

JUAN CRUZ, JR., PLAINTIFF AND APPELLANT, VS. CRISANTO DIAZ, DEFENDANT AND APPELLEE.*G.R. No. 15740. May 23, 1961*

Ponente: CONCEPCION, J.

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Appeal from an order of the Court of First Instance of Davao granting defendant's motion to dismiss the complaint upon the ground that it fails to state sufficient facts to constitute a cause of action and, accordingly, dismissing said complaint, with costs.

Plaintiff Juan Cruz Jr., alleges therein that, by virtue of a public instrument executed on December 28, 1953, defendant Crisanto Diaz had transferred to him whatever rights and interests he (Diaz) had over a parcel of land forming part of Lot 1080 of the Davao Cadastre No. 102, situated in the barrio of Panacan, Davao City, and covered by Homestead Application No. 165589, E-15448, for a consideration actually received by said defendant; that, thereafter, plaintiff filed the corresponding homestead application with the office of the Bureau of Lands in Davao, took possession of the aforesaid land and cultivated the same, as well as introduced improvements thereon, at a cost of, at least, P10,000.00; that on April 3, 1954, defendant caused to be issued, in his favor, Original Certificate of Title No. P-412, thru misrepresentation or fraudulent representation made to the Register of Deeds, to the effect that he (Diaz) had not made any transfer or transaction in connection with said land and was still its owner; that plaintiff demanded from defendant the surrender of said Original Certificate of Title No. P-412, but defendant refused to do so; that plaintiff asked the Director of Lands to revoke Homestead Patent No. V-25943 issued to the defendant, but said officer had taken, as yet, no action thereon; and that by reason of defendant's aforementioned acts, plaintiff had suffered damages in the sum of P1,000, aside from attorney's fees amounting to P1,500, and the costs. Plaintiff prayed, therefore, that judgment be rendered annulling or cancelling the aforementioned homestead patent and original certificate of title and that defendant be sentenced to pay him said sum of P1,000 as damages and P1,500 as attorney's fees, as well as for "such further and equitable remedy as may be deemed proper in the premises".

In his answer defendant denied some of the allegations of the complaint, specially those imputing fraud to him, and alleged that the transfer of homestead rights invoked by plaintiff is null and void, it being in contravention of section 118 of the Public Land Act; and that the true agreement between them was one of antichresis for the payment of a loan made by plaintiff to the defendant in August 1953 amounting to P16,000, which together with the interest it drew, had been fully satisfied with the products harvested by plaintiff from the land in question. Moreover, defendant set up a counterclaim for attorney's fees and expenses of litigation.

Subsequently, the Director of Lands was allowed to file a complaint in intervention alleging that, on March 8, 1954, he had caused Homestead Patent No. V-25943 to be issued for said land, which was covered by defendant's homestead application; that, upon registration of said homestead patent, the Register of Deeds of Davao issued Original Certificate of Title No. P-412 in defendant's name; that the intervenor had subsequently learned that defendant had, on December 28, 1953, executed a deed of transfer of his rights, thereby showing that he had

"already lost all rights and interests in the land, at the time of the issuance of the patent and * * * title therefor" that despite said transfer, defendant had received said patent and title, taking advantage of the fact that intervenor was unaware of the transfer aforementioned; and that the same "is contrary to section 118 of the Public Land Act, which renders the patent and the corresponding certificate of title * * * null and void". The Director of Lands prayed, therefore, that judgment be rendered declaring said homestead patent null and void, ordering the cancellation of the aforementioned certificate of title, and granting such other relief as may be just and proper.

Still later, defendant filed a motion to dismiss the complaint, upon the ground that "plaintiff has no legal capacity to sue"; that "the action is already barred"; and that "the complaint does not allege a valid and sufficient cause of action". Passing upon this motion, the lower court held that the first two grounds thereof should be deemed waived by the defendant, under Rule 9, section 10, of the Rules of Court. It, however, granted the motion upon the third ground: (a) because the effect of the relief sought by plaintiff would be a reversion of the land in question to the public domain, which only the Bureau of Lands may seek; (b) because the review of a Torrens title may be sought by the aggrieved party within one (1) year from the issuance of the decree of registration, and, in the case certificates of title issued upon the authority of a homestead patent, from the issuance of said certificate of title, which, in the case at bar, took place on March 8, 1954, whereas plaintiff's complaint herein was filed on March 28, 1955, or more than a year later; and (c) because plaintiff claims to have derived his rights and interest in and to said land from the defendant, so that if the rights and interest of the latter were nullified, then the former would have no right or interest to invoke and protect in this case.

It should be noted, however, that plaintiff's complaint contains two (2) causes of action: (a) the first refers to the alleged transaction between the parties, the fraudulent means allegedly resorted to by the defendant to secure a homestead patent and a certificate of title, and his refusal to surrender the latter to the plaintiff, who, therefore, prays for the annulment or cancellation of said patent and title; and (b) the second refers to the damages allegedly sustained by plaintiff on account of defendant's acts, and for which plaintiff seeks a money judgment against the defendant. The reasons advanced in the order appealed from had nothing to do with the second cause of action and could not possibly justify the dismissal of the complaint insofar as the same is concerned.

Besides in addition to urging cancellation of the homestead patent and certificate of title in defendant's name, plaintiff prayed for "such further and equitable remedy as may be deemed proper in the premises". If all the rights and interests of the defendant in and to the land in question were transferred by him to the plaintiff, then the latter would be entitled—if such transfer were valid, and nothing to the contrary appears in the complaint, the allegations of which are hypothetically admitted by defendant's motion to dismiss—to compel the former to execute a deed of conveyance and assignment of the land covered by said certificate of title in his (plaintiff's) favor. Hence, the allegations of the complaint, under the first cause of action therein set forth, were sufficient to constitute a cause of action and to justify the grant of a relief under the general prayer contained in said complaint (*Tolentino vs. Baltazar*, supra, p. 421).

Even, however, with respect to the annulment or cancellation of defendant's homestead patent and certificate of title, the order appealed from appears to be too technical, under the circumstances obtaining at the time of its issuance, and to serve no practical purpose. Indeed, in view of the intervention of the Director of Lands, who prayed for said annulment and cancellation, the question whether plaintiff was entitled thereto became academic, insofar as the defendant is concerned, for, at any rate, the lower court would have to pass upon the merits of said complaint in intervention and decide, after due hearing, whether said homestead patent and certificate of title should be annulled and/or cancelled.

Wherefore, the order appealed from is reversed, and the records of this case are hereby remanded to the lower court for further proceedings not inconsistent with this decision, with the costs of this instance against defendant

Crisanto Diaz.

IT IS SO ORDERED.

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

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