

JOSE BUMANGLAG, PLAINTIFF AND APPELLANT, VS. MELECIO BARAOIDAN AND HILARION BARAOIDAN, DEFENDANTS AND APPELLEES.

G.R. No. 16018. March 31, 1964

Ponente: DIZON, J.

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DIZON, J.:

Appeal taken by Jose Bumanglag from the order of the Court of First Instance of Ilocos Norte in Civil Case No. 1098 dismissing his complaint against Melecio and Hilarion Baraoidan, on the ground of res judicata.

On December 31, 1949, appellant commenced the present action against appellees in the Court of First Instance of Ilocos Norte to recover the ownership and possession of a parcel of land situated in sitio Darasdas, Barrio Lippas a Bassit, Municipality of Solsona, Ilocos Norte, alleging in his complaint that he had inherited it from his parents; that in the year 1930, his father assigned a portion thereof, with an area of 4 hectares, 28 ares and 40 centares, to Juan Baraoidan, father of appellees, for the latter to clear and cultivate, with the understanding that all the products to be harvested therefrom would belong to him until the total area of the land was fully developed, in which case the produce thereof would be divided equally between the parties; that after the death of Juan Baraoidan, appellees occupied the same portion of land as tenants of appellant's father under the same conditions; that as appellees began asserting title over the property by clandestinely declaring the same for taxation in their names, an action to recover its possession was instituted by appellant's father sometime in 1935; that despite repeated demands of appellant for them to surrender and vacate the property, appellees refused to do so.

Appellees moved for the dismissal of the complaint on the ground of prescription of action, alleging that on March 29, 1935 Gregorio Buinanglag, appellant's father, commenced Civil Case No. 3841 in the Court of First Instance of Ilocos Norte against appellees for the recovery of the land subject-matter of the present action; that the latter filed their answer therein claiming exclusive ownership over the property; that when the case was called for trial, the court, upon motion of plaintiff Bumanglag, dismissed the same in its order dated October 9, 1936; and that the present action was filed thirteen years after the dismissal of Civil Case No. 3841.

Meanwhile, appellant filed an amended complaint which the lower court admitted on February 8, 1959, denying at the same time appellees' motion to dismiss the original complaint.

On February 9, 1950, appellees moved to dismiss the amended complaint upon the same ground relied upon as, AI against the original complaint. The Court having denied the motion, appellees filed their answer denying the material allegations of the complaint and interposing the affirmative defenses of res judicata and prescription.

On June 2, 1955, Manuela R. Ablan and Rogue Ablan, Jr., widow and son of the late Governor Roque Ablan of Ilocos Norte, respectively filed a motion for leave to intervene, claiming that appellees had ceded a portion of the land in question to the latter as his professional fee in Civil Case No. 3841, but this motion does not appear to have been granted.

On October 4, 1958, the Court set aside its previous order denying appellees' motion to dismiss and issued the appealed order dismissing the complaint on the ground that the present action was barred by the order of dismissal issued in Civil Case No. 3841 mentioned heretofore.

The complaint filed in Civil Case No. 3841 was exclusively for the purpose of "evicting" the defendants from the property subject matter thereof, and to recover from them, jointly and severally, the total sum of P900.00 as damages. It was filed in the Court of First Instance for the reason that, according to the complaint, the defendants had unlawfully taken possession of the land "four years before the commencement of this (the) suit". It also appears that the order dismissing said case was issued upon motion of the plaintiff therein, with the conformity of the defendants. As it was issued on October 9, 1936, its effects are to be determined by the provisions of Section 127 of Act 190, according to which, the Court may, in its discretion, allow a plaintiff to dismiss his action even after the trial had begun and at any time before final judgment, said dismissal not being "a bar to another action for the same cause." If it does not bar a second action for the same cause, we may conclude, a fortiori, that it can not bar another action, like the one before Us, which principally involves ownership.

WHEREFORE, the order appealed from is hereby set aside, and this case is remanded to the lower court for further proceedings.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes J. B. L., Barrera, Paredes, Regala, and Makalintal, JJ., concur.

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