

ISABELO DIZON, PLAINTIFF AND APPELLANT, VS. ANASTASIO, AGUEDO, VICTOR, CIPRIANO, MARIANO, FELIX, JULIAN, CIRILO, EUGENIA, BY THE SURNAME LACAP, ALIPIO LACAP JADEAR, AND THE INSU...*G.R. No. 26183. March 30, 1927*

Ponente: STREET, J.

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By the amended complaint in this case Isabelo Dizon seeks to recover of the defendants Alipio Lacap Jadear and other individuals bearing the surname of Lacap, as well as from the Treasurer of the Philippine Islands in his official capacity, the sum of about P14,900, with interest and costs, as damages which the plaintiff claims to have suffered by reason of the fraudulent registration of certain land belonging to the plaintiff and the sale thereof by the individual defendants in breach of faith. The Insular Treasurer is joined as a codefendant upon the supposition that the Insurance Fund, created by section 100 of Act No. 496, may be made to respond, under sections 101 and 102 of the same Act, for the damages claimed by the plaintiff. Upon hearing the cause the trial court entered judgment absolving the Insular Treasurer from the complaint but awarding damages in favor of the plaintiff jointly and severally against the individual defendants in the amount of P7,302, with costs. From this judgment both parties appealed; and in this court the plaintiff seeks to recover from the individual defendants the full amount claimed in the complaint and to hold the Insular Treasurer liable subsidiarily for the whole, while the individual defendants seek to be relieved from any liability whatever.

The facts involved in the case are simple and not subject to dispute. Briefly they are these: On March 4, 1896, one Pablo Lacap conveyed by way of donation a parcel of land containing an area of 16 seeding-cavans, located in the municipality of San Miguel, Pampanga, to his nephew Isabelo Dizon and niece Leoncia Dizon. The donees at once entered into possession of the property, cleared it up, and reduced it to a state of cultivation, thereafter enjoying the produce of the land and paying taxes thereon from the year 1906 to 1922 when they were ejected, for the reason presently to be stated. During the period of their occupation the two donees effected an extra judicial partition of the land, satisfactory to themselves, Leoncia Dizon receiving the northern and Isabelo Dizon the southern part. In September, 1915, the Lacaps, being possessed of contiguous property, began proceedings to secure the registration of their property under the Torrens Law (No. 496). Isabelo Dizon about the same time had been contemplating a similar proceeding upon his own account, but, by special agreement between himself and the Lacaps, through their agent Alipio L. Jadear, it was agreed that plaintiff's land should be included in the proceeding instituted by the Lacaps, the idea being that, after registration should be effected, the Lacaps would convey to him that portion of the property which pertained to himself. This arrangement was made with a view to saving the expense of a separate registration proceeding, and the plaintiff agreed to contribute, as he did contribute, P50 towards the expense of the survey of all the land together. The plaintiff was accordingly aware of the survey and consented to inclusion of his land in the plan which was submitted in said proceeding (expediente 109, G. L. R. O. Record No. 11639).

The decree of registration therefore naturally included the plaintiff's land with the other land belonging to the Lacaps, and the decree of registration in favor of the Lacaps was entered on February 4, 1920. Two days thereafter, or on February 6, 1920, the individuals in whose names the property had been decreed (being the individual defendants except Alipio L. Jadear) conveyed the entire tract for a valuable consideration to Eduarda Tan, in whose name the certificate was issued. On May 4, 1920, Eduarda Tan in turn conveyed the property to Jose P. de Rivera Yap also for a valuable consideration. By this means the plaintiff's land was effectually conveyed away, and none of the defendants have ever accounted to him for any part of the proceeds. A few days after the sale of the property the plaintiff appears to have submitted a motion of revision in the registration proceeding, under section 38 of Act No. 496, but this step was futile, and was abandoned, because of the fact that the property had been conveyed away to an innocent purchaser for value.

The facts above stated clearly show an indubitable right of action in favor of the plaintiff arising from the breach, of trust on the part of the Lacaps and appropriation of the plaintiff's land, analogous to the right of action for a conversion of personal property. This right of action is not founded upon any abuse of the process of registering the land, for the plaintiff consented that registration should be effected in the name of the Lacaps. It follows that there is no right of action under section 101 or 102 of Act No. 496, and the trial court committed no error in absolving the Insular Treasurer from the complaint. As was said above, the right of action in this case arises from the breach of trust, and is a cause of action such as is expressly reserved to the person interested in the final proviso of section 102 of Act No. 496. This leaves the question of the amount of the damages as the sole remaining point necessary to be considered.

Upon this point, in connection with the plaintiff's appeal, we note the fact that the trial court estimated the value of the land and improvements at P7,302, and judgment was given for this amount. It is contended, under the appellant's first assignment of error, that, in addition to this, the court should have given judgment for damages at the rate of P1,000 per annum from the year 1922 for the annual produce of which the plaintiff has been deprived. This contention is clearly untenable. The plaintiff is not entitled to recover both the value of the land with improvements and the annual produce of the land. This is not an action of reivindication or for recovery of possession but an action to hold the defendants responsible for depriving the plaintiff of the property. The compensation to which the plaintiff is entitled is of course the value of the land and improvements, without further annual compensation. His Honor might, it is true, have properly given interest from the date of the filing of the complaint; but this has not been made the subject of specific assignment of error, and we are of the opinion that the estimate which the court made of the value of the land and improvements is sufficiently liberal to cover the item of interest.

But the defendants, as appellants, insist that the estimate made by the court of the value of the land and improvements is excessive. We are unable to see the matter in this light. The result reached by the trial court appears to be supported by a respectable amount of evidence, and we do not discover any indication that his Honor ignored, without good reason, the testimony submitted by the defendants tending to show lower values. At any rate it is not demonstrated that error was committed; and the case being one where natural justice supports the plaintiff's claim, we are constrained to accept his Honor's finding upon this point.

For the reasons stated the judgment appealed from will be in all respects affirmed, and it is so ordered, without express pronouncement as to costs.

Johnson, Malcolm, Villamor, Ostrand, and Villa-Real, JJ., concur.

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