

CARMEN VILAFRANCA ET AL., PLAINTIFFS AND APPELLANTS, VS. PAULINA CRISTOBAL ET AL., DEFENDANTS AND APPELLANTS.*G. R. No. 33264. March 31, 1931*

Ponente: STREET, J.

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This action was instituted on May 28, 1928, by Carmen Villafranca and her two daughters Soledad and Felicidad, of the surname of Gomez, for the purpose of recovering from the defendants Paulina, Luis, Josefa, and Paciencia, of the surname Gomez y Cristobal, eight parcels of land located in the sitio of Jabay, municipality of Bacoar, Province of Cavite, together with the sum of P4,000, the value of two warehouses alleged to be the property of the plaintiffs usurped by the defendants, and the further sum of P20,000, alleged to be due to the plaintiffs as compensation earned by Marcelino Gomez while administering in trust certain properties belonging to the defendants. Upon hearing the cause the trial court absolved the defendants from the demands for money but gave judgment in favor of the plaintiffs for the eight parcels of land, declaring them to be owners of the same and, as such, entitled to possession. From this judgment the plaintiffs appealed, alleging error in the decision in so far as it refused to grant to the plaintiffs compensation for the two warehouses mentioned in the second cause of action, and the compensation for services rendered in the amount of P20,000, as claimed in the third cause of action; while the defendants appealed from the decision with respect to the award to the plaintiffs of the eight parcels of land.

This case is an aftermath of the litigation which was decided in this court in the case of Cristobal vs. Gomez (50 Phil., 810), in which litigation the position of the adverse litigants was different from the position occupied by them in the present litigation, those who were plaintiffs in that case being defendants here and those who were then defendants (after the death of Marcelino Gomez) being now plaintiffs. An intelligent understanding of the situation now before us presupposes, therefore, a knowledge of the issues involved in that litigation; and the following resume, with certain additional facts, is necessary to a proper understanding of the present case. The general situation revealed by reference to the case referred to is that, in 1907, Marcelino Gomez and his sister, Telesfora Gomez, under took to assist their brother, Epifanio Gomez, in getting back some property which he had lost under contract of sale with pacto de retro to Luis R. Yangco. To this end a kinsman named Bibiano Banas agreed to advance the requisite money, while Marcelino Gomez and his sister Telesfora agreed to become joint and several sureties to Bañas for the money advanced by him. In the contract made thereupon, evidencing the relations and rights of the parties, it was agreed that Marcelino Gomez should administer the property until the capital advanced by Banas should be paid off, after which the property should be returned to Epifanio Gomez. The stipulation upon this point was in the following words, to wit:

"(i) As soon as the capital employed, with its interest and other incidental expenses, shall have been covered, said properties shall be returned to our brother Epifanio Gomez or to his legitimate children, with the direct intervention, however, of both parties, namely, Don Marcelino Gomez and Dona Telesfora Gomez, or one of them."

However, after the property had been administered for many years by Marcelino Gomez, and after he had by transfer taken over the interest held in trust by his sister Telesfora, Marcelino Gomez began to think of the property in question as his own, and after the property had been cleared of the indebtedness, he refused to surrender it to the heirs of Epifanio, who was then dead. This led to the litigation which was concluded by the decision in *Cristobal vs. Gomez* (50 Phil., 810), wherein the heirs of Epifanio Gomez recovered the property, which was the subject of that litigation. The action referred to involved two parcels of land, but we are here concerned with only one of said parcels, the parcel indicated as parcel B in the complaint in that case. Said parcel was there described in the following words:

"Parcel B.—A land located in the sitio of Jabay, of the municipality of Bacoar, Cavite. It contains 8 hectares, 69 ares, and 24 centares, a little more or less. It is bounded on the north by the estero called Mestizo and the lands of D. Juan Gonzalez; on the east, by the Jabay road and lands of D. Isidoro Reyes; on the south, by lands of D. Lorenzo Bailon, of D. Ambrosio Cuevas, of D. Juana Reyes, of D. Cayetano Adriano, of D. Laureano Peria, of D. Ponciano Peredo, of D. Pio Peredo, of D. Matea Peredo, and of Doroteo Reyes; and on the west, by the estero called Mabolo and by lands of Matea Gomez and of Da Inocencia Cuenca."

After the action mentioned had been concluded an execution was sued out by the successful plaintiffs, and the sheriff delivered to them a property corresponding precisely to the above description in so far as boundaries are concerned. This property is correctly shown in Exhibit 2 of the herein defendants, which corresponds very nearly with that shown in Exhibit N of the plaintiffs. It will be noted that the parcel thus delivered by the sheriff to the defendants has natural boundaries on three sides, namely, the Mestizo River on the north, the Jabay Road on the east, and the Mabolo River on the west. These boundaries are fixed and admit of no error. Moreover, the present owners of the contiguous parcels, as shown in Exhibit 2, are all successors in interest of the owners of the contiguous parcels called for in the description contained in the complaint referred to above. To be specific, Juan Gonzalez, mentioned as one of the adjoining owners on the north, is now succeeded by his son, Zacarias Gonzalez, in Exhibit 2. Isidoro Reyes, mentioned in the description in the complaint as an adjoining owner on the east, has been succeeded by his son, Simeon Reyes, and one Aquilino Rafael. One of the witnesses for the plaintiffs gives Evarista Ignacio instead of Aquilino Rafael, but Evarista is the wife of Aquilino, and there is therefore no inconsistency in the descriptions.

According to the description of parcel B in the complaint, there are a number of owners whose lands are contiguous with the parcel in question on the south; and so it appears in Exhibit 2, where the present occupants, successors in interest to those mentioned in the description in the complaint, are indicated as adjoining owners. The description in the complaint calls for Matea Gomez and Inocencia Cuenca as the owners of the contiguous parcels on the west in the part not bounded by the Mabolo River. The present owners, as shown in Exhibit 2, are the same Inocencia Cuenca and Leodegario Sarino, successor to Matea Gomez. There can be no doubt whatever, therefore, that the Exhibit 2 correctly indicates the boundaries of the land turned over to the successful plaintiffs in the former case (now defendants). In addition to this it should be borne in mind that this tract or parcel of land is now laid out in salt beds according to Chinese fashion, the boundaries of which are naturally well denned on the ground, easy also of transference to paper by any competent person drawing a sketch of the property.

The trouble in this case has arisen over the fact that the description contained in the complaint in the former action describes this property as having an area of 8 hectares, 69 ares, and 24 centares, when, as a matter of fact, the area shown in Exhibit 2 is 14 hectares, 80 ares, and 95 centares, and the present action was brought by the present plaintiffs for the purpose of recovering a parcel having an area representing the excess over the 8 hectares, 69 ares, and 24 centares. In this connection it should be clearly impressed on the mind that all of the eight parcels which the plaintiffs now seek to recover are located within the confines of the Exhibit 2. Their own plan Exhibit N and related documents sufficiently show this, and Marcelino Gomez, the original defendant in the former case,

testified that all of the parcels of which recovery is now sought had been consolidated by him in the parcel B. In other words the plaintiffs are seeking to recover a part of a larger parcel which they lost by a conclusive judgment in the former action. The impossibility of maintaining such an action, against the plea of *res judicata* interposed by the defendants, is of course manifest at once. No rule of law is better settled than the rule that a judgment in an action to recover a parcel of land is not vitiated by an erroneous statement relative to area, where it appears that the land is so described by boundaries as to put its identification beyond doubt. That which really defines a piece of ground is not the area calculated with more or less certainly, mentioned in its description, but the boundaries therein laid down as in closing the land and indicating its limits. (*Loyola vs. Bartolome*, 39 Phil., 544.) This doctrine is decisive of the controversy.

It is true that the plaintiffs in this case have shown that some of the land contained in the plot delivered to the defendants (the successful plaintiffs in the other case) as a result of the former litigation was not originally a part of land belonging to Epifanio Gomez, which was taken over in 19D7 for administration in trust by Marcelino Gomez, and it is admitted by the present defendants that there "is contained in the parcel recovered by them in the former case an area of something more than 1 1/3 hectares which was not originally a part of the land which belonged to Epifanio Gomez. Furthermore, in order to compensate the present plaintiffs for that land and be rid of the threat of this litigation, the present defendants, at the time this case was brewing, offered to pay the present plaintiffs the sum of P6,000. The plaintiffs refused to accept this offer, under the erroneous impression, apparently, that they could recover the entire excess of area over the 8 hectares and a fraction mentioned in the complaint in the other case.

It is undeniable that in the former action the plaintiffs recovered somewhat more land than had been included in the land taken over by Marcelino Gomez from Epifanio Gomez for administration; and the parcels bearing the numbers 1, 3, 4, 5, and 8, in the present complaint, are such parcels, for Marcelino Gomez undoubtedly acquired these small parcels from other persons. These parcels have a combined area of about 1 hectare, 37 ares, and 43 centares. With respect to the parcels indicated as Nos. 2, 6, and 7, in the plaintiffs' complaint, we are of the opinion that it can fairly be made out that these parcels really belonged originally to Epifanio Gomez, being apparently parcels which were formerly hypothecated to different persons after Epifanio Gomez had sold them under contract of sale with *pacto de retro* to Luis R. Yangco, as explained in *Cristobal vs. Gomez* (50 Phil, 810), and which Marcelino Gomez had found it necessary to redeem, in the manner there stated. But this point is not necessary to our decision, it being sufficient to know that all of the land claimed by the plaintiffs in the present action is within the boundaries of the parcel which was the subject of revindication in the other case. In this connection it should be pointed out that no question was made by the defendants in the other case with respect to the several small lots contained in parcel B, which Marcelino Gomez held in his own right by purchase from persons other than Epifanio Gomez. If any such contention had been raised, it is probable that the defendants in that action could have maintained their right to these lots, but no such issue was raised. The defense made in that case was planted precisely upon the alleged right of Marcelino Gomez as owner in fee simple of the whole parcel B. If we understand the contention of the plaintiffs in this case rightly, their case is planted upon the proposition that the only land really involved in the pleadings in the former case, and as to which any controversy existed, was the particular land which had been owned by Epifanio Gomez and which had been transferred in trust to Marcelino Gomez. It is accordingly claimed that any land as to which Marcelino Gomez derived title from other sources than Epifanio Gomez was not really in litigation in that case. But this idea is untenable. The former action was instituted for the purpose of recovering a specific parcel of land, having precise and determinable boundaries, and the title to that piece of land was there determined, the judgment being *res judicata*, upon the issue of the title to that parcel. The circumstance that the defendants in that case had a valid title to a part of the parcel B, derived from an entirely different source from that of the rest, was proper matter for defense in that case, but the defense

was not interposed.

In conclusion we may point out that the contention of the present plaintiffs to the effect that the original holdings of Epifanio Gomez did not comprise more than 8 hectares, 69 ares, and 24 centares, as stated in the complaint in the other case, is wholly unfounded, since Epifanio Gomez had declared for taxation under some six or seven different tax declarations a total area, in this locality, amounting to about 14 hectares, 60 ares, and 95 centares; and after Marcelino Gomez took the property over for administration, he declared the same property under several different declarations, of equivalent area, the whole being later consolidated in one single tax declaration. Our conclusion is that the erroneous statement of the area in the complaint in the other case misled nobody, and has only been seized upon by the plaintiffs in this case as promising a possible means of escape from part of the effects of our former decision.

From what has been said it is evident that the judgment in favor of the plaintiffs on the first cause of action is erroneous and the same must be reversed. We are further of the opinion that the appeal of the plaintiffs upon the second and third causes of action is not well founded. The title to the warehouses was evidently determined by the decision in the former case, awarding the land upon which said warehouses are located to the plaintiffs, no exception having been made in said decision with respect to the improvements on the property. The claim of the plaintiffs for compensation, amounting to P20,000 for services supposed to have been rendered by Marcelino Gomez as administrator, is also clearly unfounded. Under the terms of the contract under which he took over the administration of the property, the expenses of administration were chargeable against the trust, and the claim was necessarily involved in the former action wherein the real property, the subject of that action, was recovered from the heirs of Marcelino Gomez, as trustee, and it needs to be remembered that the defendants in that case were absolved from a large claim for damages and an accounting, it being considered that such claim was compensated by the obligations incident to the trust. It results that the judgment of the trial court in refusing to grant the relief sought by the plaintiffs under their second and third causes of action was correct, and the same will be affirmed.

The judgment favorable to the plaintiffs upon the first cause of action is reversed and the defendants are absolved from the complaint with respect to said cause of action; while the judgment in favor of the defendants on the second and third causes of action is affirmed. So ordered, without pronouncement as to costs.

Avanceña, C. J., Johnson, and Ostrand, JJ., concur.

Malcolm, J., voted to reverse, but was absent at the time of the promulgation of the opinion and his name does not appear signed thereto,—AVANCEÑA, C. J,

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