

EMILIANO BALADJAY, PLAINTIFF AND APPELLANT, VS. HON. ZOILO CASTRILLO, IN HIS CAPACITY AS DIRECTOR OF LANDS AND MARIA BALCITA, DEFENDANTS AND APPELLEES.

G.R. No. 14756. April 26, 1961

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Appeal from an order of the Court of First Instance of Misamis Occidental dismissing the present case without special pronouncement as to costs.

Plaintiff Emiliano Baladjay instituted this case, against the Director of Lands and Maria Balcita, on June 3, 1958. Baladjay alleged in the complaint that he is the owner in fee simple of a parcel of land situated in the barrio of Capucan, City of Ozamiz, otherwise known as Lot No. 2170, Case No. 17 of Ozamiz Cadastre, and more particularly described in said pleading, he, as well as his predecessors in interest, having been, for time immemorial in public, open, peaceful, uninterrupted and continuous possession of said lot as owners thereof and having exercised full dominion, possession and control thereof and introduced permanent improvements thereon, as well as paid regularly the corresponding real estate taxes; that he had just learned that the Director of Lands had, on April 80, 1958, issued, in favor of Maria Balcita, Free Patent No. V-94223 covering said lot; that the registration of said patent and the issuance of the owner's duplicate certificate of title in accordance 'with section 122 of Act No. 496 is pending in the office of Register of Deeds of Oroquieta, Misamis Oriental; that, apparently, the Director of Lands had issued said free patent by virtue of an application of Maria Balcita, without an investigation to determine the truth of the allegations therein made, without ascertaining whether Maria Balcita came within the provisions of the pertinent law' and without giving the notice required by the same, to afford adverse claimants an opportunity to file their claims; that Maria Balcita had maliciously and in bad faith applied for, and, by fraudulent means and false proofs or concealment obtained, said free patent, for neither she nor her predecessors in interests had ever occupied or cultivated said Lot No. 2170 or paid real estate taxes thereon; that neither had she claimed said lot in said cadastral proceedings; and that, owing to her wrongful acts, plaintiff had suffered moral and actual damages in the sum of P5,000 and was constrained to engage the services of counsel at a cost of P1,000. Plaintiff prayed, therefore, that the aforementioned free patent be declared null and void, as well as rescinded and cancelled, and that Maria Balcita be sentenced to pay him damages and attorney's fees, as well as the costs.

The Director of Lands filed an answer admitting the issuance of said free patent to Maria Balcita, denying most of the other allegations in the complaint, and averred that Maria Balcita had inherited Lot No. 2170 from her parents, who had held it since 1914; that upon the filing of her free patent application, an investigation was made by a representative of the Bureau of Lands, who found her in the actual occupation and cultivation of said lot; that copies of the notice of said application were duly posted for the period and at the places required by law; and that plaintiff Baladjay is not the owner of said lot and has no legal right thereto. By way of affirmative defense, the Director of Lands alleged that the court had no jurisdiction over the subject matter of the complaint; that plaintiff

has not exhausted, or even availed, of the administrative remedies in the executive branch of the government; and that he had no personality to institute this action. Said officer further alleged, by way of special defense, that the lot in question is a public land, subject to his exclusive jurisdiction; that the aforementioned free patent was duly processed and issued after verifying that Maria Balcita had complied with all pertinent requirements; and that plaintiff had never protested against her free patent application, while it was being processed in the Bureau of Lands, despite the notice aforementioned.

Maria Balcita, in turn, moved for the dismissal of the complaint, upon the ground: (1) that the court had no jurisdiction over its subject matter, for plaintiff had neither exhausted the administrative remedies nor even filed a protest with the Bureau of Lands; and (2) that he has no legal capacity to sue, for a certificate of title issued in consequence of a patent granted by the Government, once registered in the corresponding Register of Deeds, becomes operative under the Land Registration Act, and may be cancelled at the instance only of the Government, upon failure of the grantee to comply with the conditions imposed by law.

The lower court granted this motion to dismiss. Hence, the appeal by plaintiff Baladjay.

The appeal is well taken. The doctrine requiring that administrative remedies be first exhausted before a recourse to the courts of justice may be had and the legal provision giving the Government the exclusive authority to seek cancellation of a title issued in conformity with a homestead patent and reversion of a land to the public domain are, in the very nature of things, confined in their application to lands of the public domain which have been granted by virtue of such patent in pursuance of the Public Lands Act. They are inapplicable to private lands, not even to those acquired by the Government by purchase for resale to individuals (*Marukot vs. Jacinto*, 98 Phil., 128; 52 Off. Gaz., 213; *Santiago vs. Cruz*, 98 Phil., 168; *Geukeko vs. Araneta*, 102 Phil., 706; 54 Off. Gaz., [15] 4494).

The defendants herein claim, it is true, that Lot No. 2170 is part of the public domain. A motion to dismiss the complaint assumes, however, that its allegations are true, and plaintiff alleges in her complaint that said lot is her private property. In other words, the complaint does not indicate that plaintiff had derived his title from the Government or that said lot ever been under the jurisdiction or management of the Director of Lands. Upon the allegations of fact made in said pleading, plaintiff was not bound, therefore, to resort to the administrative remedies provided in the Public Lands Act as a condition precedent to a judicial recourse for the protection of his alleged rights. Whether plaintiff is capable of proving the truth of said allegations is another thing. But this is a matter that will have to be determined after he has had an opportunity to introduce evidence thereon. It can not be taken upon motion to dismiss.

Wherefore, the order appealed from is hereby reversed and set aside, and the record of this case should be, as it is hereby, remanded to the lower court for further proceedings, with the costs of this instance against defendant Maria Balcita. It is so ordered.

Bengzon, Acting C.J., Padilla, Bautista Angelo, Labrador, Reyes, J.B.L., Paredes, and Dizon, JJ., concur.

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