

MONICA PASTRANA BAMBAO, ET AL., PLAINTIFFS AND APPELLANTS, VS. VICTOR E. LEDNICKY, ET AL., DEFENDANTS AND APPELLEES.

G.R. No. 15495. January 28, 1961

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Appeal from the decision dated September 12, 1958 of the Court of First Instance of Baguio City in its Civil Case No. 760, dismissing plaintiff's complaint, with costs, and the order of the same Court of October 28, 1958 denying plaintiff's motion for reconsideration.

It is of record that on May 28, 1958, the plaintiffs filed a complaint in the Court of First Instance of Baguio City, alleging, among other things, that plaintiffs' predecessors, the spouses Felix Pastrana and Tomasa Mendoza and one Marcelo, were the original owners of fourteen (14) mining claims described in paragraph IV of the complaint, all of which were properly recorded in the Office of the Mining Recorder of the Mineral District of Bontoc, Mountain Province, in the months of October and November, 1933; that on February 17, 1937, the defendant Lepanto Consolidated Mining Company had, by a duly notarized deed of sale, induced and procured the said decedents-predecessors to part with their mining claims and to convey the same to the mining company for the consideration of P10,000.00; that said deed of conveyance is null and void because, being a contract with members of the non-Christian tribes of Mountain Province, it was not approved by the Governor of said province, and, furthermore, because it was not signed by the duly authorized representatives of Lepanto Consolidated Mining Company; that taking advantage of the loss of records during the war, as well as the demise of plaintiffs' predecessors, defendants, through fraud and misrepresentation, induced the plaintiffs into believing that the said lode mineral claims were lawfully conveyed, assigned, and sold to the defendants; that by reason of such fraudulent misrepresentations, the plaintiffs were deceived into allowing the defendants to take possession of the mining claims and did not earlier take steps to assert the possession of said claims; and that, as a consequence of "such acts of unlawfully and unjustly obtaining possessions and illegally exercising acts of ownership over the property", the plaintiffs suffered damages.

Defendants' answer to the complaint averred, by way of special and affirmative defenses, acquisitive prescription, extinctive prescription, and laches.

On the day set for the hearing of defendants' motion for a preliminary hearing on the special and affirmative defenses, the lower court orally gave counsel for both parties a period of fifteen days within which to file their respective memoranda on the question of whether or not "judgment on the pleadings on prescription as a defense is feasible". The parties did as ordered.

On September 12, 1958, the court rendered judgment finding merit in the defense of prescription and, therefore, dismissed the complaint, with costs against the plaintiffs. The latter moved for reconsideration of the decision, but the court, in its order of October 28, 1958, denied the motion for lack of merit. Hence, this appeal.

The court a quo, in our opinion correctly dismissed the complaint.

Appellants argue that the lower court erred in refusing to accept evidence on the question of prescription. Such offer of evidence, however, would have served no useful purpose, since the pleadings filed by the parties, but more particularly the plaintiffs' complaint, contain averments sufficient to decide that legal issue. The parties for instance, do not dispute the fact that the questioned mining claims were discovered, located, and owned by plaintiffs' predecessors, but that on February 17, 1937, the same were conveyed to the defendants by virtue of a deed of sale executed in Mankayan, Mountain Province. This admission belies the present claim of the plaintiffs that defendants' possession over the disputed property started only after the war. By the terms of the said document of conveyance of February 17, 1937 (attached as Annex "A" of the complaint), plaintiffs' predecessor, for and in consideration of P10,000.00, the receipt of which was acknowledged, "bargained, sold, transferred, conveyed, remised, released, and forever quitclaimed * * * unto the said Lepanto Consolidated Mining Company, its successor and assigns, all (the) right, title and interest in and to those certain lode mining claims" described therein. The penultimate paragraph thereof also states:

"To have and to hold all and singular the said premises, together with the appurtenances and privileges thereunto incident, unto the said Lepanto Consolidated Mining Company, its successors and assigns forever."

That this instrument had the effect also of deeding the possession of the property over to the defendants can not be seriously doubted or disputed (Art. 531, new Civil Code; Art. 428, old Civil Code). From February 17, 1937 to May 28, 1958, the year when the complaint was filed, a period of more than twenty-one years had intervened. Now, under Section 40 of the Code of Civil Procedure then in force, the plaintiffs had a period of ten years from the time the cause of action accrued within which to bring suit for recovery of title to, or possession of, real property or an interest therein. Similarly, under Section 41 of the same Code, the ten-year period for acquisitive prescription started to run in favor of the defendants-possessors.

"Sec. 40. Period of Prescription as to Real Estate.—An action for recovery of title to, or possession of, real property, or an interest therein, can only be brought within ten years after the cause of such action accrues.

"Sec. 41. Title to Land by Prescription.—Ten years actual adverse possession by any person claiming to be the owner for that time of any land or interest in land, uninterruptedly continued for ten years by occupancy, descent, grants, or otherwise, in whatever way such occupancy may have commenced or continued, shall vest in every actual occupant or possessor of such land a full and complete title, saving to the persons under disabilities the right secured by the next section. In order to constitute such title by prescription or adverse possession, the possession by the claimant or by the person under or through whom he claims must have been actual, open, public, continuous, under a claim of title exclusive of any other right and adverse to all other claimants. But failure to occupy or cultivate land solely by reason of war shall not be deemed to constitute an interruption of possession of the claimant, and his title by prescription shall be complete, if in other respects perfect, notwithstanding such failure to occupy or cultivate the land during the continuance of war." (Code of Civil Procedure) (*italics supplied*)

It is contended that the period of prescription was suspended during the war, since the defendants, being enemy aliens, were not in a position to invoke the aid of the courts. Even if this claim were correct, however, plaintiffs' action would have just the same prescribed under the applicable provisions of Act 190, which govern adverse possessions commenced thereunder.[1] The war lasted five years at the most. Tacking defendants' possession before and after the war, defendants still have about sixteen years of adverse possession that may be counted in their favor.

Appellants' argument, that adverse possession does not lie to confer title to mineral lands, does not take into account that upon perfection of their location by appellants' predecessors in October of 1933 (prior to the

Constitution), the mining claims herein involved became segregated from the public domain and the beneficial ownership thereof became vested in the locator. That was the established law before the Commonwealth Constitution became operative (*McDaniel vs. Apacible and Cuisia*, 42 Phil. 749; *Gold Creek Mining Corp. vs. Rodriguez*, 66 Phil. 259). This beneficial ownership of the locator, being his private right, could certainly pass to another by adverse possession in accordance with law. It is well to note that the Government's title and rights are not here involved, nor do the appellants show any right to speak for the Government.

The claim that the possession of appellees was merely tolerated is plainly untenable, since appellees were vendees of the predecessors of appellants. As such vendees, they acquired the very right of possession of the vendors, and the latter can not be deemed to have merely tolerated such possession. The sale actually divested the vendors of the right and vested it in the vendees; wherefore, the vendors had nothing left to tolerate.

The foregoing considerations bring us to plaintiffs' contention that their suit should be taken not as mere action for recovery of title to, or possession of, the questioned realty, but rather as one for the annulment of the contract of sale on the ground of fraud, which fraud was allegedly discovered only on September 9, 1957, "when the true nature of the supposed deed of sale was discovered by the plaintiffs-appellants because of the letter addressed by the defendants' counsel, through Atty. Tomas Contreras, to the Bureau of Mines, embodying the deed of sale." Such fraud, as alleged in paragraphs VI and VII of their complaint, did not refer to the execution of the deed of conveyance, but is made to consist in that defendants, taking advantage of the loss of records during the war, induced the plaintiffs into believing that the mining claims were lawfully conveyed, assigned, and sold to the defendants, and into allowing the defendants to take possession of the mining claims,[2] when in truth, no valid conveyance existed, because the oftmentioned deed of sale, being a contract with members of the non-Christian tribes of Mountain Province, was utterly ineffective and void under the provisions of Sections 145 and 146 of the Administrative Code of Mindanao and Sulu, it not having been approved by the Governor of Mountain Province, and this fact was fraudulently concealed by the defendants (see pars. VI, VII and X, complaint).

It is easy to see that the charge of fraud can not stand. In *City of Manila vs. Narvasa, etc., et al.*, G.R. No. L-8545, December 29, 1955, this Court has held that the provisions cited by plaintiffs were intended to apply only to Mindanao and Sulu; more specifically, to the territories mentioned under Section 2578 of the Revised Administrative Code; hence,

"The Department of Mindanao and Sulu shall consist of the entire Island of Mindanao, excluding only the provinces of Misamis and Surigao, together with the Sulu Archipelago, including the islands known as the Jolo Group, the Tawi-Tawi Group and all other Islands pertaining to the Philippine Archipelago under the sovereignty of the United States of America south of the eighth parallel of north latitude, excepting therefrom the Islands of Palawan and Balabac, and the immediately adjacent islands, but including the island of Cagayan Sulu."

Here, however, the deed of conveyance appears to have been executed in Mankayan, Mountain Province, which is not within the territories above specified. Appellants being successors of the sellers, are bound by the sale validly made by the latter.

The elaborate discussion made by counsel on the applicability or inapplicability of certain provisions of Section 45 of the Act of Congress of July 1, 1902 (otherwise known, as the Philippine Bill of 1902), which allowed prescription against the State, and Commonwealth Act No. 137 (otherwise known as the Mining Act), which adopted the regalian doctrine regarding the matter of prescription, are, we believe, irrelevant to the appeal. Both parties admit, following the doctrine laid down in the case of *McDaniel vs. Apacible and Cuisia*, 42 Phil. 749, that the mining claims in question had become private property[3] since October of 1933. Consequently, the applicable rules on prescription as to and between them, the government not being a party to the case, are those

contained in Sections 40 and 41 of the Code of Civil Procedure (Act 190) elsewhere afore-quoted.

Finally, the defense of laches lies in favor of the defendants-appellees, (see *Go Chi Gun, et al., vs. Go Cho, et al.*, 96 Phil., 622). Laches has been most rigidly applied to cases involving mining claims, and with good reason.

Thus—

"Equitable rules and principles have been applied in controversies over mining claims or lands or interests therein. A claimant to, or of an interest in, mining property may lose his rights therein as against another claimant thereto, by his laches in asserting such rights. Because of the sudden and violent fluctuations in value of this class of property, the doctrine of laches is applied most rigidly to cases involving mining claims, particularly where the claim is based on an oral contract. Nevertheless, the delay necessary to constitute laches depends on the peculiar circumstances of each case." (58 C.J.S. 226-227)

"It is important that a party invoking equitable relief in respect of mines or minerals should proceed without undue delay. Here, as in other cases of equitable cognizance, complainant's right to recover may be lost by laches, or by silence and inaction amounting to acquiescence. Mining lands are subject to sudden and violent fluctuations in value; therefore, persons having claims to such property are bound to the utmost diligence in enforcing them. There is no class of cases in which the doctrine of laches has been more relentlessly enforced. * * *" (36 Am. Jur. 415)

Plaintiffs' inaction for a period of more than 21 years before taking steps to vindicate their alleged rights has converted the claim of appellants into a stale demand.

Wherefore, the order of dismissal appealed from is hereby affirmed, with costs against appellants.

Padilla, Bautista Angelo, Labrador, Concepcion, Barrera, Gutierrez David, Paredes, and Dizon, JJ., concur.

[1] Art. 1116 new Civil Code; *Osorio vs. Tan Jongko, et al.*, 98 Phil., 55.; 51 Off. Gaz., No. 12, 6221.

[2] But, as we have previously observed, possession of the mining claims was already with the defendants since February of 1937, the year when the deed of conveyance was executed; and no further act of plaintiffs was still necessary to place the defendants in possession.

[3] As such it may be sold and conveyed just as any other private property (*McDaniel vs. Apacible and Cuisia*, supra).

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