

GONZALO TUASON Y PATIÑO ET AL., APPLICANTS. SABAS BUSTAMANTE ET AL., PETITIONERS AND APPELLEES, VS. JOSE MARIA TUASON ET AL., RESPONDENTS AND APPELLANTS.

G.R. No. 22510, February 06, 1925

Ponente: JOHNSON, J.

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JOHNSON, J.:

As to the nature of the present proceedings, it may be noted from a reading of the so called motion or petition quoted below, that the appellees are attempting to compel someone, without mentioning whom, to sell a parcel or parcels of land to them, without indicating the extent or location of the same, further than to say that said parcels are located or included within the Hacienda de Maysilo. The record shows that the Hacienda de Maysilo covers several millions of square meters of land.

The present motion is an aftermath of two other cases. The first was a petition for partition of a large tract or parcel of land belonging to the Tuason estate located in the municipalities of Caloocan and Malabon, of the Province of Rizal, which was commenced in the year 1906. The second was an action for the registration of said tract or parcel of land commenced by the Tuason family in 1908. The two actions have a long history, and considering the way they were handled and the numerous unnecessary delays and the confusion found in the records, very little credit is due to any of the parties connected with said causes.

During the proceedings in the petition for partition as well as in the action for the registration of said tract or parcel of land, many persons appeared and laid claim to parts of the same. Due to the claims presented by many of the occupants of said tract or parcel of land, the Tuason family authorized the trial court to appoint a commission to sell to such claimants any part or all of said tract or parcel of land involved in the said two actions. Said commissioners under that authority did sell various parcels of more or less extent to many of said claimants. Notwithstanding the authority of said commissioners and notwithstanding the fact that they were negotiating with many of the claimants to sell parcels of said tract, the petition for partition was finally closed and the heirs of the Tuason family were granted their respective shares. And not only was the action for partition closed, as just indicated, but a decree of registration, under the Torrens system, was also granted, with the evident understanding that whatever parcels or portions of said original tract, which had been or might be sold by said commissioners, should be excluded from said tract in the method and manner provided for by law.

In the original authority granted to said commissioners, they were directed to close their negotiations within the period of six months. That period was extended from time to time and the sale of numerous parcels was consummated, and deeds of sale were executed in favor of many of the purchasers. The greater portion of said sales were consummated between the years 1910 and 1913.

While the present claimants contend that they have a right to purchase certain parcels, no demand on their part was made for the consummation of their right until the 17th day of August, 1922, when they filed the present motion (not a petition) in the Court of First Instance of the Province of Rizal. Said motion is as follows:

"UNITED STATES OF AMERICA

"PHILIPPINE ISLANDS

"IN THE COURT OF FIRST INSTANCE OF RIZAL

"Registration case No. 4429 con-]

nected with No. 4496.]

]

"SABAS BUSTAMANTE, AGA-]

"RECORD

PITO C. CRUZ, PEDRO]

BAUTISTA, and DEMETRIA CRUZ,]

"Petitioners.

"MOTION

"Comes now the undersigned attorney on behalf of the above-named petitioners and to the court shows:

"1. That the petitioners are in possession and the holders of their respective lots of land included in the 'Hacienda de Maysilo' with a right to purchase the same by virtue of a contract entered into with the owners of the said hacienda, found in Expediente No. 391 of this court.

"2. That the petitioners have already advanced to the hacienda, through Mr. Apolinario Baltazar, who then represented them, a part of the purchase price of the aforesaid lots, to wit, the sum of P144, that is to say P36 per parcel, the document evidencing their option having been issued in favor of the aforesaid Mr. Apolinario Baltazar.

"3. That by an order of the court in Expediente No. 4429, the commissioners were ordered to deliver the possession of the land of said hacienda to the heirs subject to the right reserved to the possessors and land holders.

"4. That the petitioners are now ready to pay in cash the balance of the purchase price of the respective lots occupied by them with a deduction of 20 per cent thereon.

"5. That their respective lots will be identified at the hearing of this motion by means of the plan thereof.

"Wherefore it is prayed that after hearing of this motion an order be issued by the court directing the owners of the lands aforesaid to execute the proper deed of sale in favor of the petitioners upon payment of their price.

"Manila, August 17, 1922.

(Sgd.)

"PRUDENCIO A. REMIGIO

"Attorney for the petitioners

"211 Carriedo, Manila

"Copy sent to the parties in interest by registered mail.

"Messrs. JOSE VARELA CALDERON, JOSE ARNAIZ, VICENTE FOZ, GREGORIO ARANETA, AND GABRIEL LA O, attorneys for the parties in interest in the above entitled expediente and civil case No. 391, Court of First Instance of Rizal, all being residents of Manila.

"GENTLEMEN:

"Please take notice that on Saturday, 26th instant at the usual time, we will move the court to pass upon the foregoing motion.

"Manila, August 17, 1922.

(Sgd.) "PRUDENCIO A. REMIGIO"

It will be noted from a reading of said motion that its purpose was to obtain the specific performance of a contract of sale of land. No respondents are named. No land is described. Said motion contains no facts upon which the judgment could be rendered, even though no defense was presented. The lower court should have, without delay, dismissed the action, with costs against the petitioners.

The fact that the court took jurisdiction and continued to hear and determine the question presented not upon the facts stated in the motion but upon the evidence adduced, shows to what extent parties litigant may be annoyed without just cause.

As will appear later in this discussion, the appellees claim but small parcels of land, without indicating the exact area. Sabas Bustamante, however, admitted that he was entitled to purchase six hectares only, or 60,000 square meters, whereas in the plan which he presents, he claims 521,465 square meters. While Agapito C. Cruz claimed in his testimony that he was entitled to one small parcel only, in the plan which he presents, showing the land to which he has a right to purchase, he claims three parcels with a total area of 1,125,657 square meters. While Demetria Cruz in her testimony claimed but one parcel of land, the plan which was presented gives no indication that she is the owner of any parcel. These facts indicate very little less than an attempt to defraud Jose Maria Tuason.

On the 25th day of August, 1922, Mr. Gabriel La O, represented by P. J. Sevilla, without stating whom he represented, appeared and answered said motion as follows:

"UNITED STATES OF AMERICA

"PHILIPPINE ISLANDS

"IN THE COURT OF FIRST INSTANCE OF RIZAL

"Registration case No. 4429 con-]

nected with No. 4496.]

]

No. _____

"SABAS BUSTAMANTE ET AL.,]

"Petitioners.

]

"ANSWER TO THE MOTION OF THE PETITIONERS

"Comes now the undersigned attorney on behalf of some of the parties interested in the above entitled expediente and in civil case No. 391 of this court and to the Honorable Court respectfully shows:

"That Mr. Apolinario Baltazar has not made but a deposit in his name for the purchase of the said portion of land included in Expediente No. 391.

"That Mr. Apolinario Baltazar has already obtained the title to said land possessed by him and for the purchase of which the deposit of P144 was made.

"That without the proper plan, these parties cannot identify the land, the purchase of which is applied for by the petitioners.

"Wherefore, the undersigned respectfully prays this Honorable Court to order the petitioners to attach to their motion a parcel plan of said land, the purchase of which is applied for, and that the undersigned counsel be given a reasonable time to answer said motion with the aforesaid plan before him.

"Manila, for Pasig, Rizal, August 25, 1922

GABRIEL LA O

By (Sgd.)

"P. J. SEVILLA

"Attorney for the parties herein

appearing before the court

"143 Juan Luna, Binondo, Manila"

No further pleadings were presented in court and nothing further seems to have occurred with reference to said motion until the time set for the trial on the 10th day of March, 1923. At the beginning of the trial it appears of record that Mr. Vicente Foz appeared for the owners of a portion of lot No. 25. Attention was called to the fact that the motion filed by the present petitioners failed absolutely to describe the land which they claimed they had a right to purchase, or to even locate it by sitio, barrio or municipality. They did, however, attempt to locate it within the hacienda mentioned in the two other actions for partition and registration (Nos. 391 and 4429). Their own testimony given during the hearing is equally as indefinite and uncertain, as to the location of the parcels of land. Their theory, however, is based upon an allegation that one Apolinario Baltazar represented them in the purchase of the respective parcels of land to which they now lay claim.

Mr. Apolinario Baltazar testified as a witness and presented exhibits showing or attempting to show that the land which he had purchased for himself and as a representative of the appellees, if any they had purchased, was in lot No. 23. The court a quo awarded to the appellees lot No. 25, notwithstanding the fact that the only pretension of Apolinario Baltazar was that he and the present appellees were entitled to purchase lot No. 23. From an examination of the various plans presented in the other two actions, the fact clearly appears that lot No. 25 of the

Hacienda Maysilo is north of a street known as Calle Samson, while lot No. 23 is a long distance from Calle Samson to the south. It may be added that Calle Samson seems to be a principal street crossing the said hacienda.

Examining the testimony of the three appellees with reference to the location of the respective lots, we find that Sabas Bustamante testified that he was the owner of six hectares; that he and his parents had lived upon and occupied the same for a period of about fifty years; that the land was bounded on the north by Pedro Bautista, on the east by Tuason (evidently the Tuason Estate), on the south by Calle Reparo, and on the west by the Golf Club. He failed to give the sitio, barrio or municipality of his land. He admitted, however, that he was living in the barrio of Talisay, of the municipality of Caloocan; that the barrio of Talisay is located near the Cementerio del Norte. It will be noted from an examination of the various plans presented, that the Cementerio del Norte is a long distance, perhaps more than one mile south of Calle Samson, and that the Golf Club as well as lot No. 25 are on the north side of Calle Samson. That being true, it is difficult to understand, how land located in the barrio of Talisay could, by any possibility, be bounded by the Golf Club. Sabas Bustamante further contradicts the testimony of Apolinario Baltazar in the fact that while Apolinario Baltazar swears that the appellees furnished him the money with which to purchase the parcel of land, Sabas Bustamante declares that he furnished the money to Capitan Baltazar. The testimony of Sabas Bustamante furnishes no proof that the money, even admitting his statement, which he furnished to Capitan Baltazar, was ever paid to the heirs of the Tuason Estate.

Examining the testimony of Agapito C. Cruz, another one of the appellees, concerning the location of his land, we find that he also denies the fact that Apolinario Baltazar purchased the land for him. He asserts also that he delivered the money, for the purpose of purchasing the land, to Silverio Baltazar (Capitan Baltazar). With reference to the description of the land, he says that it is bounded on the north by a river, on the south by Pedro Bautista, on the west by the railroad and on the east by the Tuason Hacienda, and that he and his ancestors had occupied said land probably for sixty or seventy years. It will be noted that Agapito Cruz makes no attempt to give the sitio, barrio, or municipality in which said land is located.

Looking now to the declaration of the other appellee, Demetria Cruz, we find that she also contradicts the statements of Apolinario Baltazar, and says that she or her husband delivered the money to Silverio Baltazar (Capitan Berio) and not to Apolinario Baltazar. She does not attempt to say how much land belonged to her. In effect she positively says that she does not know. In describing her portion of land she gives the following boundaries: On the west by the railroad, on the south by Sabas Bustamante, on the east by the Tuason Hacienda and on the north by Agapito Cruz. When she was asked whether the payment she made to Capitan Baltazar was rent or not, she answered that she did not know whether it was rent or the purchase price. It will be noted that she gave neither the sitio, barrio, or municipality in which the land which she described is located.

With reference to Exhibit K, which is a plan of lot No. 25 and the land which the lower court awarded to the present appellees, it may be said that the surveyor Mr. Espinosa, who prepared the plan, stated that he had obtained all of his information for the preparation, of the same from the appellees.

For the respondents, Mr. Hermenegildo Meresina testified as a witness. He declared under oath that he was the cashier for Jose Ma. Tuason and had been since 1918; that he collected the rent from the tenants of the Hacienda Maysilo; that he knew lot No. 25; that Sabas Bustamante was one of the tenants of said lot and had paid rent for the same; that he knew Agapito C. Cruz; that he was also one of the tenants and had paid rent for the lot which he occupied; that he knew Demetria Cruz; that she was one of the tenants and had paid rent; that each of said persons had paid rent for the use and occupation of parts of lot No. 25; and that they were old tenants of the Hacienda Maysilo. The fact that the appellees had paid rent to Jose Ma. Tuason is also confirmed by the declaration of Santiago Espiritu. Demetria Cruz was recalled as a witness and admitted that she had made payments to Jose Ma. Tuason for the years 1917 to 1920.

From an examination of the other two cases, first, for partition, and second, for registration, some very interesting facts relating to the claim of Apolinario Baltazar are noted. His principal theory is, that the lands which he and those for whom he acted, had a right to purchase, in fact purchased by his father Silverio Baltazar and that he (the father) had purchased five parcels of land or at least had entered into a contract to purchase them. The record shows that Silverio Baltazar presented ten oppositions to ten different parcels of land to the registration of the Hacienda Maysilo in the name of the Tuason family. The total area of said ten parcels claimed by him was about 160,000 square meters, more or less. The record shows that four parcels of land had been sold to Apolinario Baltazar. The record further shows that none of the four parcels sold to Apolinario Baltazar were any of the ten parcels claimed by his father in his opposition to the registration of the Hacienda Maysilo.

The records, in the other cases, further show by Exhibit C, that Melecio Saludes and Fermin Mariano had presented to the commissioners sometime theretofore a list of persons, among whom was Silverio Baltazar, who desired to purchase parcels of land within the Hacienda Maysilo and that later they notified said commissioners that they had acquired the rights of all of the persons who were mentioned in a letter of the 27th day of April, 1910 (pp. 405; 253-260).

After a thorough examination of all of the evidence adduced in the present action, in relation with the hundreds of pages in the expedientes for partition and registration, we are convinced that a large preponderance of the evidence shows the following:

- (a) That the present action is an effort to compel Jose Ma. Tuason to specifically perform a contract of sale of certain parcels of land. Neither the motion nor the proof supports that claim.
- (b) That neither the allegations of the motion nor the evidence adduced is sufficient to identify the land in question as lot No. 25, nor to sustain the contention that Jose Ma. Tuason had ever promised to sell said lot to the appellees.

Therefore the judgment appealed from is hereby revoked, the defendants are hereby absolved from all liability under these proceedings, without prejudice to the right of the appellees, if they have in fact a contract for the purchase of any parcel of land within the Hacienda Maysilo, to commence another action, to compel a compliance therewith. And, without any finding as to costs, it so ordered.

Villamor, Ostrand, and Romualdez, JJ., concur.

Malcolm, J., concurring in part: I concur with so much of the dispositive part of the decision as reads: "Therefore the judgment appealed from is hereby revoked, the defendants are hereby absolved from all liability under these proceedings, without prejudice * * *. And, without any finding as to costs, it is so ordered."

Johns, J., concurring in the result: The complaint does not state facts sufficient to constitute a cause of action and for such reason the complaint should be dismissed without prejudice and to that extent I concur in the result.

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