

HEIRS OF MARCIANO NAGAÑO, PETITIONERS, VS. COURT OF APPEALS, SPOUSES PONCIANO MALLARI AND GLORIA BINUYA, SPOUSES ELENA MALLARI AND MELENCIO TULABAN, AND REGINA MALLARI, RESPONDE...

G.R. No. 123231. November 17, 1997

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

In this petition for review under Rule 45 of the Rules of Court, petitioners seek the reversal of the decision of the Court of Appeals in CA-G.R. CV No. 40017[1] which set aside the Order of the Regional Trial Court of Gapan, Nueva Ecija, Branch 35 in Civil Case No. 836[2] dismissing private respondents' complaint[3] which sought the declaration of nullity of the Original Certificate of Title (OCT) issued pursuant to a Free Patent in the name of petitioners.

The factual antecedents, as succinctly summarized by the Court of Appeals, are as follows:

Plaintiffs-appellants [private respondents] filed a complaint for the declaration of nullity of Original Certificate of Title No. P-8265 issued in the name of the heirs of Marciano Nagaño and covering Cad. Lot. No. 3275. Plaintiff-appellants alleged that the issuance of the said title was on account of the fraud, deceit, and misrepresentation committed by defendant Macario Valerio. An information for perjury was even filed on November 2, 1983 against defendant Valerio, who unlawfully attested that Lot No. 3275 was not occupied or being claimed by other persons. Plaintiff-appellants alleged that part of the subject property was owned by their predecessors-in-interest Rufino Mallari and Fermina Jamlig and that they were in possession of the said land since 1920. They recently discovered that their entire Lot No. 3275 was registered by defendant Valerio under Free Patent No. (III-2) 001953 and OCT No. P-8265 in the name of the heirs of Marciano Nagaño. They allegedly demanded from defendant Valerio to execute the necessary document in order that the 2,250 square meters owned by them be segregated from the property titled in the name of the defendants-appellees [petitioners herein]. Defendants-appellees, however, refused to accede their demands.

A motion to dismiss was filed by defendants-appellees on the following grounds, viz.:

1. The court has no jurisdiction over the nature of the action;
2. Plaintiffs have no cause of action against the defendants, since suit for annulment of title which actually is a reversion proceedings should be instituted by the Solicitor;
3. Plaintiffs' cause of action is barred by the statute of limitations, the lawsuit having been instituted more than one year, or in fact almost fifteen years after the issuance of the title.[4]

In its Order of 21 September 1992,[5] the trial court granted petitioners' motion to dismiss on the ground that:

[The] action to annul the subject certificate of title, which is the plaintiffs' principal cause of action, should be instituted by the Solicitor General. (Lopez v. Padilla, 45 SCRA 44; Maximo v. CFI of Capis (sic), 182 SCRA

420; and *Sumali v. Judge of CFI Cotabato*, 96 Phil. 946, cited by the defendants).

Private respondents appealed the order of dismissal to respondent court raising this lone assignment of error:

THE COURT ERRED IN DISMISSING THE CASE AND/OR ALL THE CAUSES OF ACTION OF THE PLAINTIFF-APPELLANTS.[6]

In its decision[7] of 20 September 1995, the Court of Appeals set aside the challenged order of the trial court and reinstated private respondents' complaint. Applying *Agne v. Director of Lands*,[8] respondent court distinguished private respondents' action from a review of the decree of title on the ground of fraud, and held that the rule on the incontrovertibility of a certificate of title upon the expiration of one year after the entry of the decree did not apply as the action for cancellation of the patent and certificate of title issued pursuant thereto was instituted on the ground that they were null and void as the Bureau of Lands had no jurisdiction to issue them, the land having been withdrawn from the public domain prior to the award of the patent and grant of certificate of title to another person.

Petitioners' motion to reconsider[9] having been denied by the Court of Appeals in its Resolution of 20 December 1995,[10] petitioners filed the petition at bar alleging that:

I

THE HONORABLE COURT OF APPEALS ERRED IN REVERSING THE ORDER OF DISMISSAL, CONSIDERING THE FACT THAT PRIVATE RESPONDENTS DO NOT HAVE THE LEGAL PERSONALITY TO CONTEST THE FINAL AWARD MADE BY THE DIRECTOR OF LANDS, AND CIVIL COURTS ARE DEVOID OF JURISDICTION AND AUTHORITY TO REVIEW OR CONTROL SUCH FINAL JUDGMENT.

II

PRIVATE RESPONDENTS' PRINCIPAL CAUSE OF ACTION IN THIS CASE IS FOR THE AWARD IN THEIR FAVOR OF 2,250 SQUARE METERS PORTION OF THAT PARCEL OF LAND COVERED BY OCT NO. P-8265 AND CIVIL COURTS HAVE NO JURISDICTION OVER THE NATURE OF THE ACTION SINCE IT IS THE DIRECTOR OF LANDS, NOT THE CIVIL COURTS, WHO IS VESTED WITH JURISDICTION TO DECIDE [TO] WHOM TO AWARD DISPOSABLE LANDS OF THE PUBLIC DOMAIN.

III

PRIVATE RESPONDENTS HAVE NO CAUSE OF ACTION AGAINST THE PETITIONERS, SINCE [A] SUIT FOR ANNULMENT OF TITLE WHICH ACTUALLY IS A REVERSION PROCEEDINGS [sic], SHOULD BE INSTITUTED BY THE SOLICITOR GENERAL.

IV

PRIVATE RESPONDENTS' CAUSE OF ACTION IS BARRED BY THE STATUTE OF LIMITATIONS, THE LAWSUIT HAVING BEEN INSTITUTED MORE THAN ONE YEAR, OR IN FACT ALMOST FIFTEEN YEARS, AFTER THE ISSUANCE OF THE TITLE.

The Court of appeals correctly set aside the challenged order of the trial court, but not necessarily for the correct reasons. The trial court sustained the second ground of petitioners' motion to dismiss, namely, that private respondents had no cause of action since the suit for annulment of title amounted to a reversion proceeding which only the Office of the Solicitor general could initiate. The propriety of that ruling was the primary issue before the Court of Appeals, as the trial court did not deem it necessary to rule on the other grounds, viz., (a) lack of

jurisdiction over the nature of the action; and (2) that private respondents' cause of action was barred by the statute of limitations since the action was filed more than one year after issuance of the title.

The rule is settled that a motion to dismiss a complaint hypothetically admits the truth of the facts alleged therein.[11] In their complaint,[12] private respondents specifically alleged that: (a) they are "the heirs of Rufino Mallari and Fermina Jamlig who are part owners of a parcel of land known as Cad. 324-D, Lot 3275, situated at Mambangan, San Leonardo, Nueva Ecija;" (b) the portion belonging to private respondents, with an area of 2,250 square meters, was covered by tax declarations in their names, occupied and possessed by their predecessors-in-interest since 1920 and continuously thereafter until the present; (c) their possession has been peaceful, public, continuous, adverse and in the concept of an owner; (d) on or about 18 February 1974, defendant Macario Valerio, in order to deprive private respondents of their rights over and ownership of the portion of the lot, committed perjury, for which he is now criminally charged in court, by causing the entire Lot 3275 to be registered under Free Patent No. (III-2) 001953 and the issuance of original certificate of Title No. P-8265, both in the name of Marciano Nagaño, represented by Macario Valerio; (e) on account of the fraud, deceit and misrepresentation committed by Macario Valerio, the grant of the patent and issuance of the title were null and void and the indefeasibility of a title issued pursuant thereto one year after did not apply; (f) upon discovery, only recently, of the issuance of the title in the name of the Heirs of Marciano Nagaño, private respondents demanded from Macario Valerio the execution of the necessary documents segregating the 2,250 square meter portion and transferring the property to them, however Macario refused without justifiable cause or reason; and (g) as a consequence of Macario's refusal, they suffered moral damages and were compelled to incur expenses and secure the services of counsel. Private respondents then prayed, inter alia, that Original Certificate of Title No. P-8265 be declared null and void, or that the 2,250 square meter portion be segregated and the Register of Deeds ordered to issue a title over said portion in their names, and that petitioners be ordered to pay actual, moral and other damages, attorney's fees and litigation expenses.

It is then clear from the allegations in the complaint that private respondents claim ownership of the 2,250 square meter portion for having possessed it in the concept of an owner, openly, peacefully, publicly, continuously and adversely since 1920. This claim is an assertion that the lot is private land, or that even assuming it was part of the public domain, private respondents had already acquired imperfect title thereto under Section 48(b) of C.A. No. 141, otherwise known as the Public Land Act, as amended by R.A. No. 1942. This section provides:

SECTION 48. The following described citizens of the Philippines, occupying lands of the public domain or claiming to own any such lands or an interest therein, but whose titles have not been perfected or completed, may apply to the Court of First Instance of the province where the land is located for confirmation of their claims and issuance of a certificate of title therefor, under the Land Registration Act, to wit:

(b) Those who by themselves or through their predecessors in interest 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 preceding 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.[13]

Under Section 48, a subject lot is, for all legal intents and purposes, segregated from the public domain, because the beneficiary is "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."

Consequently, merely on the basis of the allegations in the complaint, the lot in question is apparently beyond the jurisdiction of the Director of the Bureau of Lands and could not be the subject of a Free Patent. Hence, dismissal

of private respondents' complaint was premature and trial on the merits should have been conducted to thresh out evidentiary matters.

It would have been entirely different if the action were clearly for reversion, in which case, it would have to be instituted by the Solicitor General pursuant to Section 101 of C.A. No. 141, which provides:

SEC. 101. All actions for the reversion to the Government of lands of the public domain or improvements thereon shall be instituted by the Solicitor General or the officer acting in his stead, in the proper courts, in the name of the [Republic] of the Philippines.

In light of the above, and at this time, prescription is unavailing against private respondents' action. It is settled that a Free Patent issued over private land is null and void,[14] and produces no legal effects whatsoever. Quod nullum est, nullum producit effectum.[15] Moreover, private respondents' claim of open, public, peaceful, continuous and adverse possession of the 2,250 square meter portion since 1920, and its illegal inclusion in the Free Patent of petitioners and in their original certificate of title, gave private respondents a cause of action for quieting of title which is imprescriptible.[16] The complaint of private respondents may thus likewise be considered an action for quieting of title.

The grounds then relied upon in petitioners' motion to dismiss are not indubitable and cannot be impressed with merit. We are not, however, foreclosing the presentation of evidence during trial on the merits that the land in question is not private property and that private respondents are not entitled to the benefits of Section 48 of C.A. No. 141.

WHEREFORE, the instant petition is DENIED for lack of merit and the challenged judgment of the Court of Appeals is AFFIRMED, but for the reasons stated above.

Costs against petitioners.

SO ORDERED.

Bellosillo, Vitug, and Kapunan, JJ., concur.

[1] Rollo, 52-55; Original Record (OR) CA-G.R. CV No. 40017 (CA OR), 36-39. Per Associate Justice Justo P. Torres, Jr., with Associate Justices Ramon U. Mabutas, Jr. and Jose C. De la Rama, concurring.

[2] Id., 49; Id., 24 (RTC Civil Case No. 836. Per Judge Teofilo B. Talavera, Jr.).

[3] Rollo, 29-32.

[4] Rollo, 52-53; CA OR, 36-37.

[5] Supra note 2.

[6] Rollo, 53; CA OR, 37.

[7] Supra note 1.

[8] 181 SCRA 793 [1990].

[9] Rollo, 56-69; CA OR, 46-59.

[10] Id., 71; Id., attached.

[11] 1 FLORENCE D. REGALADO, REMEDIAL LAW COMPENDIUM 242 (6th Rev. ed. 1997).

[12] Supra note 3.

[13] In accordance with Section 4 of P.D. No. 1073, promulgated on 25 January 1977, this paragraph was amended to apply only to alienable and disposable lands of the public domain which have been in the open, continuous, exclusive and notorious possession and occupation by the applicant himself or thru his predecessors-in-interest, under a bona fide claim of acquisition of ownership, since 12 June 1945.

[14] *Vital v. Anore*, 90 Phil. 855, 858 [1952]; *Agne v. Director of Lands*, supra note 8, at 807-808 [1990]; *Mendoza v. Navarette*, 214 SCRA 337, 349 [1992].

[15] *Agne v. Director of Lands*, supra note 8, at 808.

[16] *Mendoza v. Navarette*, supra note 14, at 353-354, citing *Canagay Layno v. Court of Appeals*, 133 SCRA 718, 724-725 [1984].

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