

SANCHO B. DE LEON, PLAINTIFF AND APPELLEE, VS. ESTANISLAO FAUSTINO, DEFENDANT AND APPELLANT.*G.R. No. 15804. November 29, 1960*

Ponente: GUTIERREZ DAVID, J.

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On March 2, 1957, plaintiff Sancho B. de Leon through counsel filed a complaint against Estanislao Faustino to vindicate title and to recover possession of real property, plus damages. The complaint in substance alleges that the property in question was acquired by plaintiff by virtue of a deed of sale dated April 21, 1953 executed in his favor by Alberto Jimenez, its former registered owner; that on or about June 12, 1953, plaintiff demanded possession of the land from defendant, but the latter refused and instead instituted Civil Case No. 588 against him and two others in the same court, asking for the cancellation of his (plaintiff's) Transfer Certificate of Title No. 4368; that on November 29, 1955, the Court of First instance of Isabela rendered its decision dismissing the complaint, sustaining in effect plaintiff's title to the land; and that sometime after the said decision was promulgated, plaintiff again demanded possession of the land from the defendant but the latter refused and still refuses causing plaintiff to suffer damages.

In his answer, the defendant admits and denies certain facts pleaded in the complaint. He claims that he was the registered owner of the land in question and by way of affirmative defenses alleges that he has not sold, conveyed or ceded the land to any person; that if he has executed any deed of sale, the same has been secured by means of fraud and therefore null and void; that when Alberto Jimenez bought the land (from one Margarita A. de Peralta) and plaintiff, in turn, purchased it from Jimenez, both of them knew fully well that defendant was the legal owner thereof; that since 1933 up to the present time, defendant has been in the open, continuous and adverse possession of the land; and that plaintiff's cause of action is already barred by prescription or laches.

On August 29, 1957, alleging that there are no genuine issues as to the material facts alleged in the complaint and that judgment could be rendered forthwith on the pleadings already filed, plaintiff moved for summary judgment, attaching to his motion in support thereof his affidavit and that of his overseer.

After hearing on the motion for summary judgment was postponed, plaintiff was allowed by the court below in its order dated September 13, 1957 to file within 5 days a certified true copy of the decision in Civil Case No. 588, entitled 'Estanislao Faustino vs. Sancho B. de Leon, et al.' and a certificate of the clerk of court to the effect that the said decision has already become final.

On October 9, 1957, the defendant filed an opposition to the motion for summary judgment on the grounds that (1) the case is not an action "to recover upon a claim"; (2) that there are genuine issues of fact; (3) that plaintiff's cause of action is barred by prescription or laches; (4) that defendant has acquired ownership and title over the land by acquisitive prescription; and (5) that the decision in Case No. 588 does not constitute *res judicata*. In support of the opposition, the joint affidavit of defendant and his wife was presented in court.

Overruling the opposition, the court below granted plaintiff's motion and on January 15, 1958 rendered a

summary judgment, declaring him the absolute owner of the land described in the complaint and in his Transfer Certificate of Title No. T-4368, and ordering the defendant to vacate the same and to pay the costs. From this judgment, defendant appealed. The appeal was taken to the Court of Appeals but that court has certified the case to us on the ground that the questions involved are purely legal.

The appeal is without merit.

The material averments of the complaint that plaintiff acquired the land in question from its former registered owner Alberto Jimenez by virtue of a contract of sale and that the Torrens title to the land is now in the name of plaintiff, the validity of which had been confirmed in a prior civil case filed by defendant against plaintiff and two others are not disputed. The only issues of fact which served as basis for opposition to the summary judgment are those raised in the affirmative defenses wherein defendant claimed that the sale of the land to plaintiff was tainted with fraud; that defendant has been in continuous, open and adverse possession of the land since 1933; and that plaintiff's cause of action is already barred by prescription or laches. An examination, however, of the pleadings together with the affidavits presented by the parties and the documents on file show the non-existence of defendant's claims or defenses. Thus, without mentioning the fact that defendant, in alleging fraud, failed to state the circumstances constituting the fraud, as required by section 12 of Rule 15, it is on record that in Civil Case No. 588 wherein defendant prayed, among other things, for the annulment of plaintiff's certificate of title, no fraud or bad faith was alleged as against said plaintiff, in his acquisition of the land and for that reason the complaint was dismissed as against him. With respect to the claim that defendant has acquired the land by prescription, it is also on record that Transfer Certificate of Title No. 1519 covering the land in question was issued in the name of Margarita A. de Peralta on July 5, 1939; that this title was subsequently cancelled and a new one, Transfer Certificate of Title No. 2359, was issued in the name of Alberto Jimenez on February 11, 1946; and that on June 3, 1953 Transfer Certificate of Title No. 4368 was issued in plaintiff's name. These circumstances negative defendant's claim that he has acquired the land thru acquisitive prescription.

"When a title is registered in the first instance, or under a transfer from the last registered owner, the statute declares the certificate to be evidence of an indefeasible title to the interest or estate registered, and the effect of this is that the issue of the certificate ipso facto divests any interest or estate which may exist in any other person and vest it in the person registered as owner * * *." (Niblack, Analysis of Torrens System, Sec. 4, p. 6.)

Finally, as to the allegation that plaintiff's cause of action is already barred by prescription or laches, it is not disputed that plaintiff acquired the land in question on April 21, 1953, demanded possession on June 12, 1953 and filed the present case to recover ownership and possession on March 2, 1957. The length of time from the date of acquisition to the date of the filing the action not being more than 4 years, it cannot validly be claimed that plaintiff's complaint is already barred by prescription or laches. Under the circumstances of the case, we hold that the lower court committed no error in rendering a summary judgment on the merits of the case.

It is contended that the procedure of summary judgment is not warranted in the instant case since it is not an action "to recover upon a claim, counterclaim, or cross-claim". It is argued that section 1 of Rule 36 providing for the remedy of summary judgment for the claimant contemplates action or cases which are in the nature of money claims. The contention cannot be sustained. Summary judgment procedure is a method for promptly disposing of actions in which there is no genuine issue as to any material fact. Under this definition and from the provision of section 1 of Rule 36, there would seem to be no limitation as to the type of action in which the remedy is available, except, of course, where the material facts alleged in the complaint are required to be proved. As observed in the note of the Advisory Committee of the United States Supreme Court, quoted by former Chief Justice Moran in his comments on the Rules of Court (Vol. I, 1957 ed., p. 487) —

"This rule (on summary judgment procedure) is applicable to all actions, including those against the United

States or an officer or agency thereof.

* * * * *

"In England it was first employed only in cases of liquidated claims, but there has been a steady enlargement of the scope of the remedy until it is now used in actions to recover land or chattels and in all other actions at law, for liquidated or unliquidated claims, except for a few designated torts and breach of promise or marriage * * *."

The case of *Roque vs. Encarnacion* (95 Phil., 643; 50 Off. Gaz., [9] 4193) cited by defendant as an authority to support his theory that a summary judgment could be rendered only in actions involving money claims, is not applicable to the case at bar. That case refers to an action for annulment of marriage where the material facts alleged in the complaint are required to be proved at the trial (Sec. 10, Rule 35) in order to prevent collusion between the parties.

It is also argued by defendant that while *res judicata* may be a ground for dismissal, it cannot be the legal basis for a summary judgment. Without questioning the correctness of this argument, it will be noted that the lower court did not base its summary judgment upon the doctrine of *res judicata* but on its finding that there was no genuine triable issue of fact. The doctrine of *res judicata* was considered by the court below merely in support of that finding, the defendant having tried to raise issues which have already been decided and settled in a previous case involving the same parties.

In view of the foregoing, the decision appealed from is affirmed, with costs against defendant-appellant.

Paras, C.J., Bengzon, Bautista Angela, Labrador, Concepcion, Reyes, J.B.L., Barrera, Paredes, and Dizon, JJ., concur.

Judgment affirmed.

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