

REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE DIRECTOR OF LANDS, PETITIONER, VS. HON. ALEJANDRO E. SEBASTIAN IN HIS CAPACITY AS JUDGE OF THE COURT OF FIRST INSTANCE OF DAVAO, ...

G.R. No. L-40218. September 30, 1988

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

The only legal issue raised in this case is whether or not petitioner's cause of action in Civil Case No. 574 is barred by the dismissal of the complaint in Civil Case No. 250 for non-suit.

The facts are not disputed. In a complaint filed with the Court of First Instance of Davao del Norte dated February 2, 1975 and docketed as Civil Case No. 250, petitioner Director of Lands sought the amendment of Original Certificate of Title No. P-10416 and Transfer Certificate of Title No. 6796, in the names of private respondents Angel Abe and Ruperto Gonzaga, respectively, covering Lot 5165, Pls-34, situated at Mawab, Tagum, Davao del Norte and consisting of 8,9293 hectares. This complaint was filed pursuant to the provisions of Section 112 of the Land Registration Act.[1] It is alleged in the complaint that the area embraced in said titles is in excess of what was applied for by Abe in his homestead application and this excess portion containing three (3) hectares encroaches upon the adjoining Lot No. 5167, Pls-34 covered by the Free Patent Application No. V-48558 of Brigido Manungas and, consequently, Abe's title and that of his successor-in-interest, Ruperto Gonzaga, should be amended so as to exclude therefrom the excess area and to adjust the technical descriptions of the titles affected, accordingly.

After the defendants filed their respective answers, the trial court set the case for pre-trial on July 5, 1973. At the pre-trial, Assistant Provincial Fiscal Juan Nartalez of Davao del Norte entered his appearance for the petitioner, showing a telegraphic request of the Solicitor General for representation. On November 5, 1973, the trial court issued an order dismissing the complaint for non-suit, specifically because Fiscal Nartalez failed to produce a power of attorney authorizing him to appear in behalf of the Director of Lands.

The petitioner, however, eventually realized that the proper remedy to vindicate the government's rights and interest is not a petition under Section 112 of Act 496 (the amendment of the technical description of private respondents' titles), but an action for reversion under Section 101 of the Public Land Law.[2] Accordingly, on July 16, 1974, the petitioner filed with the same court, a complaint for reversion and reconveyance. The case was docketed as Civil Case No. 574. The petitioner impleaded private respondents Angel Abe and Ruperto Gonzaga as defendants. It is alleged in the complaint that Abe committed fraud and misrepresentation in obtaining his homestead patent and torrens title to the same Lot 5165. The allegation of fraud and misrepresentation is anchored on the fact that the area applied for by him as stated in his homestead application was only five and one-half (5-1/2) hectares and yet, in his Notice of Intention To Make Final Proof submitted to the Bureau of Lands, he falsely stated that the area applied for by him was ten (10) hectares and that he was in actual occupation of the ten

(10) hectares. The petitioner went on to say that the said declaration was false because it was Brigido Manungas who was the actual occupant of the three (3) hectares thereof, the same being covered by Manungas' Free Patent Application No. V-48553. In view of the fraud and misrepresentation allegedly committed by Abe, the petitioner prayed that his patent and Original Certificate of Title No. P-10416, as well as the Transfer Certificate of Title of his successor-in-interest, be declared null and void and that the entire property embraced therein be reverted to the public domain.

Upon motion of private respondents, the trial court issued an Order on October 14, 1974 dismissing the complaint in Civil Case No. 574 on the ground that the cause of action therein is barred by a prior judgment (res judicata) in Civil Case No. 250. Petitioner's motion for reconsideration of the aforementioned Order was denied. Hence, this petition for certiorari.

This petition is meritorious.

A study of the records of this case clearly shows that there is no identity of the cause of action in Civil Case Nos. 250 and 574. In order that the doctrine of res judicata may apply, i.e., considering a prior judgment in a case as conclusive in a subsequent case, four requisites must be present:

(1)

That the prior judgment must be a final judgment or order;

(2)

That the Court acquired jurisdiction over the subject matter of the case and the parties therein;

(3)

That the prior judgment must be on the merits; and

(4)

That there must be identity of parties, subject matter, and cause of action in both cases.[3]

The questioned order in Civil Case No. 250 can be considered final, because of the failure to appeal therefrom. There is no question too that the respondent Court acquired jurisdiction over the subject matter and the parties in both cases. The prior order may be considered an adjudication on the merits because Civil Case No. 250 was dismissed for failure of the the assistant fiscal to produce a power of attorney to represent the Bureau of Lands.[4]

However, while there is identity of parties, and subject matter, there is no identity of cause of action in Civil Case No. 250 and Civil Case No. 574.

Civil Case No. 250 is a petition for correction of title brought under Section 112 of Act No. 496 on the ground of mistake in the issuance of a patent. The mistake was that a portion of about three (3) hectares of Lot 5167, Pls-34, was erroneously included in Lot 5164. Petitioner seeks to amend the title of Gonzaga to make it correspond to the correct and smaller area.

On the other hand, the complaint in Civil Case No. 574 is for reversion under Section 101 of Commonwealth Act No. 141, as amended, based on false and fraudulent misrepresentation allegedly made by respondent Abe in his

Intention To File Final Proof, including his testimony given to the Bureau of Lands, before the issuance of the patent to the effect that he had already complied with the residence and cultivation requirements of the homestead law for ten (10) hectares, when in truth and in fact, he had not.

Civil Case No. 250 merely required a summary proceeding and the relief can be granted if there is unanimity among the parties. Civil Case No. 572 involves a serious controversy, involving a question of fraud and misrepresentation committed against the government and it seeks the return of the disputed portion to the public domain.

An action for reversion, as that of Civil Case No. 572, seeks to cancel the original certificate of registration, and nullify the original certificate of title, including the transfer certificate of title of the successors-in-interest because the same were all procured through fraud and misrepresentation.

For the above reasons, this Court holds that the dismissal of Civil Case No. 250 could not be considered res judicata as to Civil Case No. 572.

WHEREFORE, and by reason of the foregoing, the Order of the trial court dated October 14, 1974, dismissing the complaint as well as the Order dated January 25, 1975 denying petitioner's motion for reconsideration in Civil Case No. 572 are SET ASIDE. The records of this case are remanded to the proper trial court for further proceedings, with costs against private respondents.

This decision is immediately executory.

SO ORDERED.

Narvasa, Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] Act No. 496, as amended.

[2] Commonwealth Act No. 141, as amended.

[3] Roman Catholic Archbishop of Manila v. Director of Lands, et al., 35 Phil. 339; Bachrach Motor Co., Inc. v. Gamboa, 101 Phil. 1219.

[4] Section 3, Rule 17, Rules of Court.

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