

PRIMO GAFFUD, PLAINTIFF AND APPELLEE, VS. MARCIANA CRISTOBAL, TARCILA ANCHETA, BALDOMERO VALDEZ, PASCUALA BATOON, ELADIO MATIAS, BERNARDINO S. PASTOR, LEONCIA MANGANTULA VDA. DE...*G.R. No. 17638. February 28, 1966*

Ponente: MAKALINTAL, J.

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Defendants appealed to the Court of Appeals from the summary judgment rendered against them by the Court of First Instance of Isabela, by virtue of which plaintiff was declared the absolute owner of the land described in Original Certificate of Title No. A-110 of the Register of Deeds of Isabela. In the same judgment the court issued a final mandatory injunction ordering defendants to vacate and surrender to plaintiff the portions of said land described in paragraph 3 of the complaint and a permanent prohibitory injunction against defendants reentering said portions. The Court of Appeals certified the case to us because it involves a purely legal issue namely, whether the court a quo was correct in rendering a summary judgment on the ground of res judicata.

The material allegations of the complaint are substantially as follows: Plaintiff's predecessor-in-interest, the late Eufracio Gaffud, was the registered owner of certain parcels of land situated in barrio Palagao, Jones, Isabela, covered by Certificate of Title No. A-110, issued by the Register of Deeds of Isabela on August 16, 1923 pursuant to the decision in the corresponding registration proceeding rendered on December 18, 1915. By virtue of that decision the Court of First Instance of Isabela issued a writ of possession against forty-four (44) persons who were occupying portions of the land. Among those ordered evicted were the present defendants-appellants and/or their predecessors-in-interest. Subsequently said defendants filed nine separate complaints against plaintiff, each asserting his or her individual claim of ownership over a portion of land admittedly within the area covered by the certificate of title. In those cases the court, on March 14, 1956, rendered a joint summary judgment dismissing the complaints. The plaintiffs therein appealed directly to this Court, but for failure to pay the docket fee on time the appeals were dismissed on September 9, 1957. The contention of Primo Gaffud, as plaintiff in the instant case, is that in view of the dismissal of defendants' claims in the court's decision of March 4, 1956, he is entitled to an order for the restoration of possession to him.

Defendants Eladio Matias and Estanislao Matias were declared in default, while the rest of the defendants filed a joint answer in which, while admitting that the land in question are within the area covered by the certificate of title issued in favor of Eufracio Gaffud, they alleged that he included said lands in his application for registration although he knew that the same were owned by them and/or by their predecessors, who had been in actual possession thereof as owners since 1894. Admitting also that they filed actions against plaintiff in 1954, they contend nevertheless that they were not given the chance to prove their allegations therein regarding the extent and length of their possession as the court, over their vigorous objection, rendered a summary judgment dismissing their complaints. It is a fact, however, that they did not appeal from said judgment and that it has long since become final. In their answer to the complaint in the present case defendants allege as affirmative defenses

that since 1894 up to 1954 neither plaintiff "or his predecessor-in-interest ever asserted any right of ownership or possession over the parcels of land in question; that they allowed defendants and their predecessors to work on said lands peacefully and in concept of owner during said period; that prior to 1954 defendants were not aware of the land registration proceeding brought by the late Eufracio Gaffud nor of the issuance of a certificate of title in his name and the alleged order of eviction of 44 persons occupying portions of the registered land; and that an implied trust was created in their favor when Eufracio Gaffud knowingly included their lands in the area he registered in his name.

Plaintiff filed a motion for summary judgment, to which he annexed the complaints in the nine aforementioned cases (Exhibits A-1, B-1, C-1, D-1, E-1, F-1, G-1, H-1, and I-1,) ; the blue print plan of the parcels of land described in said complaints (Exhibit J) ; the sketch plan thereof (Exhibit K) ; the decree of registration (Exhibit L) ; Original Certificate of Title No. A-110: of the Register of Deeds of Isabela (Exhibit M); sketch plan of all the lands covered by the certificate (Exhibit N) ; the writ of possession (Exhibit O) ; the "diligencia por cumplimiento de posesion" (Exhibit P) ; the decision in the nine cases (Exhibit Q) ; the order denying the motion for reconsideration of said joint decision (Exhibit R) ; and this Court's resolution dismissing the appeal from the joint decision (Exhibit S).

Defendants opposed the motion. To their opposition they attached their own affidavits (Exhibits 1 to 8), stating that they had been in continuous and uninterrupted possession of the controverted portions since 1894.

The court rendered a summary judgment as prayed for by plaintiff. The rule is that a party seeking to recover upon a claim, counterclaim, or crossclaim or to obtain a declaratory relief may, at any time after the pleading in answer thereto has been served, move with supporting affidavits for a summary judgment in his favor upon all or any part thereof (Rule 31, Section 1). The adverse party, prior to the day of hearing of the motion, may serve opposing affidavits. After the hearing, the judgment sought shall be rendered forthwith if the pleadings, depositions, and admissions on file, together with the affidavits, show that, except as to the amount of damages, there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law (Rule 34, Section 3).

There appears no real issue as to any material fact herein. Appellants admit that the portions of land which they claim are within the area covered by the original certificate of title upon which appellee relies. They further admit that they filed nine separate complaints against appellee for 'reconveyance of said portions of land, but that the same were dismissed by the lower court and this Court in turn dismissed their appeal.

All the elements necessary for the application of the principle of *res judicata* are present. The judgment, which was rendered by a court having jurisdiction, has acquired finality. Between those nine actions and the present one there is identity of parties, of subject-matter, and of cause of action. Appellants here were the plaintiffs in those cases while appellee was the common defendant. Appellants agree that the same portions of land are involved. In those cases appellants claimed in their individual complaints that they had been in public, adverse and uninterrupted possession of said properties from 1894 up to 1954 and that it was only later on that they came to know that said lands had been fraudulently included by Eufracio Gaffud in his application for registration. Here they reiterate the same allegation.

Since appellee has been declared by final judgment as owner of the lands in question, he is entitled to the possession thereof, and the order of the trial court to place him in such possession is proper.

The judgment is affirmed, with costs against appellants.

Bengzon, C.J., Bantista Angelo, Concepcion, Reyes, J.B.L., Barrera, Dizon, Regala, Bengzon, J.P., Zaldivar and

Sanchez, JJ., concur.

Judgment affirmed.

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