

ENRIQUE ZOBEL, PLAINTIFF AND APPELLEE, VS. GUILLERMO MERCADO, DEFENDANT AND APPELLANT.*G.R. No. 14515. May 25, 1960*

Ponente: BAUTISTA ANGELO, J.

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This is an action for ejectment filed before the Justice of the Peace Court of Calatagan, Batangas, on February 5, 1954. Plaintiff seeks to eject defendant from a fishpond defendant has leased from plaintiff for a yearly rental of P239.03 but which rental defendant refused to pay notwithstanding the demands made upon him. Defendant filed a motion to dismiss on the ground that the justice of the peace court has no jurisdiction over the case inasmuch as it was filed one year after the cause of action accrued. The case was dismissed. Plaintiff took the case to the Supreme Court by way of mandamus which set aside the order of dismissal and remanded the case to the court of origin for trial on the merits.

After trial, the justice of the peace court rendered decision ordering defendant to vacate the fishpond and surrender it to plaintiff, to pay plaintiff back rentals amounting to P1,188.60, and the sum of P239.03 as yearly rental from March 31, 1954 until he vacates the property, and to pay the costs. Defendant appealed the decision to the court of first instance. After trial de novo, the court affirmed in toto the decision of the inferior court. Hence the present appeal, which was certified to us because it merely involves questions of law.

The facts as found by the trial court are: The land in question is part of the "Hacienda Bigaa", situated in the municipality of Calatagan, province of Batangas, and owned by plaintiff whose title is evidenced by Transfer Certificate of Title No. T-8262 of the land records of Batangas. This land was originally owned by Jacobo Zobel but was sold to plaintiff on June 29, 1951. On April 15, 1950, plaintiff and defendant entered into a written contract whereby defendant leased for fishing purposes a portion with an area of 47,806 square meters situated in barrio Santiago, Calatagan, Batangas, for a yearly rental of P50.00 per hectare. On the same date, defendant executed a promissory note whereby he promised to pay the hacienda a yearly rental of P239.03 on May 20, 1950, representing the rentals from April 1, 1949 to March 31, 1950. Defendant failed to pay said amount, as well as the subsequent rentals, notwithstanding several demands made upon him to that effect.

The contention that the contract of lease entered into between plaintiff and defendant is null and void because the portion of land involved therein is a fishpond which is part of the public domain is untenable, because there is nothing in the evidence to show that such is the case. On the contrary, the evidence is undisputed that said portion is covered by the certificate of title issued in favor of plaintiff. As the trial court well observed, "Needless to state, if there is any error in the Torrens title of the plaintiff in the sense it included lands belonging to the government, it is only the government who could properly question that fact. The government is not a party to this action."

The fact, that defendant was granted an ordinary fishpond permit by the Bureau of Fisheries to fish in the portion of land in question six years after the execution of the contract of lease, is no proof that said portion belongs to the government. There is still need of a judicial pronouncement in order to have it excluded from the torrens title

issued to appellee. Moreover, since defendant entered into a contract of lease with plaintiff over the portion of land in question and said contract was found by the trial court to be valid and binding, it is clear that defendant is now prevented from denying the title of appellee over said portion pursuant to the provisions of Section 68 (b), Rule 123, of the Rules of Court. As this Court well observed:

"The defendants by attorning to him and becoming his tenants are estopped from disputing his title and his right to such possession upon the termination of the lease. The defendants' failure to pay the rent gave the plaintiff the right to terminate the lease and oust them from their possession and before the defendants can dispute his title and right to possession, they must first surrender to him the possession of the land. (*Alderete vs. Amandoron*, 46 Phil., 488, 491;) (*italics supplied.*)

Wherefore, the decision appealed from is affirmed, with costs against appellant.

Paras, C. J., Bengzon, Padilla, Montemayor, Labrador, Concepcion, Barrera, and Gutierrez David, JJ., concur.

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