in their answers that the complaint be dismissed. In addition, however, respondent Rufina Santiago prayed in her complaint that the petitioner be sentenced to pay P600 as losses and damages suffered by her as a result of the unlawful usurpation by the petitioner of stalls Nos. 570 and 571. The petitioner filed a reply to respondents answers, controverting respondents' allegations.

After trial, the Court of First Instance of Manila rendered a decision the dispositive parts of which read as follows:

"After a careful consideration of the evidence of record, the Court finds that a great preponderance of evidence thereof is in favor of the contentions of the respondents and against those of the petitioner. The respondent City Officials, particularly those of the Market Administration, have carefully investigated the conflicting claims of the petitioner and the respondent Rufina Santiago and have found that the contentions of the latter are true. The Court sees nothing in the record which shows or tends to show that the respondent officials have acted in bad faith or with grave abuse of authority in upholding the rights of respondent Rufina Santiago to said stalls and rejecting the claim thereto by the petitioner Anatalia Mendoza. For this reason, the Court has no other alternative but to dismiss, as it hereby does, this complaint and declare the respondent City officials have acted legally in adjudicating the said stalls to the respondent Rufina Santiago and consequently ordering the petitioner to vacate, the same. Once this decision! becomes final, it is the order of the Court that the petitioner vacates immediately stalls 570-571 of the Sampaloc market and turn same over to the lawful adjudicatee thereof, the respondent Rufina Santiago. The writ of preliminary injunction heretofore, issued in this case against the respondents is hereby declared null and of no effect.

"With respect to the claims of the petitioner and the respondent Rufina Santiago for alleged damages, the Court

dismisses the same for lack of merit."

Upon appeal by the petitioner to the Court of Appeals, the latter court affirmed the decision of the Court of First Instance of Manila. The case is now before us upon appeal by certiorari interposed by the petitioner from the decision of the Court of Appeals.

The facts found by the Court of First Instance of Manila, on which it based its decision in favor of respondent Rufina Santiago, and which the Court of Appeals confirmed in toto, are as follows:

"From the whole of the evidence, the Court finds that the great preponderance thereof establishes the following facts: That Rufina Santiago, for 17 years to the present, has been a fishvender in the public market of Sampaloc, Manila; that before and during the last world war and shortly after the liberation, she was occupying stalls 570-571 in said market, paying the corresponding municipal licenses therefor; that, if petitioner and her husband Pedro Bautista had occupied now and then the said stalls, it was because during the Japanese occupation respondent Rufina Santiago tolerated the said spouses to occupy said stalls, whenever she had no fish to sell; that the petitioner never had, at any time a fixed stall in said market, because what she used to do was to occupy any vacant stall in the said market when the regular holder thereof was absent or had no goods to sell, as was the case when on one occasion the petitioner and her husband occupied stalls 530-531 for sometime but when the regular stall holder of same named Lucia Santiago of Malabon, Rizal, appeared in August, 1945, to claim for said stalls, the petitioner had to vacate, as in fact vacated the same in favor of said Lucia Santiago; that lastly, the petitioner and her husband occupied stalls 570 with the consent and permission of the respondent Rufina Santiago because, as stated above, the latter sometimes did not have sufficient goods to sell; that later, however, the said petitioner and her husband started using said stall 570 without any permission from Rufina Santiago, which fact caused the latter to complain to the authorities connected with the City Market Administration; that by reason of said complaint of respondent Rufina Santiago, the Market Administration made a thorough investigation of the complaint sometime in June, 1946 and the said investigation resulted in the finding that the respondent Rufina Santiago is the one entitled to the possession and occupancy not only of stall 570, but also of stall 671. It was for this reason that respondent City Officials ordered the petitioner Anatalia Mendoza to vacate the said stalls within five days.

"The alleged possession by the petitioner of stalls 570-571 since July 4, 1942 has not been established by any competent evidence. In her affidavit Exhibit '9', dated August 29, 1946, petitioner states that she has no document or market ticket issued to stall holders to prove the fact that she has been in possession of said stalls since March, 1945, because, when her house was burned on May 3, 1947, all her documents, papers, clothings and furniture were burned and that all the papers she was presenting as exhibits in Court were issued to her after the said burning of her house. Yet, petitioner presented as part of her evidence, Exhibits 'E', 'E-1', 'E-2', 'E-3' which are market tickets issued by the Sampaloc Market in her name for the years 1945 and 1946. The said exhibits belie completely her contention that when her house was burned on May 3, 1947 all the documents and papers relative to her occupancy of the stalls in question issued to her prior to the latter date were burned and that all that she was able to save were her nine children. Likewise, the petitioner's contention that the award made in her favor by the Mayor of the City of Manila on July 10, 1946 with respect to stall 571 was never cancelled is completely belied by Exhibit 8, which is a letter of the City Mayor dated October 24, 1946, addressed to the City Health Officer expressly stating that the adjudication of stalls Nos. 570-571 of the Sampaloc market in favor of the petitioner is repealed and that said stalls are thereby adjudicated in favor of Mrs. Rufina Santiago."

These findings of facts are of course conclusive upon this Court. However, it is insisted for the petitioner that, as the prayer in her complaint filed in the Court of First Instance of Manila was limited to stall No. 571, both the Court of First Instance of Manila and the Court of Appeals erred in ordering the petitioner to vacate stalls Nos. 570 and 571. In reply to this contention, it may be pointed out that in the answers both of respondent Rufina Santiago and respondent city officials, the right of the petitioner to occupy stalls Nos. 570 and 571, is directly

assailed, while the right of respondent Rufina Santiago thereto is insisted upon. Besides, in her reply to respondents answers, the petitioner controverts the right of respondent Rufina Santiago to the two stalls and insists upon her claim to stall No. 570. The result is that the two stalls may be said to have been put squarely in issue by the pleadings. Moreover, as stated in the decision of the Court of First Instance of Manila, "the evidence adduced by the parties at the trial had also put in issue the conflicting claims of the petitioner and the respondents Rufina Santiago to both stalls 570 and 571." When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects, as if they had been raised in the pleadings. (Section 4, Rule 17, Rules of Court.)

Wherefore, the decision of the Court of Appeals is hereby affirmed, and it is so ordered with costs against the petitioner.

Pablo, Bengzon, Padilla, Tuason, Montemayor, Bautista Angelo, and Labrador, JJ., concur.

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