

IGNACIO MESINA, PLAINTIFF AND APPELLANT, VS. EULALIA PINEDA VDA. DE SONZA, ET AL., DEFENDANTS. EULALIA PINEDA VDA. DE SONZA, DEFENDANT AND APPELLEE.

G.R. No. L-14722. May 25, 1960

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Plaintiff brought this action before the Court of First Instance of Nueva Ecija praying that Original Certificate of Title No. P-1137 of the Register of Deeds of Nueva Ecija be ordered cancelled and that the registration case pending before the same court covering the property described therein be given due course and that defendants be ordered to pay plaintiff P1,000.00 as attorney's fees and costs.

Defendants filed a motion to dismiss on the ground that plaintiff's action is already barred by the statute of limitations. The reasons advanced are: the complaint was filed on March 25, 1958. The decree of registration or issuance of patent over the property was issued "sometime on September 12, 1953 or thereabout", while the transfer certificate of title covering the same was issued on September 16, 1953. The present action which calls for the cancellation of said decree and title has, therefore, been filed after the lapse of more than four years, which cannot be done, because the title has already become indefeasible and incontrovertible. The court sustained this motion and dismissed the complaint. Hence the present appeal.

Plaintiff claims that he is the owner in fee simple of Lot No. 3259, with improvements thereon, situated in San Antonio, Nueva Ecija; that he has been in actual possession thereof since 1914, publicly, openly, peacefully and against the whole world and up to the present time he is the only one who benefits from the produce thereof; that said lot is at present the subject of registration proceedings pending in the same court known as Registration Case No. N-372, L.R.C. Cad. Record No. N-12238; that sometime in September 12, 1953, the Director of Lands, without exercising due care, and in spite of his knowledge that defendants had not complied with the requirements of Commonwealth Act No. 141, issued a homestead patent in their favor as a consequence of which a certificate of title was issued in their name by the register of deeds; that said title was procured by defendants through fraud, deception and misrepresentation since they knew that the lot belonged to the plaintiff; and that the Director of Lands has no authority nor jurisdiction to issue a patent covering said land because it is the private property of plaintiff. For these reasons, plaintiff prays that said decree and title be cancelled.

Republic Act No. 1942, which took effect on June 22, 1957 (amending Section 48-b of Commonwealth Act 141), provides:

"(b) Those who by themselves or through their predecessors in interests have been in open, continuous, exclusive, and notorious possession and occupation of agricultural lands of the public domain, under a bona fide claim of acquisition of ownership, for at least thirty years immediately preceeding the filing of the application for confirmation of title except when prevented by war or force majeure. These shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title under the provisions of this chapter."

In the case of *Susi vs. Razon, et al.*, 48 Phil. 424, it was observed that where all the necessary requirements for a grant by the Government are complied with through actual physical possession openly, continuously, and publicly, with a right to a certificate of title to said land under the provisions of Chapter VIII of Act No. 2874, amending Act No. 926 (carried over as Chapter VIII of Commonwealth Act No. 241), the possessor is deemed to have already acquired by operation of law not only a right to a grant, but a grant of the Government, for it is not necessary that a certificate of title be issued in order that said grant may be sanctioned by the courts—an application therefor being sufficient under the provisions of Section 47 of Act No. 2874 (reproduced as Section 50, Commonwealth Act No. 141). Thus, the following is what this Court said on the matter:

"It clearly appears from the evidence that Valentin Susi has been in possession of the land in question openly, continuously, adversely and publicly, personally and through, his predecessors, since the year 1880, that is, for about forty-five years. * * * When on August 15, 1914, Angela Razon applied for the purchase of said land, Valentin Susi had already been in possession thereof personally and through his predecessors for thirty-four years. And if it is taken into account that Nemesio Pinlac had already made said land a fish pond when he sold it on December 13, 1880, it can hardly be estimated when he began to possess and occupy it, the period of time being so long that it is beyond the reach of memory. * * * In favor of Valentin Susi, there is, moreover the presumption *juris et de jure* established in paragraph (6) of section 45 of Act No. 2874, amending Act No. 926, that all the necessary requirements for a grant by the Government were complied with, for he has been in actual and physical possession, personally and through his predecessors, of an agricultural land of the public domain openly, continuously, exclusively and publicly since July 26, 1894, with a right to a certificate of title to said land under the provisions of Chapter VIII of said Act. So that when Angela Razon applied for the grant in her favor, Valentin Susi had already acquired, by operation of law, not only a right to a grant, but a grant of the Government, for it is not necessary that certificate of title should be issued in order that said grant may be sanctioned by the courts, an application therefor is sufficient, under the provisions of section 47 of Act No. 2874. If by a legal fiction, Valentin Susi had acquired the land in question by a grant of the State, it had already ceased to be of the public domain and had become private property, at least by presumption, of Valentin Susi, beyond the control, of the Director of Lands. Consequently, in selling the land in question to Angela Razon, the Director of Lands disposed of a land over which he had no longer any title or control, and the sale thus made was void and of no effect, and Angela Razon did not thereby acquire any right." (Italics supplied)

Such is the situation in which plaintiff claims to be in his complaint. He alleges that he is the owner in fee simple of the lot in question, with the improvements thereon, situated in San Antonio, Nueva Ecija, and that he has been in actual possession thereof since 1914, publicly, openly, peacefully and against the whole world, and that up to the present time he is the only one who benefits from the produce thereof. He further claims that said lot is at present the subject of a registration proceeding pending in the same court, known as Registration Case No. N-372, L.R.C. Cad. Record No. N-12238. If by legal fiction, as stated in the *Susi* case, plaintiff is deemed to have acquired the lot by a grant of the State, it follows that the same had ceased to be part of the public domain and had become private property and, therefore, is beyond the control of the Director of Lands. Consequently, the homestead patent and the original certificate of title covering said lot issued by the Director of Lands in favor of defendants can be said to be null and void, for having been issued through fraud, deceit and misrepresentation.

Considering that this case was dismissed by the trial court merely on a motion to dismiss on the ground that plaintiff's action is already barred by the statute of limitations, which apparently is predicated on the theory that a decree of registration can no longer be impugned on the ground of fraud one year after the issuance and entry of the decree,[1] which theory does not apply here because the property involved is allegedly private in nature and has ceased to be part of the public domain, we are of the opinion that the trial court erred in dismissing the case outright without giving plaintiff a chance to prove his claim. It would have been more proper for the court to deny the motion on the ground that its object does not appear to be indubitable, rather than to have dismissed it, as was done by the trial court.

Wherefore, the order appealed from is set aside. The case is remanded to the trial court for further proceedings. No costs.

Paras, C. J., Bengzon, Padilla, Labrador, Concepcion, Barrera, and Gutierrez David, JJ., concur.
Montemayor, J., reserves his vote.

[1] Sorongon vs. Makalintal, 80 Phil., 259; 45 Off. Gaz., 3819; See also G. M. Tuason & Co., Inc. vs. Quirino Bolanos, 95 Phil., 106; Aguilar, et al. vs. Caoagdan, et al., 105 Phil., 661; 56 Off. Gaz. (28) 4546; Henderson vs. Garrido, et al., G. R. No. L-4913, December 28, 1951.

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