

ANTONIO M. PATERNO, ET AL., PETITIONERS VS. JOSE V. SALUD, RESPONDENT.*G.R. No. 15620. September 30, 1963*

Ponente: BAUTISTA ANGELO, J.

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Antonio Paterno and his sister Margarita Paterno Vda. de Javier brought on November 8, 1952 before the Court of First Instance of Batangas an action to recover from Jose V. Salud a parcel of land containing an area of 5 hectares situated in San Juan de Bolbok, Batangas, as well as the value of the crops harvested therefrom since 1950 and damages.

Defendant claims to be the owner of the land which plaintiffs seek to recover having been in adverse possession thereof since 1890 and having registered it in his name in Registration Case No. 23 of the same court on April 16, 1940 for which he obtained a torrens title. By way of counterclaim, defendant seeks in turn to recover from plaintiffs a strip of land with an area of 1 ½ hectares also situated in the same municipality.

On May 31, 1954, after the reception of the evidence, the court a quo rendered judgment ordering defendant to reconvey to plaintiffs the land mentioned in their complaint free from any lien or incumbrance, to pay them P2,000.00 as moral damages, P224.00 as actual damages, and P2,000.00 as attorney's fees, plus costs of suit. The court dismissed defendant's counterclaim.

When the case was taken to the Court of Appeals, the decision was reversed. The court not only dismissed plaintiff's complaint but ordered them to reconvey to defendant the land subject-matter of his counterclaim consisting of 1 ½ hectares, with costs. Plaintiff interposed the present petition for review.

It appears from plaintiffs' evidence that on March 30, 1912, Jose T. Paterno, as administrator of the estate of Maximino Molo Agustin Paterno, acquired at an auction sale certain parcels of land that were levied in execution belonging to Esteban de Villa, among others, one of the following description: "No. 5, Terreno en dicho 'barrio de Libato, de 1200 metros cuadrados de superficie, lindante al Norte rio Lawaye; al Este Francisco Marasigan; al Sur estero Lapa; y al Oeste Benedicto de Villa." From 1915 to 1927 Paterno leased this parcel of land together with the other parcels acquired at the auction sale to Esteban de Villa and Pia de Villa. In 1924, Paterno, desiring to have all the lands so acquired registered under the Land Registration Act, ordered their survey as described in their tax declarations and in the notice of sale, and it was then discovered that the area of parcel No. 5 was not only 1,200 sq. m. as described therein but 30.5285 hectares.

In March, 1926, Paterno sought the registration of the lands acquired in the auction sale in the name of the estate of Maximino Molo Agustin Paterno, but parcel No. 5 was not included because its plan had not yet been approved when the petition for registration was filed. In 1927, all these lands were adjudicated to Concepcion Paterno Vda. de Padilla, daughter of the late Maximino Molo Agustin Paterno, as her share in the estate. In that year, the lease of the lands to the De Villas was not renewed and so their possession was returned to the Paternos who appointed Felix Lontok as their overseer. Sometime thereafter, apparently acceding to the plea of the De Villas, Concepcion

Paterno agreed to retain only the eastern portion of the land, with an area of 5 hectares, leaving the rest with an area of 25 hectares to be subdivided between the De Villas.

In 1943, Concepcion Paterno died leaving all the lands she owned in Batangas, including the one in question, to plaintiffs as her heirs. Hence, from 1927, when the lease to the De Villas was terminated, to 1949, plaintiffs had been in possession of the lot with an area of 5 hectares first thru their overseer Felix Lontok, who later became himself its lessee. In 1950, however, defendant wrested the possession of the land in question from plaintiffs in the manner they explained during the trial of the case.

Thus, according to plaintiffs, defendant secured in 1931 a plan for the land in question which was approved by the Bureau of Lands. In 1946, he declared this property for taxation under Tax Declaration No. 2209. This was later cancelled by Tax Declaration No. 4410 with the excuse that it was a correction of Tax Declaration No. 1956. In 1947, defendant filed a petition for registration of the land omitting to mention therein the claims of Jose T. Paterno and Concepcion Paterno although in the plan on which his petition for registration was based it was stated that the land described therein was identical to that surveyed for Concepcion Paterno and was part of a much larger tract of land surveyed for Jose T. Paterno. Defendant was ordered to amend his petition by including these two as claimants. This he did but he gave their addresses as San Juan, Batangas, although he knew they never lived there. No copy of the petition was served on their overseer Felix Lontok. The petition was heard without opposition, and on April 16, 1948 the court issued a decree in favor of defendant over the land in question. In 1950, armed with this decree, defendant wrested the possession of the land from plaintiffs and reaped the harvest therefrom of some 20 to 25 cavanes of palay since that year. In the meantime, defendant mortgaged the land to the Philippine National Bank. Attempts were made to settle the controversy amicably, and when this proved in vain, the present action was taken by the plaintiffs.

Plaintiffs' theory, therefore, may be stated as follows: The Land in question was originally a portion of a bigger parcel of land whose area was found to be 30.5285 hectares which was purchased by Jose T. Paterno, as administrator of the estate of Maximino Molo Agustin Paterno, at an auction sale involving the properties of Esteban de Villa. This land was later adjudicated to Concepcion Paterno Vda. de Padilla, who, upon her death, bequeathed it together with other hands, to plaintiffs.

Defendant's evidence, on the other hand, discloses that on June 25, 1881 JBaltazar de Villa owned, among others, a parcel of land of the following description: "La tercera partida de cantidad de unos veinte cavanes aproximados de semilla de palay, cuyos confines, al Este las tierras de Da. Antonio de Villa, al Oeste las de Don. Vicente de Villa, y al Norte el Rio denominado Lawaye, y al Sur las tierras de Diia. Paula de Mercado con riachuelo denominado Lapa en Medio." (Possessory information Exhibit 6-a.) Baltazar de Villa is the father of Esteban de Villa and Pia de Villa, while Pia de Villa is the mother of Jose V. Salud, defendant herein.

In 1912, Jose T. Paterno, as administrator of the estate of Maximino Molo Agustin Paterno, bought at an auction sale certain lands belonging to Esteban de Villa pursuant to a levy in execution issued to enforce a judgment obtained against Esteban de Villa. Among the lands so purchased was one described as follows: "No. 5. Terreno en dicho barrio de Libato, de 1200 metros cuadrados de euperficie, lindante al Norte rio Lawaye; al Este Francisco Marasigan; al Sur estero Lapa; y al Oeste Benedicto de Villa."

After Pia de Villa acquired the parcel of land covered by the possessory information Exhibit 6-a from her father Baltazar, she immediately entered into its possession, with the exception of some portions thereof which she later sold, and continued in said possession until her death. Of said land, Pia donated a portion containing 12 hectares to Vicente de Villa; sold another containing 8 hectares to Antonio Adapon; and a portion thereof situated on the eastern part containing an area of 5 hectares was transmitted by succession to her son Jose V. Salud. On April 16,

1948, defendant Salud sought the registration of this parcel of land, together with others that belonged to him, for which he secured a torrens title in the manner already outlined elsewhere in this decision.

We may, therefore, say that defendant's theory is as follows: Neither the land in question, nor the larger tract of land containing 30.5285 hectares of which it was originally a part, was included in the auction in 1912 of the properties of Esteban de Villa, and so none was transmitted by plaintiffs' predecessor-in-interest to Concepcion Paterno Vda. de Padilla, nor devised or transmitted by the latter to plaintiffs. Plaintiffs failed to identify the parcel of land which they claim to be their own. The land in question belonged to defendant's mother Pia de Villa, from whom he derived his title. And the land which properly belong to plaintiffs is the strip of 1,200 sq. m. on the eastern edge of another property belonging to defendant which was used by the Paternos as a road to the provincial highway, which land was the one bought at the auction sale in 1912.

Predicated upon the evidence presented by both parties in relation to issues raised by them, the Court of Appeals reached the following conclusion:

"After a careful perusal of the proofs of record, we are of the firm belief that the land in question and the bigger parcel of 30.5235 hectares of which it was originally a part, were not included in the auction in 1912 of the properties of Esteban de Villa; that these lands were transmitted by Maximino Molo Agustin Paterno to Concepcion P. de Padilla; that the land in question was not devised or transmitted by Concepcion de Padilla to plaintiffs; and that plaintiffs failed to identify conclusively the land in question over which they claim ownership; that the land in question belonged to defendant's mother, Pia de Villa, from whom he derived his title; and that plaintiffs land is the strip of 1,200 square meters used by them as a road from other property belonging to them, to the provincial highway."

The evidence of record fully justifies the above finding. It appears that among the lands 'bought by the administrator of the estate of Maximino Molo Agustin Paterno at the auction sale of the properties of Esteban de Villa which was of particular interest in this case is the one described in the notice of sale as follows: "No. 5. Terreno en dicho barrio de Libato, de 1200 metros cudrados de supeficie, lindante al Norte rio Lawaya; al Este Francisco Marasigan; al Sur estero Lapa; y al Oeste Benedkto de Villa." This land only carries an area of 1,200 sq. m. There is nothing to show that this¹ forms part of an original parcel of land containing an area of 30.5285 hectares which in 1912 also belonged to Esteban de Villa. The only thing that plaintiffs claim to bolster up their contention ie that when this parcel of land was surveyed in 1924, together with other parcels of land bought in the auction sale, as a preparatory step for their registration under the Land Registration Act, it was discovered that parcel No. 5, which was sold to them by the sheriff in 1912, had an area of not only 1,200 sq. m. but 30.5285 hectares, which claim certainly is untenable because a piece of land having an area of 1,200 sq. m. cannot be said to be identical to one having an area of 30.5285 hectares, which is more than 250 times bigger. Contrary to plaintiffs' contention, the boundaries of the two properties are not also the same. The identical and natural boundaries are only on the north and south—Lawaye river on the north and Lapa creek on the south; there toeing no natural boundaries on the east and west, as there are on these sides' merely names of adjoining owners. There is no evidence that these adjoining owners do not own other lands which adjoin other properties of Esteban de Villa along these rivers. This great difference in area was not satisfactorily explained.

While there are authorities that uphold the proposition that in identifying a particular piece of land its boundaries and not the area are the main factors to be considered,^[1] however, this only holds true when the boundaries given are sufficventlu certain and the identity of the land proved by the boundaries clearly indicates that an erroneous statement concerning the area can be disregarded or ignored. Otherwise, the area stated in the document should be followed.^[2] Thus, in a case where a petitioner claimed in his application to be entitled to the registration of a parcel of land whose area after the survey turned out to be 626 hectares while the grant given to him only mentions 92 hectares, the court rejected the claim after laying down the following principle: "While the

proposition of law laid down by the court below may be true to the effect that natural boundaries will prevail over area, yet when the land sought to be registered is almost seven times as much as that described in the deed, the evidence as to natural boundaries must be very clear and convincing before that rule can be applied."^[3] (Italics supplied) Plaintiffs' contention was, therefore, properly rejected by the Court of Appeals it appearing that it is only on the north and south sides of the property in question where the natural boundaries are identical because on the east and west there are no natural boundaries but only the names of adjoining owners who were not shown not to own other properties adjoining those of Esteban de Villa. The discrepancy in the measurement of the two pieces of land is so great that there could hardly be any room to suppose that a 30-hectare land area might have been wrongly or inaccurately estimated to be only 1,200 sq. m.

Another factor that argues against plaintiffs' claim is the fact that the inventory and partition of the estate of Maximino Molo Agustin Paterno does not show that the land in question was ever transmitted to Concepcion Paterno Vda. de Padilla, plaintiffs' predecessor-in-interest. Nor does the inventory of the estate of the late Concepcion Paterno de Padilla, which includes all her real properties in Batangas, makes any mention of the property in question. For this reason, the Court of Appeals could not bring its mind to conform to the claim of plaintiffs that the land in question is the one included in the auction sale held in 1912 of the properties of Esteban de Villa and which was later handed down to them by their predecessor-in-interest Concepcion Paterno Vda. de Padilla, as may be seen from the following comment:

"* * * Moreover, the inventory and partition of the estate of Maximino Molo Agustin Paterno, shows that the property in question was never transmitted to said Concepcion de Padilla (Exhibits HH-1 & HH-39). The inventory of Concepcion de Padilla's estate, which included all her real properties in Batangas, failed to mention the property in question. (Exhibit 3). The inventory mentioned properties of various areas, registered under the Torrens system in the name of Concepcion Paterno; and the property in question was not then registered under the Torrens system. It was shown that this inventory was presented by her administratrix before the probate court and the same was approved by said court, without the objection of the plaintiffs, notwithstanding their awareness of the pendency of the administration proceedings. Again, in the project of partition of Concepcion de Padilla's (Exhibit 4), wherein various properties in Batangas were adjudicated to the plaintiffs, the property in question was not included. It is worthy to note that plaintiffs, the administratrix and other instituted heirs, signed the said project of partition, which was presented to and approved by the court (Exhibit 5). Again, it is conceded that the project was denominated 'partial' project of partition. But this does not refer to any undiscovered 'residuary estate' in Batangas, not adjudicated to the plaintiffs, but to the interest and participation of the deceased testatrix on the properties under administration in cases Nos. 46058 to 46063, CFI of Manila—to the testate estate of Concepcion's husband, Narciso Padilla (Exh. 4 clause 11). They do not refer to the properties of Concepcion de Padilla in Batangas, for as far as her Batangas properties are concerned, the project of partition was complete. In fact, answering the question 'Are you sure that all properties within the jurisdiction of the province of Batangas, left by your aunt Concepcion Paterno Vda. de Padilla were enumerated in that inventory?', plaintiff Antonio Paterno said: 'Yes' (t.s.n., p. 117 March 19, 1953), which inventory as heretofore stated, does not include the property in question (Exhibit 3). If, as alleged by plaintiff Antonio Paterno, as early as 1929 or 1930, he already knew of his aunt Concepcion's desire to have all her Batangas properties registered, it was not satisfactorily explained why he or his aunt had not commenced registration proceedings of the land under consideration, notwithstanding the fact that he received the plan, surveyor's certificate and technical description of the land (Exhibits B, B-1 and B-2), after the death of his aunt in 1943 and that the property was allegedly adjudicated to him in 1946. This, coupled with the other facts and factors heretofore discussed, can only mean that plaintiffs did not acquire the land in question from their aunt Concepcion de Padilla."

Plaintiffs tried to trace the history of the land in question thru an elaborate exposition of the chain of tax declarations covering it since 1923, but this cannot help them any as long as the fundamental question relative to

the identity of the land is not resolved. And here, as we have said, this is not the case. The lower court emphasized the circumstance that the Tax Declaration No. 8100 in the name of Pia de Villa (Exhibit KK-8) which superseded Exhibit KK-7 was cancelled in 1922 by Tax Declaration No. 8388 in the name of Jose T. Paterno. But it should be noted that said Tax Declaration No. 8388 was in the following year 1923 cancelled partially by Tax Declaration No. 8624 in the name of Pia de Villa, which declares an area of 25.6876 hectares and by Tax Declaration No. 8623 in the name of Jose T. Paterno which declare an area of 1,200 sq m., assessed at P30.00, and for which the tax paid was only P0.26. The position of plaintiffs is rendered more doubtful by the fact that Pia de Villa and not Esteban de Villa was the declared owner in 1918 of the large tract of land of which the 5 hectares in question forms part as shown by the very diagram made by plaintiffs. This can only mean that after the auction sale in 1912, Pia de Villa was the owner of the entire property in 1918, and that what was sold to Jose T. Paterno was in fact another land of 1,200 sq. m. owned by Esteban de Villa.

On the other hand, defendant has proven that the property in question belonged to his mother Pia de Villa from whom he derive his title. The original parcel of land described in the possessory information title Exhibit (5-a) was inherited by Pia de Villa upon the death of her father Baltazar de Villa. Pia's ownership was even admitted by plaintiffs. Pia commenced possession of said land and continued therein until her death except with regard to certain portions which she disposed of to wit: by donation to Vicente de Villa (1Vz hectares), by sale to Bonifacio Hernandez (5 hectares), and by mortgage to one Adapon (8 hectares) , thereby leaving her five hectares on the easternmost portion to her son Jose V. Salud which is the land in question. She declared said piece of land in her name for taxation purposes and as early as 1914 she paid the taxes thereon. Even when she was still alive Pia already adjudicated said property to her son, defendant herein, although she continued possessing and administering it. Plaintiffs' claim that the land in question was mortgaged to the Paternos by the De Villa family who owed some money to Maximino Molo Agustin Paterno which mortgage was foreclosed and the property sold at public auction cannot be entertained, for the evidence reveals that it was Esteban de Villa alone, and not Pia de Villa, against whom the execution was levied upon and that the only property sold were those of Esteban de Villa which, as already stated, do not include the property in question.

We believe, however, that the Court of Appeals erred in declaring defendant owner of the parcel of land claimed in his counterclaim. The evidence shows that plaintiffs' predecessor-in-interest Concepcion Paterno Vda. de Padilla secured in 1928 Original Certificate of Title No. 4918 over a parcel of land of which the land involved herein was a part. This parcel of land was originally acquired by the Paternos in 1912. This was leased to Esteban de Villa and Pia de Villa from 1917 to 1925; surveyed for Jose T. Paterno on September 25, 1924; was the subject of petition for registration by the Paternos in 1926, due notice of which was given to the De Villas, and upon the death of Concepcion Paterno Vda. de Padilla, it was transmitted to plaintiffs by succession. Since the land in question was registered in the name of the Paternos in 1928 and it was only on November 19, 1952, date of defendant's answer, that he sought its reconveyance to him, that title became indefeasible under Section 38, Act No. 496, as amended by Act No. 3630. Here there is no proof of irregularity in the issuance of the title, nor in the proceeding incident thereto, nor is there any claim that fraud has intervened in the issuance of said title. Even then, the period of one year within which intrinsic fraud can be claimed has long expired. This land should, therefore, be adjudicated to plaintiffs.

Wherefore, the decision appealed from is modified in the sense that the land claimed in the complaint belongs to defendant and therefore the complaint should be dismissed. With regard to defendant's counterclaim, the land therein claimed should be adjudicated to plaintiffs. No costs.

Bengzon, C. J. Concepcion, Barrera, Dizon, Regala, and Makalintal, JJ., concur.

[1] Escudero and Marasigan vs. Director of Lands, 44 Phil., 83; Smith, Bell and Company vs. Director of Lands, 50 Phil., 879; Loyola vs. Bartolome, 39 Phil., 554.

[2] Sanchez vs. Director of Lands, 63 Phil., 378.

[3] Pamintuan vs. Insular Government, 8 Phil., 512; See also Paras vs. Insular Government, 11 Phil., 378; Carillo vs. Insular Government, 11 Phil., 379; Waldrof vs. Castaneda, 25 Phil., 50 Sales vs. Director of Lands, 61 Phil., 759.

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