

VALENTIN SUSI, PLAINTIFF AND APPELLEE, VS. ANGELA RAZON AND THE DIRECTOR OF LANDS, DEFENDANTS. THE DIRECTOR OF LANDS, APPELLANT.*G.R. No. 24066. December 09, 1925*

Ponente: VILLA-REAL, J.

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This action was commenced in the Court of First Instance of Pampanga by a complaint filed by Valentin Susi against Angela Razon and the Director of Lands, praying for judgment: (a) Declaring plaintiff the sole and absolute owner of the parcel of land described in the second paragraph of the complaint; (b) annulling the sale made by the Director of Lands in favor of Angela Razon, on the ground that the land is a private property; (c) ordering the cancellation of the certificate of title issued to said Angela Razon; and (d) sentencing the latter to pay plaintiff the sum of P500 as damages, with the costs.

For his answer to the complaint, the Director of Lands denied each and every allegation contained therein and, as special defense, alleged that the land in question was a property of the Government of the United States under the administration and control of that of the Philippine Islands before its sale to Angela Razon, which was made in accordance with law.

After trial, whereat evidence was introduced by both parties, the Court of First Instance of Pampanga rendered judgment declaring the plaintiff entitled to the possession of the land, annulling the sale made by the Director of Lands in favor of Angela Razon, and ordering the cancellation of the certificate of title issued to her, with the costs against Angela Razon. From this judgment the Director of Lands took this appeal, assigning thereto the following errors, to wit: (1) The holding that the judgment rendered in a prior case between the plaintiff and defendant Angela Razon on the parcel of land in question is controlling in this action; (2) the holding that plaintiff is entitled to recover the possession of said parcel of land; the annulment of the sale made by the Director of Lands to Angela Razon; and the ordering that the certificate of title issued by the register of deeds of the Province of Pampanga to Angela Razon by virtue of said sale be cancelled; and (3) the denial of the motion for new trial filed by the Director of Lands.

The evidence shows that on December 18, 1880, Nemesio Pinlac sold the land in question, then a fish pond, to Apolonio Garcia and Basilio Mendoza for the sum of P12, reserving the right to repurchase the same (Exhibit B). After having been in possession thereof for about eight years, and the fish pond having been destroyed, Apolonio Garcia and Basilio Mendoza, on September 5, 1899, sold it to Valentin Susi for the sum of P12, reserving the right to repurchase it (Exhibit A). Before the execution of the deed of sale, Valentin Susi had already paid its price and sown "bacawan" on said land, availing himself of the firewood gathered thereon, with the proceeds of the sale of which he had paid the price of the property. The possession and occupation of the land in question, first, by Apolonio Garcia and Basilio Mendoza, and then by Valentin Susi has been open, continuous, adverse and public, without any interruption, except during the revolution, or disturbance, except when Angela Razon, on September

13, 1913, commenced an action in the Court of First Instance of Pampanga to recover the possession of said land (Exhibit C), wherein after considering the evidence introduced at the trial, the court rendered judgment in favor of Valentin Susi and against Angela Razon, dismissing the complaint (Exhibit E). Having failed in her attempt to obtain possession of the land in question through the court, Angela Razon applied to the Director of Lands for the purchase thereof on August 15, 1914 (Exhibit C). Having learned of said application, Valentin Susi filed an opposition thereto on December 6, 1915, asserting his possession of the land for twenty-five years (Exhibit P). After making the proper administrative investigation, the Director of Lands overruled the opposition of Valentin Susi and sold the land to Angela Razon (Exhibit S). By virtue of said grant the register of deeds of Pampanga, on August 31, 1921, issued the proper certificate of title to Angela Razon. Armed with said document, Angela Razon required Valentin Susi to vacate the land in question, and as he refused to do so, she brought an action for forcible entry and detainer in the justice of the peace court of Guagua, Pampanga, which was dismissed for lack of jurisdiction, the case being one of title to real property (Exhibits F and M). Valentin Susi then brought this action.

With these facts in view, we shall proceed to consider the questions raised by the appellant in his assignments of error.

It clearly appears from the evidence that Valentin Susi has been in possession of the land in question openly, continuously, adversely and publicly, personally and through his predecessors, since the year 1880, that is, for about forty-five years. While the judgment of the Court of First Instance of Pampanga against Angela Razon in the forcible entry case does not affect the Director of Lands, yet it is controlling as to Angela Razon and rebuts her claim that she had been in possession thereof. When on August 15, 1914, Angela Razon applied for the purchase of said land, Valentin Susi had already been in possession thereof personally and through his predecessors for thirty-four years. And if it is taken into account that Nemesio Pinlac had already made said land a fish pond when he sold it on December 18, 1880, it can hardly be estimated when he began to possess and occupy it, the period of time being so long that it is beyond the reach of memory. These being the facts, the doctrine laid down by the Supreme Court of the United States in the case of *Cariño vs. Government of the Philippine Islands* (212 U. S., 449[1]), is applicable here. In favor of Valentin Susi, there is, moreover, the presumption *juris et de jure* established in paragraph (b) of section 45 of Act No. 2874, amending Act No. 926, that all the necessary requirements for a grant by the Government were complied with, for he has been in actual and physical possession, personally and through his predecessors, of an agricultural land of the public domain openly, continuously, exclusively and publicly since July 26, 1894, with a right to a certificate of title to said land under the provisions of Chapter VIII of said Act. So that when Angela Razon applied for the grant in her favor, Valentin Susi had already acquired, by operation of law, not only a right to a grant, but a grant of the Government, for it is not necessary that certificate of title should be issued in order that said grant may be sanctioned by the courts, an application therefor is sufficient, under the provisions of section 47 of Act No. 2874. If by a legal fiction, Valentin Susi had acquired the land in question by a grant of the State, it had already ceased to be of the public domain and had become private property, at least by presumption, of Valentin Susi, beyond the control of the Director of Lands. Consequently, in selling the land in question to Angela Razon, the Director of Lands disposed of a land over which he had no longer any title or control, and the sale thus made was void and of no effect, and Angela Razon did not thereby acquire any right.

The Director of Lands contends that the land in question being of the public domain, the plaintiff-appellee cannot maintain an action to recover possession thereof.

If, as above stated, the land, the possession of which is in dispute, had already become, by operation of law, private property of the plaintiff, there lacking only the judicial sanction of his title, Valentin Susi has the right to bring an action to recover the possession thereof and hold it.

For the foregoing, and no error having been found in the judgment appealed from, the same is hereby affirmed in all its parts, without special pronouncement as to costs. So ordered.

Avanceña, C. J., Malcolm, Street, Villamor, Ostrand, Johns, and Romualdez, JJ., concur.
Johnson, J., did not take part.

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