

BERNABE RELLIN AND BUENAVENTURA RELLIN, PLAINTIFFS AND APPELLANTS, VS. AMBROSIO CABIGAS AND DIRECTOR OF LANDS, DEFENDANTS AND APPELLEES.*G.R. No. 15926. October 31, 1960*

Ponente: BARRERA, J.

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From the order of the Court of First Instance of Lanao (in Case No. 555) dismissing their complaint against defendants Ambrosio Cabigas and the Director of Lands, for lack of cause of action and legal capacity to sue, plaintiffs Bernabe Rellin and Buenaventura Rellin, interposed this appeal which was certified to us by the Court of Appeals involving, as it does, only questions of law.

In this appeal, appellants contend that the trial court erred in holding that it has no jurisdiction to try the case; that plaintiffs-appellants have no legal capacity to prosecute this case; that plaintiffs-appellants have no cause of action; and in dismissing the case without trial on the merits. The resolution of these issues requires an examination of the complaint.

The allegations in this pleading are: that plaintiffs are the equitable possessors and owners of a 4-hectare portion of Lot 188, Pls-35, located at Butadon, Kapatagan, Lanao; that said portion was acquired by plaintiff Bernabe Rellin from plaintiff Buenaventura Rellin in 1950, who had originally acquired it by a purchase from the spouses Felix Tayong and Arcadia Ongayo on February 13, 1943; that after said purchase, plaintiff Buenaventura Rellin immediately occupied the land until the present openly, publicly, notoriously, uninterruptedly, and in the concept of an owner, introducing valuable improvements thereon; that, said portion of Lot No. 188 had been declared for taxation purposes in the name of plaintiff Buenaventura Rellin, and annual land taxes were duly paid by him from 1947 to the present; that said Felix Tayong, predecessor-in-interest of plaintiffs, had filed a homestead application over said portion under H. A. No. 202470, duly approved by the Director of Lands under H. A. No. V-11809; that plaintiff Bernabe Rellin, on May 16, 1950, filed his own homestead application over the same portion; that defendants Ambrosio Cabigas, in turn, maliciously, surreptitiously, and without plaintiffs' knowledge or permission, filed an application in the Bureau of Lands over the whole Lot No. 188 in question, and caused to be filed his final proof thereon without plaintiffs' knowledge; that they (plaintiffs) learned of defendant Cabigas' application only sometime in the middle of 1953; and that they immediately filed formal protests against said application with the Director of Lands on July 7 and December 23, 1953, and with the President on March 27, 1954. Plaintiffs prayed that judgment be rendered cancelling the original certificate of title issued to defendant Cabigas over the whole portion of said Lot No. 188, so as to exclude the 4 hectares therein belonging to them, declaring said portion as public land; and ordering defendants to pay them moral damages, attorney's fees, and costs.

The import of the foregoing averments is that the land in question is part of the public domain; that plaintiffs are occupying the same as successors-in-interest of Felix Tayong who previously applied for it as a homestead for

which he has obtained no patent nor certificate of title; that plaintiff Bernabe Rellin re-applied for it himself as a homestead without obtaining up to the present a patent, much less a certificate of title. On the other hand, it is alleged in the same complaint that the land in question is included in defendant Cabigas' homestead covered by a homestead patent as well as the corresponding certificate of title. While it is averred that formal protests against Cabigas' homestead application have been lodged with the Director of Lands and the President, it nowhere appears what action, if any, was taken on said protests. The complaint does not show that appellants have pursued their protest to its conclusion.

In the case of Miguel, et al. vs. Vda. de Reyes, et al., (93 Phil., 542), the facts of which are practically on all fours with those of the case at bar, we held:

"There is no clear averment that the lands claimed by plaintiffs are private property. On the contrary, it may be deduced from the allegations of the complaint that these lands were public lands the disposition of which is vested in the Director of Lands, subject, in case of appeal, to the approval of the Secretary of Agriculture and Commerce. But it does not appear that they have pursued their protest to its conclusion in the Bureau of Lands itself. Having failed to exhaust their remedy in the administrative branch of the Government, plaintiffs cannot now seek relief in the courts of justice.

"Wherefore, the order of dismissal is affirmed with costs."

And, with respect to appellants' lack of capacity to sue in their own right, we have the very recent case of Gamao, et al. vs. Calamba, et al. (supra, p. 542), the facts of which are, likewise, similar to those of the instant case, in which this Court stated:

"The lower court correctly dismissed the complaint. It appears from the face thereof that the plaintiffs have as yet acquired no title to the lot in question to entitle them to sue in their own right. They are mere applicants thereto, their application (Free Patent Application No. 35766) being still pending approval by the Director of Lands. The land subject of their application which, allegedly includes the portion (Lot No. 1690) titled in the name of defendant Calamba, is still public land and, therefore, subject to the exclusive and executive control and jurisdiction of the Director of Lands. * * * The mere fact that a patent and a title have already been issued to defendant Calamba does not preclude administrative investigation by the Director of Lands, who, if he finds that there was fraud in obtaining the same, may himself or in representation of the Republic of the Philippines file an appropriate action for the cancellation of the patent and title or for the reversion of the land to the public domain, as the case may be. As it is, Calamba's additional contention that the complaint alleges no cause of action is likewise correct.

"Wherefore, the order appealed from is hereby affirmed, with costs against the plaintiffs-appellants."

The above rulings of this Court are determinative of the issues raised in the present appeal.

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

Paras, C.J., Bengzon, Padilla, Bautista Angelo, Reyes, J.B.L., David, and Paredes, JJ., concur.

Order affirmed.

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