

ASUNCION LIM, AGUSTINA FERNANDO, MARIA FERNANDO, FAUSTA FERNANDO AND CORNELIA FERNANDO, PETITIONERS, VS. ROQUE VELASCO, RESPONDENT.

G. R. No. 11743. May 25, 1959

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

This case is before us on petition for review by certiorari of a decision of the Court of Appeals. The principal facts are set forth in said decision, from which we quote:

"In the Court of First Instance of Tarlac, Asuncion Lim filed an action against Roque Velasco for the recovery of two parcels of land, lots 2525 and 2632 of the Cadastral Survey of Paniqui, described in detail in her complaint, on the ground that she is the registered owner thereof, as evidenced by Transfer Certificates of Title Nos. 6912 (for Lot No. 2525) and 6909 (for Lot No. 2632). Defendant duly filed his answer.

"The case was heard on September 14, 1951, at the trial plaintiff appeared with her counsel; defendant did not appear, although his counsel Atty. Ludivico Arciaga, appeared. Plaintiff adduced her evidence, according to which it appears that Lot No. 2525 was originally registered as the conjugal property of the Chinese spouses Lim Tiongco and Ong Uy, as shown by Original Certificate of Title No. 19634, issued in accordance with the decision of January 10, 1924 in Cadastral Case No. 29, G.L.R.O. Record No. 279 (Exhibit E, first sheet), while Lot No. 2632 was registered as the conjugal property of the same spouses, as evidenced by Original Certificate of Title No. 18816 issued by virtue of the decision of April 2, 1934, in Cadastral Case No. 27, G.L.R.O. Record No. 369 (Exhibit E, second sheet). In 1926, Ong Uy died intestate in China; on November 7, 1927, her husband Lim Tiongco died intestate in Paniqui, Tarlac. On December 20, 1948, plaintiff Asuncion Lim, who claims to be their daughter, executed a document of declaration of heirship and extra judicial succession, Exhibit D, and adjudicated to herself as supposed lone heir of the spouses Lim Tiongco and Ong Uy the two parcels of land in question. Upon the registration of Exhibit D, Original Certificates of Title Nos. 19634 and 18816 were cancelled, and, in their place, Transfer Certificates of Title Nos. 6912 (Exhibit A) and 6909 (Exhibit B), respectively, were issued in the name of Asuncion Lim.

"From plaintiff's evidence it further appears that in 1942, defendant Roque Velasco, claiming the ownership of the aforesaid two parcels of land, took possession thereof against plaintiff's consent and since that time had been excluding plaintiff from the possession and enjoyment of the same.

"On September 20, 1951, the lower court rendered judgment ordering defendant to vacate the two parcels of land in question and to deliver their possession to plaintiff, and to pay to the latter the owner's share in the products of the land during his possession thereof. On October 8, 1951, defendant filed a motion for reconsideration, which the court denied for lack of merit. On November 26, 1951, upon motion of plaintiff, the court issued an order for the issuance of a writ of execution.

"On December 5, 1951, defendant, through a different counsel, Atty. Teotimo Duque, filed a petition for relief from judgment, which plaintiff opposed. The hearing of said petition for relief from judgment was scheduled for February 9, 1952. On December 5, 1952, plaintiff, through counsel, asked that the continuation of the

hearing on the petition, scheduled for December 15, 1952, be postponed to some other date. The Court denied plaintiff's motion.

"On December 17, 1952, the court set aside its judgment of September 20, 1951 and ordered the case included in its January calendar for hearing on the merits. With leave of court, defendant Roque Velasco, on January 7, 1953, filed a third-party complaint against Juan Fernando, alleging that after the two parcels of land were delivered to plaintiff in accordance with the court's decision of September 20, 1951, said Juan Fernando, in connivance with plaintiff and with full knowledge of the litigation involving said lots, took possession of Lot No. 2632, on the pretention that he purchased it from plaintiff. Third-party defendant Juan Fernando duly answered Roque Velasco's third-party complaint.

"On June 29, 1953, Agustina Fernando, Maria Fernando, Fausta Fernando and Cornelia Fernando, through their counsel, filed a motion for intervention, which defendant Roque Velasco vigorously opposed. On August 4, 1953, the court denied the motion for intervention on the ground that the intervenor's alleged interests are amply represented by their father Juan Fernando, third-party defendant herein. Intervenor moved for the reconsideration of the court's order, alleging that third-party defendant Juan Fernando should not have been brought into the case, because he is not the real party in interest, inasmuch as it was they, intervenors, and not said Juan Fernando, who bought Lot No. 2632 from plaintiff Asuncion Lim. The court denied intervenors' motion on the ground that inasmuch as their alleged right over lot No. 2632 was derived from plaintiff Asuncion Lim, said right is therefore subject to the result of the case between Asuncion Lim and Roque Velasco.

"From the evidence presented by defendant at the trial, it appears that in 1923, he began working as tenant of Eduardo Butac on the two parcels of land aforementioned. In 1928, he purchased from Eduardo Butac a portion of 8,794 square meters of Lot No. 2632 (Exhibit 9). The portion he bought is indicated in the subdivision plan (Exhibit 10) as Lot No. 2632-A. From 1928 up to September 20, 1951, when the two parcels of land in question were delivered to plaintiff Asuncion Lim by virtue of the writ of execution issued by the lower court, defendant Roque Velasco had been in the continuous, uninterrupted, open and adverse possession of the same, as owner of the portion indicated as Lot No. 2632-A and as tenant of Eduardo Butac of the rest of Lot No. 2632 and of the whole of Lot 2525. With respect to plaintiff's claim that she is the only daughter of the spouses Lim Tiongco and Ong Uy, defendant presented evidence to show that she is not daughter of said spouses but that she is the legitimate daughter of Julian Capistani and Ambrosia Bautista, and therefore does not have any successional right to the two parcels of land in question.

"On April 29, 1954, the lower court rendered its decision, dismissing both the complaint of Asuncion Lim against Roque Velasco and the third-party complaint against Juan Fernando, declaring defendant entitled to the possession of the lands in question, requiring the receiver to render an accounting of his receivership of the two lots and ordering plaintiff Asuncion Lim to account to the defendant for all the products she had obtained from the lots in question from the time the sheriff delivered their possession to her up to the time the receiver was appointed."

On appeal taken by Asuncion Lim and Agustina, Maria, Fausta and Cornelia, all surnamed Fernando, the Court of Appeals, in due course, affirmed the decision of the Court of First Instance. Hence, the present petition, filed by said appellants, for review by certiorari of the decision of the Court of Appeals.

The main question for determination in this appeal is whether plaintiff Asuncion Lim is entitled to divest defendant Roque Velasco of his possession of the land in question. The former asserts that she is, upon the ground that she is the registered owner of said land, as evidenced by Transfer Certificates of Titles Nos. 6912 and 6909, issued in her name. Upon the other hand, the latter maintains that she is not: (1) because he owns part of Lot No. 2632, and the rest thereof, as well as Lot No. 2525, belong to Eduardo Butac and (2) because, at any rate, said transfer certificates of title were improperly issued in the name of Asuncion Lim, for she is neither a daughter nor

an heir of the original registered owners, the spouses Lim Tiongco and Ong Uy.

As indicated above, Roque Velasco claims to have taken possession of the lots in question in 1923, when he allegedly began working thereon as tenant of Eduardo Butac; that in 1928, the latter sold to him a portion of Lot No. 2632 (indicated in the Subdivision Plan, Exhibit 10, as Lot No. 2632-A) of about 8,794 square meters; and that, thereafter, he held said portion of 8,794 square meters, as owner thereof, and remained in possession of the rest of Lot No. 2632 as well as of the entire Lot No. 2525, as tenant of Eduardo Butac, until he (Roque) was ousted therefrom by the sheriff in obedience to the writ of execution issued pursuant to the order of November 29, 1951;

Upon the other hand, it is not disputed that Lots Nos. 2525 and 2632 were originally registered in the name of the spouses Lim Tiongco and Ong Uy, in whose favor Original Certificates of Titles Nos. 19634 and 18816, were issued, pursuant to final decisions rendered on January 10, 1924 and April 2, 1934, respectively, in Cadastral Case No. 29, G.L.R.O. Record No. 279, and Cadastral Case No. 27, G.L.R.O. Record No. 369, from whom Asuncion Lim claims to have derived her title, as daughter and sole heir of said spouses, upon their demise. Considering that said original certificates of title are now incontestable, and that the alleged title of Roque Velasco and Eduardo Butac is not derived from, but antagonistic to, and (if Velasco's pretense were true) older than, that of the aforementioned spouses, it becomes obvious that Velasco's claim—to the effect that he owns part of Lot No. 2632, and that the remaining portion thereof, as well as Lot No. 2525 belong to Eduardo Butac (who has not even tried to intervene in this case and establish his alleged title in and to said lots)—is barred by the decisions in the land registered cases above mentioned and, hence, absolutely untenable.

It is urged, however, by Roque Velasco—and the Court of Appeals, as well as the court of origin sustained his pretense—that Asuncion Lim is not entitled to the possession of the land in question, because she is neither a daughter, nor an heir, of said original registered owners, the spouses Lim Tiongco and Ong Uy. On the other hand, Asuncion Lim impugns the right of Roque Velasco to question her relationship with said spouses, upon the ground that they are strangers to him. His reply to this objection—and the theory underlying such reply was adopted by the Court of Appeals—is that, as possessor of said land, he is entitled to hold it as against Asuncion Lim, unless she proves her right thereto, and that she has no such right, for the reason already adverted to.

At the outset, it should be noted that the rights of "possessors," regulated in Title V of Book II of the Civil Code of the Philippines, entitled "Possession", are those of possessors as owners, not those of persons who hold lands as tenants of another. According to Velasco's theory, he does not hold the land in question as owner, except as to a portion of Lot No. 2632 of about 8,794 square meters. The rest thereof and the totality of Lot No. 2525 belong to Eduardo Butac, whose tenant Velasco claims to be. Hence, he may not invoke the rights of a "possessor"—in the technical sense of the term—as regards said Lot No. 2525 and the rest of Lot No. 2632.

Independently of the foregoing, the existence of Transfer Certificates of Title Nos. 6912 and 6909, admittedly covering Lots Nos. 2525 and 2632, in the name of Asuncion Lim, suffices to establish her title to said lots and her right, as owner thereof, to its possession. The issue whether or not she obtained said transfer certificates of title illegally or fraudulently—as contended by Velasco—by pretending to be a daughter and heir of Mr. and Mrs. Tiongco, is one which may raised only by those whose rights as heirs, assigns or privies to said original owners may have been injured in consequence of said illegality or fraud. Strangers, or persons whose rights are not derived from said original owners, have no right to assail the validity of said transfer certificates of title or the regularity of the issuance thereof. No wrong, of any kind whatsoever, has been done to them, and, hence, they have no cause of action, or right to vindicate, in connection therewith.

Wherefore, the judgment appealed from is hereby reversed, and another one shall be entered declaring that

Asuncion Lim and her successors in interest are entitled to the possession of the land in dispute and to the owner's share in the products thereof, and sentencing Roque Velasco to pay to them the value of said share in the aforementioned products, while he was in possession of said land, and, accordingly, let the record of this case be remanded to the court of origin for the corresponding liquidation and accounting by Roque Velasco and the receiver, with costs against said defendant. It is so ordered.

Paras, C. J., Bengzon, Montemayor, Reyes, A., Bautista Angelo, Labrador, and Endencia, JJ., concur.

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