

**TOMAS BENAZA AND FRANCISCA JIMENEZ, PLAINTIFFS AND APPELLEES, VS. ZOILO BONILLA, ET AL., DEFENDANTS AND APPELLANTS.***G.R. No. 16560. April 28, 1961*

Ponente: REYES, J.B.L., J.

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Civil Case No. A-91 of the Court of First Instance of Pangasinan was instituted on January 11, 1958 by appellees herein Tomas Benaza and his wife Francisca Jimenez against Zoilo Bonilla, Juan Bonilla and Paulino Bonilla, to recover from said defendants the possession of a parcel of land in barrio Malimpin, municipality of Dasol, covered by Transfer Certificate of Title No. 19691 of the Registry of Deeds of Pangasinan, and to compel the defendants to pay damages and attorney's fees.

Defendants duly answered, pleading that originally, the property belonged to one Catalino Mina and his wife, who had acquired it by way of homestead in 1927 and was issued Certificate of Title No. 773 for it; that by Notarial deed dated 19 August 1942, Mina and his wife sold the property to Zoilo Bonilla; that the latter in 1953 donated the land to his three sons, Roberto, Juan and Paulino Bonilla; that subsequently, Juan and Paulino transferred, their two-thirds interest to Alberto Bonilla; that the defendants had improved the land and were in possession thereof; and counterclaimed that the plaintiffs' certificate No. 19691 was derived from Mina's Original Homestead Certificate No. 773-H, through Transfer Certificates Nos. 9241, and 9780; that Certificate No. 773 was cancelled through fraud, and all subsequent certificates were null and void; and asked the Court that the said subsequent certificates be annulled. Alberto Bonilla, although not one of the original defendants, filed a third-party complaint against Catalino Mina and his wife Vicenta Papuncio, for enforcement of their warranty as vendors, and to compel them to pay whatever damages should be recovered from the Bonillas; and to pay the value of the improvements introduced by the latter in the disputed land.

Although Alberto Bonilla had not been formally allowed to intervene, Judge Genaro Tan Torres admitted his third-party complaint "to avoid multiplicity of suits." Subsequently, the third-party complaint was amplified in a formidably elaborate and intricate "Supplemental Answer to the Complaint" dated November 4, 1956, and apparently prepared without benefit of counsel, wherein in a long recital of facts, interspersed with arguments, Alberto Bonilla asked for the nullification of Transfer Certificates Nos. 9241 (issued in the name of Eulalia Dimalanta), 9780 in the name of Rosario Dimalanta, and 19691, issued to Maximo Tandoc, all of which were derived from the Certificate No. 773 of the original owner Catalino Mina (Rec. of Appeal, pp. 35-45). This pleading was followed by a "Motion to Declare Transfer Certificate of Title 19691 in the name of Tomas Benaza, et al, Invalid", which the Court of First Instance denied for obvious reasons, no trial having been had.

On September 14, 1959, plaintiff Benaza moved to dismiss the action on the ground that he was already in peaceful possession of the land in litigation. The Bonillas opposed dismissal on account of their counterclaim and third-party complaint. But Judge Jaime de los Angeles, who had succeeded Judge Tan Torres, dismissed the case as

prayed for by plaintiffs, declaring that the issues raised in the counterclaim and third-party complaint should be litigated in a separate proceeding.

From this order, the Bonillas appealed to this Court.

We find no error in the order of dismissal. It is self-evident that the nullification of the three certificates of title 9241, 9780 and 19691 that successively superseded the certificate of title of Catalino Mina, defendant's vendor, as fraudulent and void, can not be obtained upon a third-party complaint against Mina and appellees Benaza only, without joining as defendants the holders of the intervening certificates of title, Eulalia Dimalanta, Rosario Dimalanta and Maximo Tandoc, and giving them an opportunity to defend their acquisitions and actuations. Hence, neither the counterclaim nor the third-party complaint, which were practically identical, constituted a legal obstacle to the dismissal asked by plaintiffs, even upon the assumption that the contentions of the Bonillas are true and correct, and that they are qualified to assail the issuance of the various certificates of title, points which this Court does not now pass upon (Rule 30, sec. 2).

It is also to be noted that appellants themselves, in their brief (p. 14), admitted that "the issues presented in the counterclaim are separate and distinct from the issues raised in the complaint."

The appealed order of dismissal is affirmed. Costs against appellants.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Barrera, Paredes, and Dizon, JJ., concur.

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