

SIMEON BLAS, PLAINTIFF AND APPELLANT, VS. VICENTE DE LA CRUZ AND MARIANO MELENDRES, AS SHERIFF OF RIZAL, DEFENDANTS AND APPELLEES.

G.R. No. 11284. October 13, 1917

Ponente: JOHNSON, J.

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JOHNSON, J.:

The purpose of the present action was to obtain an injunction against the defendants to prevent them from destroying certain buildings and improvements upon a certain piece or parcel of land particularly described in paragraph 2 of the complaint. The present action had its origin in the following facts:

That sometime prior to the commencement of the present action (March 20, 1911) an action was commenced in the Court of Land Registration by the defendant Vicente de la Cruz for the registration under the Torrens system of several pieces or parcels of land particularly described in paragraph 1 of that complaint; that to the registration of said parcels of land the present plaintiff, Simeon Bias, on the 14th day of June, 1912, presented his opposition, alleging that he was the owner of a portion of the lands described in the petition of the plaintiff; that a hearing was had in the Court of Land Registration; that that portion of the land claimed by Simeon Bias was excluded from the lands included in the petition of the plaintiff Vicente de la Cruz; that from that decision Vicente de la Cruz appealed to the Supreme Court where, after due hearing and consideration, the decision of the lower court was modified on the 16th day of March, 1915,[1] and that portion which was claimed by Simeon Bias was ordered to be registered in the name of Vicente de la Cruz; that a final judgment was rendered in the cause and the case was returned to the lower court upon the 19th day of April, 1915; that the land involved in the present action is the same land which was brought into question in the decision of the Supreme Court above referred to.

To the petition of the plaintiff in the present action the defendants demurred. Upon a consideration of the demurrer the Honorable Jose C. Abreu, judge, sustained the demurrer and dissolved the temporary injunction theretofore granted and gave the plaintiff an opportunity to amend his petition. Instead of amending his petition he excepted to the order of the lower court sustaining the demurrer and appealed to this court.

Without discussing the assignments of error in detail, and after an examination of the arguments presented by the appellant in support of the same, we find that the following question is presented for solution: Does the decree ordering the registration of land under the Torrens system include the buildings and improvements thereon, when they have not been expressly excluded in said decree? In other words, A presents a petition for the registration of certain parcel of land. B opposes the registration of a part of said parcel. This opposition is overruled and all of the parcel of land is decreed to be registered in the name of A. May B thereafter, not having made any claim to said improvements during the proceedings for the registration, claim said buildings and improvements as his property and remove the same or prevent the owner of the land under said decree from removing or destroying the same?

The general purpose of the Torrens system is to forever foreclose litigation concerning the title to land. Every decree of registration shall bind the land, and quiet title thereto, subject only to the exceptions stated by the law. The decree of registration shall be conclusive upon and against all persons, unless fraud is proved within a period of one year after said decree is rendered (section 38 of Act No. 496).

Section 39 of said Act (No. 496), as amended by Act No. 2011, makes certain exceptions to the rule just stated. Section 39, as amended, provides that, "every applicant receiving a certificate of title in pursuance of a decree of registration * * * shall hold the same free of all incumbrance except those noted on said certificate, and any of the following incumbrances which may be subsisting, namely:

"First. Liens, claims, or rights arising or existing under the laws or Constitution of the United States or of the Philippine Islands which the statutes of the Philippine Islands can not require to appear of record in the registry.

"Second. Taxes within two years after the same have become due and payable.

"Third. Any public highway, way, private way established by law, or any Government irrigation cannal or lateral thereof, where the certificate of title does not state that the boundaries of such highway, way, or irrigation canal or lateral thereof, have been determined.

"But if there are easements or other rights appurtenant to a parcel of registered land which for any reason have failed to be registered, such easements or rights shall remain so appurtenant notwithstanding such failure, and shall be held to pass with the land until cut off or extinguished by the registration of the servient estate, or in any other manner."

Does the claim of the plaintiff come within any of the exceptions mentioned in said section 39? Certainly the contention of the appellant does not come within the provisions of the second and third exceptions quoted above in said section 39. Neither is there any claim made that his right arises or exists under the laws of the Constitution of the United States. If his claim falls under any of the provisions of said section 39 it must be that part of the same which provides for "liens, claims or rights arising or existing under the laws of the Philippine Islands which the statutes of the Philippine Islands cannot require to appear of record in the registry." The appellant urges that such claims are provided for under article 453 of the Civil Code. Said article 453 guarantees to the possessor of real estate, when it is proved that he has occupied the same in good faith, the benefits of the improvements which he made thereon during his occupation. Does said article permit the objector, in an action for the registration of the land occupied by him, when he has failed to make a claim to the improvements during the litigation, to claim said improvements after a certificate of registration is issued, without his having raised that question during the litigation? If the objector may, during the pendency of the litigation for the registration of the land, remain silent as to certain rights, interests or claims existing in or upon the land, and then later, by a separate action, have such interests litigated, then the purpose of the Torrens system, to wit, to forever foreclose litigation with reference to the title to said land, will be defeated.

Without attempting at this time to define the character of the "liens, claims, or rights arising or existing under the laws of the Philippine Islands which the statutes of the Philippine Islands cannot require to appear of record in the registry," we are of the opinion that buildings and improvements upon land are not included in that exception, and that, unless the objector, during the pendency of the litigation for the registration of land, makes claim to improvements of the character of those in the present action, and does have them excluded from the decree of registration, they will be included as a part and parcel and appurtenances to the land; and that the objector will not be permitted, in a separate action subsequently brought, to question the right of such improvements. If he may, then the certificate of registration does not guarantee to the owner of the land the quiet and peaceable enjoyment of his title which the Torrens system was adopted to secure.

For the foregoing reasons, we are of the opinion and so hold that, inasmuch as the plaintiff herein did not, during the pendency of the litigation for the registration of the lands in question, have excluded therefrom and have noted upon the certificate of title his alleged rights and interests in the improvements mentioned herein and noted upon the certificate of title issued, he thereby lost his right to such improvements; and, therefore, the judgment of the lower court is hereby affirmed. And it is hereby ordered and decreed that a judgment in accordance herewith be entered and that the cause be remanded to the lower court, with instruction to enter a final judgment in accordance with this decree, unless the plaintiff within a period of five days from the receipt of the notice of the same amend his original. petition. It is so ordered with costs.

Arellano, C. J., Carson, Araullo, Street, and Malcolm, JJ., concur.

Judgment affirmed.

[1] R. G. No. 9655, not reported

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