

VIVENCIA ESTRELLADO, ASSISTED BY HER HUSBAND CORNELIO ALCANTARA, PLAINTIFFS AND APPELLEES, VS. PROCESO MARTINEZ, DEFENDANT AND APPELLANT.

G.R. No. 23847. November 18, 1925

Ponente: MALCOLM, J.

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MALCOLM, J.:

The single legal question at issue in this case may be framed thus: May a person who is wrongfully deprived of land or of any estate or interest therein, without negligence on his part, by the registration of another person as owner of such land, successfully maintain an action for damages, begun before the action is barred, against the person in whose favor the decree of registration was issued, where such decree was not obtained by actual fraud and where a petition for review on the ground of fraud has been denied?

The pleadings are simple. The plaintiff is Vivencia Estrellado, a minor, represented by her husband, Cornelio Alcantara, as guardian ad litem, claiming a one-tenth interest in the land described in the complaint. The defendant is Proceso Martinez, the holder of the Torrens title. The complaint presented by the plaintiff in the Court of First Instance of Tayabas asked for judgment by way of damages in the amount of two thousand pesos (P2,000) against the defendant. The answer was in the form of a general denial. The well reasoned decision handed down by Judge Platon gave judgment in favor of the plaintiff and against the defendant for the sum of six hundred pesos (P600) and costs.

The facts are stipulated. They are:

"1. That on February 18, 1919, the defendant Proceso Martinez filed an application for the registration in the registry of property of the land described in paragraph 5 of the complaint, in which application the herein plaintiff, Vivencia Estrellado, is not named (Rec. No. 428 of this court), the defendant alleging in said application that he is the only and exclusive owner of the aforesaid land.

"2. That after due notices and publications, the case No. 428 was called for the first time for hearing on October 24, 1919.

"3. That among the persons to whom a copy in Spanish of the notice given in the registration case No. 428 was sent by registered mail appears Eleuterio Estrellado, father of the plaintiff, of San Pablo, Laguna.

"4. That after the trial held on said day October 24, 1919, with regard to one lot, as to which there was no opposition, and which is not the subject-matter of the complaint, the trial was postponed with regard to the land here in question to January 29, 1920. In the notice of the trial of the latter date, it does not appear that said Eleuterio Estrellado, father of the plaintiff, was notified.

"5. That on October 24, 1919, an order of general default was entered in the said registration case, except only as against Pioquinto Larua.

"6. That on February 3, 1920, the court rendered its decision ordering the registration of the land here in

question in the name of the defendant Proceso Martinez, and said decision having become final, an order was entered on March 22, 1920, for the issuance of the decree, and the proper decree was issued on April 21, 1920.

"7. That on July 9, 1920, the herein plaintiff filed in said registration case No. 428 a motion praying for the review of the decree aforesaid on the ground that the defendant obtained the registration of the land in question through fraud, which motion was heard on August 1, 1920.

"8. That then the parties introduced their respective evidence, and after hearing said parties, the court entered on the same day an order denying the review prayed for in the motion on the grounds alleged in said order. A copy of said order is attached hereto and made a part hereof.

"9. That the aforesaid order has become final, no appeal having been taken therefrom.

"10. That the reasonable value of one-tenth of the land in litigation and its fruits, which the plaintiff claims in her complaint is P600, Philippine currency.

"11. The parties finally agree to make a part of the present agreement the case No. 428, Record No. 15418 of this court, wherein the herein defendant Proceso Martinez is applicant.

"Upon this agreement the parties respectfully submit this case to the court for decision without the necessity of introducing any further evidence."

The order referred to in case No. 428 (Proceso Martinez, petitioner, and Vivencia Estrellado, oppositor), G. L. R. O. No. 15418, as made a part of the agreed statement of facts, concerns a verified motion presented by the oppositor within one year after the entry of the decree to have the same annulled. Judge Imperial therein first states the respective contentions of the parties, next announces his findings of fact, then draws his deductions therefrom, and finally concludes by denying the motion of the petitioner. Among others, there was made the following peculiarly applicable finding: "It results from the facts above stated, that Vivencia Estrellado is really the owner of a one-fifth part of one-half of the land in Bulakin, which pertained to her deceased mother Saturnina Banayo, that is, one-tenth of the whole lot 1. But it does not necessarily follow from this that said Vivencia Estrellado is entitled to ask for the revocation of the decree, as applied for by her." Having reached the conclusion just indicated, his Honor fails to find that the oppositor has supported her petition by proof demonstrative of actual fraud perpetrated by the petitioner Martinez. To quote: "After considering carefully all the evidence adduced by both parties, the court has reached the conclusion that Vivencia Estrellado has not proven that the applicant acted fraudulently in obtaining the decree in his favor covering lot 1." Directly following comes an indication of possible rights inuring to the oppositor Vivencia Estrellado which seems to have inspired the present action.

The law is clear. Sections 101 and 102 of the Land Registration Law, especially the proviso to the last mentioned section, in comparison with sections 38 and 55 of the law are directly applicable to the facts and the issue.

The first cited section of the Land Registration Law provides in part that " * * * any person who is wrongfully deprived of any land or any interest therein, without negligence on his part, through the bringing of the same under the provisions of this Act or by the registration of any other person as owner of such land, * * * and who by the provisions of this Act is barred or in any way precluded from bringing an action for the recovery of such land or interest therein, or claim upon the same, may bring in any court of competent jurisdiction an action against the Treasurer of the Philippine Archipelago for the recovery of damages to be paid out of the assurance fund." The next succeeding section after elaborating on the provisions of section 101, ends with the proviso, " * * * That nothing in this Act shall be construed to deprive the plaintiff of any action which he may have against any person for such loss or damage or deprivation of land or of any estate or interest therein without joining the Treasurer of the Philippine Archipelago as a defendant therein." Section 38 of the same law, as will later be emphasized,

makes provision for the opening of a decree obtained by fraud. Section 55 contains a proviso much to the same effect.

The pertinent jurisprudence is known. Two decisions of this court have- considered situations somewhat akin, although not exactly, identical with that which confronts us. Reference is made to the cases of *Manotoc vs. Choco* ([1912], 30 Phil., 628) and *Roman Catholic Bishop of Nueva Caceres vs. Municipality of Tabaco* ([1924], 46 Phil., 271).

In *Manotoc vs. Choco*, supra, it appears that one C presented a petition for the registration of a certain parcel of land including a strip of land and buildings belonging to one M. The said parcel with the buildings thereon was ordered registered in the name of C. Nearly three years later, M discovered for the first time that a portion of his land had been included in C's certificate. Accordingly, M presented a motion in the Court of Land Registration asking that this land be excluded from C's certificate. The motion was denied because it was presented out of time. Later M commenced an action in the Court of First Instance against C to recover damages for the loss of his land and buildings. This court, speaking through Mr. Chief Justice Arellano, held that M was entitled to recover a sum of money equal in value to said land and buildings.

Two noteworthy points come to light on a close examination of the decision. The first point in contradistinction to the facts at bar is that a motion for review was not denied on the merits on the ground of fraud. The second point exactly consonant with the facts before us is that the Chief Justice in writing his opinion and in rendering judgment makes no express mention of proof of fraud as a necessary element to the successful termination of an action for damages for loss of land.

The case of *Roman Catholic Bishop of Nueva Caceres vs. Municipality of Tabaco*, supra, was also an action to recover damages for the alleged unlawful inscription of parcels of land in the name of the defendant. This court found with the plaintiff leaving it to the trial judge to fix the amount of indemnification. To follow the lead of the syllabus as indicative of the views of the court, it was held that when a person has been deprived of his lands by registration under the Torrens system, either by fraud or constructive fraud, he may maintain an action against the parties to such fraud, for a recovery of the damages suffered through the loss of his property.

In the *Tabaco* case, the record discloses that no motion for review because of fraud was presented within the statutory period, while here, as before stated, such a motion was presented and denied. The decision in the *Tabaco* case in contrast to that in the *Choco* case lays emphasis on such terms as "fraud," "constructive fraud," and "good faith." Here, however, as expressly found by the court, fraud was not proved.

The two cases mentioned are accordingly seen not to be absolutely controlling. Nevertheless, the basis laid in the pioneer decision in the *Choco* case, followed subsequently in the *Tabaco* case, should not be departed from in this instance.

The five errors assigned by the defendant as appellant all go to the question announced in the beginning of this decision. With the pleadings before us, the facts agreed upon, the law quoted, the interpretative decisions cited, and the legal issue stated, we finally reach that point where, by legal reasoning, the question can be answered and the case decided. A resolution of the appeal will cause no difficulty if basic principles are recalled and given application.

The Torrens system must be envisaged in its entirety to be understood. The proceeding for registration is in rem. It is an assertion of legal title. The prime purpose of registration is certainty and incontestability in titles to land. In a lesser degree, the purpose is the facilitation of the proof of titles and the transfer thereof. Many sections of the Land Registration Law are given up to the confirmation of these fundamental ideas.

The Torrens system is careful to guard against the possibility of an owner being fraudulently deprived of his property. The apparent harshness of the law is relieved by the insertion in section B8 of a provision, recognizing the right of any person deprived of land or of any estate or interest therein by decree of registration obtained by fraud to file in court a petition for review within one year after entry of the decree, provided no innocent purchaser for value has acquired an interest. The same section provides that any person, aggrieved by such decree in any case, may pursue his remedy by action for damages against the applicant or any other person for fraud in procuring the decree. As a result, if a person fails to present opposition to the registration under the Torrens system of a particular parcel of land in the name of the petitioner, or to question the validity of such registration within a year after the entry of the decree, or in certain cases to take advantage of the equitable remedy provided by section 513 of the Code of Civil Procedure, he loses forever his right in said land, even granting that he had any right therein (*De los Reyes vs. Paterno* [1916], 34 Phil., 420, relied upon by the appellant).

The authors of the Torrens system also wisely included provisions intended to safeguard the rights of prejudiced parties rightfully entitled to an interest in land but shut off from obtaining titles thereto. As suppletory to the registration of titles, pecuniary compensation by way Of damages was provided for in certain cases for persons who had lost their property. For this purpose, an assurance fund was created. But the assurance fund was not intended to block any right which a person might have against another for the loss of his land. Damages were not to be recoverable from the assurance fund when they could be recovered from the person who caused the loss.

Mr. Niblack in his Analysis of the Torrens System, pp. 235, 236, 312, states:

"Person Registered in Error Liable for Damages.—Where a person in good faith applies to register certain land which does not really belong to him, and the registrar, after examination of the title, issues a certificate to him for it, the title is indefeasible in him. But while his title may not be impeached or set aside on the ground of mere error in registering him as the owner, it must not be supposed that he may keep the land without responding in damages to the person wrongfully deprived of it. He is liable for the value of it, to the person ousted of the right of ownership * * *

* * * * *

"According to the scheme of the Torrens system, the indemnity fund is merely ancillary to the system of registering and transferring titles to real estate. It is intended to relieve innocent persons from the harshness of the doctrine that a certificate is conclusive evidence of an indefeasible title to land, and from any injustice which may arise to them by operations under the act, making for the conclusiveness of a certificate, whether such injustice arises from the fraud or error of some one connected with the registry office, or of some third person dealing with the land. It is not intended to relieve from the legal consequences of his act any third person who perpetrates a fraud or commits an error, and it is not intended to relieve a person, who is injured by operations under the system, from the burden of prosecuting the remedies given to him by the general laws or by the act establishing the system * * *."

The maxim of equity, is "Equity will not suffer a wrong to be without a remedy." The civil law makes it the duty of the courts to protect the owner of property who may be deprived of it (Civil Code, art. 349). No one should be permitted to enrich himself at the expense of another. As the title to the land may not be assailed, the only possible way to rectify the situation is by giving compensation to the claimant to be paid by the holder of the property.

The essential difference between portions of sections 38 and 55 of the Land Registration Law on the one hand and sections 101 and 102 of the same law on the other hand is this: The first cited sections refer to actual fraud, that is, intentional deception, downright dishonesty of some sort. The last cited sections refer either to actual fraud as thus described, or constructive fraud, that is, legal fraud, unintentional deception, transactions which equity

regards as wrongful and to which it attributes the same or similar effects as those which follow from actual fraud. For example, in this instance, applicant Martinez did not act with the intention to deceive and was not dishonest, but applicant Martinez did make a mistake of fact to the prejudice of another.

For an action against any person for damages for the wrongful deprivation of land to prosper, it must be established, first, that the person is in reality wrongfully deprived of his land by the registration in the name of another of the land by actual or constructive fraud; second, that there was no negligence on his part; third, that he is not barred or in any way precluded from bringing an action for the recovery of the land or interest therein; and, fourth, that the action for compensation has not prescribed. Setting opposite each one of these requisites the facts as they appear in the instant case, we have as to the first requirement the express finding of Judge Imperial that the plaintiff is entitled to a one-tenth part of the land registered in the name of the defendant; as to the second, that the plaintiff has been diligent in prosecuting her action, this point being reinforced by her infancy; as to the third, that the plaintiff has made use of all the remedies provided by the Land Registration Law; and as to the fourth, that the action for damages sustained is not barred by the statute of limitations.

In the light of the foregoing discussion, we are unable to sustain appellant in his assignments of error and argument. Having particularly in mind the legal issue, we lay down this rule: A person who is wrongfully deprived of land or of any estate or interest therein, without negligence on his part, by the registration in error of another person as owner of such land, may successfully maintain an action for damages, begun before the action is barred, against the person in whose favor the decree of registration was issued, notwithstanding such decree was not obtained by actual fraud and notwithstanding a petition for review on the ground of fraud has been denied.

Judgment will be affirmed with the costs of this instance against the appellant.

Avanceña, C. J., Street, Villamor, Ostrand, Johns, Romualdez, and Villa-Real, JJ., concur.

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