

SANTIAGO LOPEZ AND IRINEO LOPEZ, PLAINTIFFS AND APPELLANTS, VS. JUAN MAGALLANES, DEFENDANT AND APPELLEE.

G. R. No. L-14853. April 23, 1963

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Appeal by plaintiffs Santiago Lopez and Irineo Lopez from a decision of the Court of First Instance of Davao, the dispositive part of which reads:

"Wherefore, this Court hereby dismisses this case ordering the plaintiffs to segregate the eight (8) hectares portion of the land covered by Original Certificate of Title No. 2990 of the Register of Deeds of Davao, and to deliver the corresponding title thereof to the defendant, without special pronouncement as to costs. The counterclaim is hereby ordered dismissed (Record on Appeal, pp. 64-65.) .

The appeal is before us for it involves only a question of law, the case having been submitted for decision in the lower court upon a stipulation of facts.

Plaintiffs herein were the same plaintiffs in civil case No. 507 of the Court of First Instance of Davao against Juan Magallanes, the very same defendant in the case at bar. That court rendered judgment in the aforementioned case No. 507 in favor of the plaintiffs, but, on appeal taken by the defendant, said judgment was, on February 24, 1956 reversed by the Court of Appeals, in CA-G.R. No. 987-R, and another one was rendered dismissing the case. After the decision of the Court of Appeals had become final, or on March 8, 1957, plaintiffs instituted the present action. The lower court held that the same is barred by the judgment in the former case, and hence rendered the decision appealed from. The only issue for our determination is, accordingly, the applicability of the principle of res judicata.

The identity of the parties in both cases has been expressly admitted in the stipulation of facts. It is, likewise, admitted that the land involved in the first case is included in the bigger land which is the subject matter of the case at bar. The issue boils down to whether the cause of action therein includes that settled in the first case.

It appears from the decision of the Court of Appeals in said case CA-G.R. No. 987-R, that the same was

"* * * an action to recover from the defendant the possession of a parcel of land containing an area of about eight hectares, situated in Malita, Davao, and damages. It is alleged in the complaint that the signature of plaintiffs' predecessor in interest to the deed by which said parcel of land was conveyed to the defendant by way of sale with right to repurchase was secured by fraud, and that conveyance is furthermore null and void because it had not been approved by the Secretary of Agriculture and Natural Resources. Defendant alleges in defense that he was a purchaser of said property in good faith and for value, and that, as the plaintiffs had failed to redeem the same within the stipulated period, he is now the absolute owner thereof (Record on Appeal, pp. 15-16.)

The lower court held in said case but that the deed of conveyance there involved was "a mere equitable mortgage and ordered the defendant to vacate the land in dispute in that case, upon payment of the sum of P800.00, with

costs against the defendant, but, on appeal, the Court of Appeals held that the contract between the parties to said deed of conveyance was as the same appears to be on its face, namely, a sale with the right to repurchase"; that plaintiffs had not duly exercised their right of redemption; and that, although said contract was null and void; because the parties thereto had failed to secure, the approval thereof by the Secretary of Agriculture and Natural Resources, which was necessary under Commonwealth Act No. 141, as amended by Com. Act No. 456, since no patent had as yet been issued to plaintiffs' father, Angel Lopez, the latter-and, hence, his children and successors in interest-could not invoke said illegality, he being in *pari delicto*. Accordingly, the Court of Appeals reversed the decision appealed from and dismissed the action.

In the complaint herein, filed on March 8, 1957, as amended on June 6, 1957, plaintiffs allege that they are the owners of a parcel of land of about 16 hectares-which, as above stated, includes the land in question in the first case-covered by Original Certificate of Title No. 2930, in the name of the heirs of Angel Lopez, and that defendant, claims therein an adverse interest, which is devoid of merit, thereby causing damages to the plaintiffs in the sums of P1,000.00, as attorney's fees, and P4,000.00 by reason of mental anguish: Plaintiffs prayed, therefore, that judgment be rendered declaring that defendant has no title or interest of any kind in said land, and that plaintiffs' title thereto is valid and binding as against the whole world, aside from perpetually restraining the defendant from asserting his alleged right to said real property, and sentencing the defendant to pay said damages to the plaintiffs.

As regards the eight hectares of land involved in the first case, plaintiffs' right to contest defendant's interest therein or title thereto has already been in issue and adversely decided in that case. Hence, the lower court was right in applying in the case at bar the principle of *res judicata*, insofar as said land is concerned.

Wherefore, the decision appealed from is hereby affirmed, with costs against the plaintiffs-appellants.

Bengzon, C. J., Padilla, Bautista Angelo, Reyes J.B.L., Barrera, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

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