

**REPUBLIC OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS.
AYALA Y CIA AND/OR HACIENDA CALATAGAN, ET AL., DEFENDANTS
AND APPELLANTS; MIGUEL TOLENTINO, ET AL., INTERVENORS AND
APP...**

G. R. No. L-20950. May 31, 1965

Ponente: BARRERA, J.

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BARRERA, J.:

In an amended complaint dated May 12, 1960 filed in the Court of First Instance of Batangas (Civil Case No. 373) against Ayala y Cia., Alfonso Zobel, Antonio Dizon, Lucia Dizon, Ruben Dizon, Adelaida D. Reyes, Consolacion D. Degollacion, Artemio Dizon and Zenaida Dizon, the plaintiff Republic of the Philippines sought the annulment of titles allegedly obtained by the defendants over portions of the territorial waters of the public domain. It was alleged that the defendant company caused the survey and preparation of a composite plan of Hacienda Calatagan, increasing its area from 9,652.5833 hectares (as evidenced by TCT No. 722) to 12,000 hectares, by taking or including therein lands of public dominion. Thus, plaintiff also prayed for recovery of possession of such areas in excess of those covered by TCT No. 722, and for which fishpond permits were already issued in favor of bona fide applicants; for damages in the sum of P500,000.00, and for a restraining order to enjoin defendants from exercising further acts of ownership. Miguel Tolentino and 22 others alleged holders of fishpond permits issued by the Bureau of Fisheries over the areas supposedly outside the boundaries of Hacienda Calatagan, were allowed to intervene in the case and make demand for recovery of possession of said areas, and claim for damages for the deprivation of possession thereof allegedly by the illegal acts of defendants.

Defendant, while admitting that there really existed a difference between the area (of the Hacienda) as appearing in TCT No. 722 and the plan prepared by the commissioned private surveyor for the company, contend that the excess (of area) was insignificant in nature and attributable to the inaccuracy of the magnetic survey that was used in the preparation of the plan upon which OCT No. 20 (and later, TCT 722) was based.

After trial, during which the parties presented documentary and testimonial evidence, the court rendered judgment annulling TCT No. T-9550 of the Register of Deeds of Batangas, issued to defendants Dizons covering Lots 360, 362, 363 and 182, as well as other subdivision titles issued to Ayala y Cia. and/or Hacienda de Calatagan over the areas outside its private property covered by TCT No. 722, and ordering defendants Dizons to vacate Lot No. 360 in favor of intervenor Miguel Tolentino, and all the defendants to pay said intervenor, jointly and severally compensatory damages in the sum of P3,000.00 a year per hectare of Lot 360, until he is placed in possession thereof. Defendants were also restrained from exercising acts of ownership over said Lots 360, 362, 1363, and 182 of Psd-40891. This ruling was based upon the finding that the disputed areas form part of the navigable water, or are portions of the sea, beach and foreshores of the bay. However, as the intervenors, other than Miguel Tolentino, failed to establish with particularity the lots allegedly covered by their respective permits or to name the present possessors or occupants thereof, and as Ayala y Cia., Alfonso Zobel, and the Dizons were the only ones impleaded as parties-defendants, the judgment was made effective exclusively against them. Thus, Lot No.

360, included in TCT No. T-9550 in the name of the Dizons, and proved by intervenor Miguel Tolentino to be the portion covered by the fishpond permit issued to him, was ordered by the court delivered to said intervenor. As a consequence of this decision, a writ of preliminary mandatory injunction, to place the plaintiff and intervenor in possession of the disputed properties, was issued by the court. However, by order of May 3, 1961 the same was set aside on the ground that in the issuance thereof the defendants were not given their day in court. The motion for reconsideration of this order was denied on October 5, 1962, for the reason, among others, that as defendants have always been in possession of the stream in question, to order delivery of such possession to the other parties at this stage of the proceeding will result in injuries and promote confusion. Both parties appealed directly to this Court: the plaintiff and intervenors claiming that the court erred in not awarding damages to the plaintiff State; in holding that the areas claimed by the intervenors other than Miguel Tolentino were not duly identified; and in suspending the writ of preliminary mandatory injunction which had been executed and served by the Provincial Sheriff. Defendants, on the other hand, claim that the trial court was in error in finding that Lots 360, 362, 363, and 182 of Psd-40891 are outside the boundaries of Hacienda Calatagan, as delimited in TCT 722, and in ordering for their reversion to the public dominion; in annulling TCT No. T-9550 issued to defendants Dizons, and in ordering the latter to deliver possession of Lot 360 to intervenor Miguel Tolentino; in ordering defendants to pay said intervenor compensatory damages, and in not declaring the defendants Dizons entitled to reimbursement of all necessary expenses made on the properties in question.

We have gone over the evidence presented in this case and found no reason to disturb the factual findings of the trial court. It has been established that certain areas originally portions of the navigable water or of the foreshores of the bay were converted into fishponds or sold by defendant company to third persons. There is also no controversy as to the fact that the said defendant was able to effect these sales after it has obtained a certificate of title (TCT No. 722) and prepared a "composite plan" wherein the aforesaid foreshore areas appeared to be parts of Hacienda Calatagan. Defendants-appellants do not deny that there is an excess in area between those delimited as boundaries of the hacienda in TCT No. 722 and the plan prepared by its surveyor. This, however, was justified by claiming that it could have been caused by the system (magnetic survey) used in the preparation of the original titles, and anyway, the excess in area (526 hectares, according to defendants) is within the allowable margin given to a magnetic survey.

But even assuming for the sake of argument that this contention is correct, the fact remains that the areas in dispute (those covered by permits issued by the Bureau of Fisheries) were found to be portions of the foreshore, beach, or of the navigable water itself. And, it is an elementary principle of law that said areas not being capable of registration, their inclusion in a certificate of title does not convert the same into properties of private ownership or confer title on the registrant.[1] In the present case, as the lots covered by TCT No. T-9550 issued in the names of defendants Dizons (and which were purchased by the latter from defendants Ayala y Cia., and/or Alfonso Zobel) were found to be portions of the foreshore or of the territorial waters, the lower court committed no error in rendering judgment against said defendants and ordering the reversion of said properties to the public dominion.

However, as we have ruled in the case of *Dizon, et al. vs. Rodriguez, etc., et al.*[2] there being no showing defendants Dizons are not purchasers in good faith and for value, they have a right to retention of the property until they are reimbursed of the necessary expenses on the land, which must properly be established and determined. It also follows that as such possessors in good faith, the defendants Dizons cannot also be held liable for damages allegedly suffered by other parties on account of their possession of the property.

In view of the foregoing, the revocation of the writ of preliminary mandatory injunction previously issued by the lower court, and the suspension of the delivery of possession of the properties to plaintiff and intervenor

Tolentino, were in order.

Wherefore, thus modified, the decision of the lower court appealed from is hereby affirmed. No costs.

So ordered.

Bengzon, C. J., Bautista Angelo, Reyes, J.B.L., Paredes, Makalintal, and Bengzon, J.P., JJ., concur.

[1] 98 Phil. 942, Dizon, et al. vs. Bayona, et al., also L—20300—01 & L—20355—56, Dizon, et al. vs. Rodriguez. etc., et al., April 30, 1965.

[2] Said purchasers who relied on the efficacy of their certificates of title, cannot be considered prossessors in bad faith until after the legality of their sad titles has been finally determined.

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