

ANTIPAZ L. PINEDA, CARLOS P. PINPIN, AMADEO J. HILARIO AND SALVADOR D. SANTOS, PETITIONERS, VS. THE HONORABLE COURT OF APPEALS, FELISA ESGUERRA, BENJAMIN ESGUERRA, DAVID ESGUERR...

G.R. NO. L-39492. March 23, 1990

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This petition seeks to annul and set aside the decision of the Court of Appeals which upheld the right of possession and ownership of Benjamin, David, Lolita Soledad, Arturo, Romulo, Eduardo (all surnamed Esguerra), Angel Domingo and Leonardo Reyes (hereafter Private Respondents).

On October 4, 1960, private respondents filed an action for recovery of ownership and possession of a parcel of land in the Court of First Instance of Rizal, and docketed as Civil Case No. 6327. The property involved contiguous parcels of "montañosa" land with an area of 177,499 square meters, located in Dolores, Taytay, Rizal. In their complaint, private respondents asserted ownership based on open, continuous, exclusive, peaceful, adverse and notorious possession; that sometime in April, 1957, Antipaz L. Pineda, Carlos P. Pinpin, Amadeo J. Hilario and Salvador P. Santos (hereafter, petitioners) entered the land clandestinely and squatted thereon by force and intimidation and against their will; that on April 4, 1957 petitioners filed with the Bureau of Lands applications for free patent in which they made deceptive and fraudulent misrepresentations, viz (1) that the land in dispute was neither claimed nor occupied by any person; (2) that they started to cultivate the land and made improvements thereon since January 16, 1938, in the case of Antipaz L. Pineda and Amadeo J. Hilario, and on January 16, 1945, in the case of the other petitioners, and (3) that the controversial land has not been declared for taxation purposes until 1958 when petitioners declared the same for said purpose; that on the basis of the aforesaid misrepresentations, the Director of Lands approved their applications and hence the Secretary of Agriculture and Natural Resources entered the corresponding free patents; that the free patents of Pineda, Pinpin, and Hilario were forwarded to the Register of Deeds of Rizal who thereafter issued the corresponding original certificates of title; that no notices concerning the survey of the land, the applications for free patent and the investigation on the applications were properly made; that the free patents and certificates of title are null and void because they cover private land, so that the Bureau of Lands has no jurisdiction and authority to issue the patents therefor; and that by reason of defendants' illegal entry in the premises and unlawful squatting thereon, plaintiffs (herein private respondents) were deprived of the beneficial enjoyment of their property (pp. 55-56, Rollo).

Petitioners on the other hand, state that they obtained the titles only after complying with the requirements of the law and the rules and regulations of the Bureau of Lands concerning the grant of public lands and issuance of titles; that the Torrens title issued to them have become incontestable, more than one year having elapsed from the issuance of the patents; that private respondents did not file any criminal action for trespass to private property against the petitioners in any court of justice, to support their claim that petitioners entered the above-mentioned parcel of land clandestinely and without the knowledge of plaintiffs and squatted thereon by force and

intimidation and against the will of plaintiffs; that in seeking to annul the acts of the Director of Lands and the Secretary of Agriculture and Natural Resources, private respondents failed to include either officers as parties and had not exhausted available administrative remedies.

On April 3, 1967, the trial court rendered judgment in favor of private respondents, as follows:

"WHEREFORE, above premises considered, judgment is hereby rendered against the defendants Antipaz L. Pineda, Carlos P. Pinpin, Amadeo J. Hilario and Salvador D. Santos, declaring the plaintiffs FELISA, BENJAMIN, DAVID, LOLITA, SOLEDAD, ARTURO, ROMULO and EDUARDO, all surnamed ESGUERRA, owners and legal possessors of the parcels of land subject of this complaint and now designated as Lots Nos. 5, 6, 7, 8 and 9 of plan Gss-354-D, Sheet 2 (Exhibit 5 or Annex 2 of defendants' answer); ordering said defendants to vacate the said parcels of land and surrender the same to the plaintiffs; declaring null and void Original Certificates of Title Nos. 270, 292, 294 and 369 in the names of the defendants insofar as the foregoing lots are concerned (Exhibits 6-b, 7-B, 8-B and 9-B respectively); directing the Registrar of Deeds of Rizal to cancel said original certificates of title accordingly; and sentencing defendants to pay the costs of this suit." [Rec. on App., pp. 47-48]." (p. 16, Rollo)

Petitioners appealed, assigning the following errors:

"1.

THE LOWER COURT ERRED IN DECLARING NULL AND VOID ORIGINAL CERTIFICATES OF TITLE NOS. 270, 292, 294 AND 369 IN THE NAMES OF DEFENDANTS AND IN DIRECTING THE REGISTER OF DEEDS OF RIZAL TO CANCEL SAID ORIGINAL CERTIFICATES OF TITLE.

2.

THE LOWER COURT ERRED IN DECLARING PLAINTIFFS AS OWNERS AND LEGAL POSSESSORS OF THE LAND IN QUESTION AND IN ORDERING DEFENDANTS TO VACATE SAID PROPERTY.

3. THE LOWER COURT ERRED IN NOT DISMISSING PLAINTIFFS' COMPLAINT AFTER DEFENDANTS' ORIGINAL CERTIFICATES OF TITLE HAD BECOME INCONTROVERTIBLE." (P. 17, Rollo)

On August 10, 1973, the Court of Appeals issued a decision^[1] affirming the CFI judgment, thus:

"WHEREFORE, the decision appealed from is hereby affirmed in toto, with costs against appellants." (p. 17, Rollo)

On May 27, 1974, upon petitioners' motion for reconsideration, the Court of Appeals voted to reverse^[2] the foregoing decision of August 10, 1973, as follows:

"WHEREFORE, the judgment of this Court dated August 10, 1973 is hereby reconsidered and set aside. The decision appealed from is hereby reversed and plaintiffs-appellees' complaint is dismissed without special pronouncement as to costs." (p. 18, Rollo)

On August 15, 1974, upon private respondents' motion for reconsideration, the Court of Appeals acted in the following manner:

- Two justices, namely, Hon. Andres Reyes and Hon. Magno S. Gatmaitan voted to set aside the Resolution promulgated on May 27, 1974, and to reinstate the decision promulgated on August 10, 1973, with the modification, however that Lot No. 5 shall be excluded from the effects of the judgment.

- Acting Presiding Justice Antonio G. Lucero voted to affirm in toto the decision of the lower court.
- Justices Ramon G. Gaviola, Jr. and Mariano Serrano upheld the May 27, 1974 Resolution and voted to deny private respondents' motion for reconsideration.

Petitioners' motion for reconsideration was denied for lack of merit on October 15, 1974.

Petitioners have come to Us on the following grounds:

- There is no Court of Appeals judgment "which would overturn its Resolution dated May 27, 1974, which, in turn, reversed its original decision of August 10, 1973 and which resolution dismissed private respondents' complaint.
- Assuming that the Resolutions of August 15, 1974 and October 3, 1974 may be considered as judgment, the Resolution dated May 27, 1974 should nevertheless stand because:
 - The non-inclusion of the Director of Lands or any other representative of the Republic is fatal to private respondents' case.
 - The Court of Appeals erred when it upheld private respondents' continuous possession of the property since 1878 under a claim of title entitling them to a right of ownership.
 - Petitioners' Torrens Titles have become indefeasible. (pp. 20-21, Rollo)

As to the first assigned error, the Resolution of the Court of Appeals has sufficiently disclaimed this and We quote:

"Appellants allege that there is no judgment rendered in the Resolution of August 15, 1974 because there is no unanimous vote of any three Justices. This is devoid of merit. Associate Justices Magno Gatmaitan and Andres Reyes, and Acting Presiding Justice Antonio Lucero voted for the setting aside of this Court's Resolution of May 27, 1974 and for the reinstatement of the original decision penned by Justice Barcelona, dated August 10, 1973. On the other hand, Associate Justices Ramon G. Gaviola and Mariano Serrano voted to deny the motion for reconsideration of plaintiffs-appellees, which in effect, maintained this Court's Resolution of May 27, 1974. The majority prevails. As to Lot 5, four (4) Justices, namely: Honorable Gatmaitan, Reyes, Gaviola and Serrano voted for the exclusion of said parcel of land from the effects of the judgment that has been reinstated. Hon. Presiding Justice Lucero dissented and voted for the inclusion of said Lot 5 in the judgment. Again, the majority prevails." (pp. 111-112, Rollo)

The second assigned error raises the primary issue of which of the parties have the better rights over the property in litigation.

Under present jurisprudence, alienable public land held by a possessor personally, or through his predecessors-in-interest, openly, continuously and exclusively for the prescribed period,[3] is converted to private property by mere lapse or completion of said period ipso jure. (Director of Lands v. IAC, G.R. No. 73002, December 29, 1986, 146 SCRA 509; Susi v. Reyes, 48 Phil. 424).

Private respondent's possession and claim of ownership is un rebutted. As observed by the trial court:

"x x x it appears that the possession and claim of ownership over the land in question by plaintiffs and their predecessors in interest prior to, and during the Second World War was un rebutted. Defendants did not even deny this and in fact their evidence is anchored from the year 1945 onward. The evidence of the plaintiffs on this point appears to be coherent, reliable and contained nothing which would cast doubt thereon. As regards the evidence concerning facts occurring in and after 1945, testimony of Benjamin Esguerra is corroborated in some aspects by his other witnesses and is consistent with the entire mass of evidence; while that of defendant

Antipaz Pineda is not supported by any other evidence and is unconfirmed by any witness except as to events taking place from 1957 onward. His testimony is unreliable and replete (sic) with impeaching facts and circumstances. He testified that they purchased the rights and interests of the spouses John Keys and Consuelo Pallingayon sometime in 1945 over the land in question. According to the investigation reports of Domingo Madrinan, however, the defendants acquired their supposed rights and interest by occupation and not by purchase (Exhibits 6, 7, 8 and 9). According to the free patent applications of the defendants, their supposed acquisition by occupation was not 1945 but in 1938 with respect to Pineda and Hilario, and in 1945 with respect to the other two defendants. In fact, Domingo Madrinan testified that during his investigation he was informed by defendants that they occupied the property in 1938. Pineda declared that the sale in their favor from the spouses John Keys and Consuelo Pallingayon was in writing and filed with the Bureau of Lands with their free patent applications. He further added that tax receipts evidencing payments of taxes in the name of Consuelo Pallingayon were also filed with the Bureau of Lands. The record of the said office, however, yield no such writing and tax receipts. x x x (emphasis ours)

"x x x Except for the testimony of Pineda which this Court cannot, for reasons heretofore mentioned, believe, no reliable and competent evidence was adduced showing that defendants have been occupying and cultivating the property before 1957. The evidence for the plaintiffs on the other hand disclosed that even before 1920's their predecessor in interest, Macario Borja, was already in the exclusive, public and peaceful possession of the land, cultivating the same and continued to do so until about 1937 or 1938 when he conveyed the same to the spouses Agustin Esguerra and Luisa Bunyi. The latter took over the possession and enjoyment of this land until their respective death in 1940 and 1946. Their children, plaintiffs-herein, succeeded them and held possession and enjoyment until 1957 when the defendants intruded on the property and started exercising possessory acts. (Decision, Record on Appeal, pp. 33-34; p. 43.)" (pp. 62-64, Rollo; emphasis ours)

It is a well-settled rule that findings of trial courts are accorded great respect in the absence of any showing that they ignored, overlooked or failed to properly appreciate matters of substance which would affect the results (Centino v. C.A., G.R. No. 77298, January 13, 1989; Natividad del Rosario Vda. de Alberto v. Court of Appeals, G.R. No. L-29759, May 18, 1989).

Following the Susi doctrine, (supra) therefore, private respondents are deemed to have acquired, by operation of law, not only a right to grant, but also a grant of the Government over the controversial land. By such grant, the property in litigation is segregated from the public domain; and becomes private property, over which necessarily, the Director of Lands no longer has jurisdiction:

"x x x Lands held in freehold or fee title, or of private ownership, constitute no part of the public domain and cannot possibly come within the purview of said Act No. 2874, inasmuch as the 'subject' of such freehold or private land is not embraced in any manner in the title of the Act and the same are excluded from the provisions or text thereof." (Marcelino C. Agne, et al. v. The Director of Lands, et al., G.R. No. L-40399, February 6, 1990; Marcelino C. Agne, et al. v. Hon. IAC, et al., G.R. No. 72255, February 6, 1990)

Absent such jurisdiction and being thus private property, it is clear that the certificates of title issued in favor of petitioners are null and void, and the issue on indefeasibility of title becomes irrelevant.

"Private ownership of land (as when there is a prima facie proof of ownership like a duly registered possessory information) is not affected by the issuance of a free patent over the same land, because the Public Land Law applies only to lands of the public domain. The Director of Lands has no authority to grant to another a free patent for land that has ceased to be a public land and has passed to private ownership (Garcia vs. Director of Lands, 80 Phil. 424). Consequently, a certificate of title issued pursuant to a homestead patent partakes of the nature of a certificate issued in a judicial proceeding only if the land covered by it is really a part of the disposable land of the public domain." (Pedro De la Concha, et al. v. Irineo Magtira, G.R. No. L-19122, October 19, 1966; 18 SCRA 398)

Similarly, the foregoing considered the issues on non-inclusion of the Director of Lands in the petition, or the failure to exhaust administrative remedies are irrelevant.

ACCORDINGLY, the decision of the Court of Appeals dated August 10, 1973, penned by Justice Barcelona, as reinstated per its resolution dated August 15, 1974, is **AFFIRMED**, with the modification that Lot No. 5 shall be excluded from the effects of the judgment that has been reinstated. The petition is **DISMISSED**, without pronouncement as to costs.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Grino-Aquino, JJ., concur.

[1] Penned by Justice Manuel P. Barcelona and concurred in by Justices Edilberto Soriano and Ramon Gaviola, Jr.

[2] Resolution was issued by a special division of five justices with Justices Andres Reyes and Mariano Serrano as additional members.

[3] 30 years under Section 48(b) of CA 141, Public Land Act, as amended by RA 1942 and RA 3872.

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