

CIRIACO LIZADA, PLAINTIFF AND APPELLANT, VS. OMANAN (BAGOBO) ET AL., DEFENDANTS AND APPELLEES.

G. R.No. 38612. February 23, 1934

Ponente: BUTTE, J.

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BUTTE, J.:

This is an appeal from a judgment of the Court of First Instance of Davao in an action of reivindicacion.

The amended complaint filed on August 29, 1929, recites that the plaintiff is the owner of six tracts of land referred to respectively in the cadastral survey of Davao as:

Lot No. 703 containing 8 hectares 59 ares 4 centiares

Lot No. 707 containing 14 hectares 75 ares 17 centiares

Lot No. 708 containing 3 hectares 96 ares 66 centiares

Lot-No. 713 containing 25 hectares 89 ares 32 centiares

Lot No. 709 containing 2 hectares 6 ares 38 centiares

Lot No. 704 containing 12 hectares 76 ares 68 centiares

that all of said tracts formerly constituted one farm, but the defendants, without right and availing themselves of the absence of the plaintiff during his illness, by means of fraud, entered upon and took possession of said land and divided it among themselves as follows: The first parcel mentioned above was appropriated by the defendant Omanan, a Bagobo; the second, by the defendant Ingay, a Babogo; the third, by the defendant Basilisa Moncayo; the fourth parcel by Agapito Albay, Inalad and Wee Te; the fifth, by the defendant Carlos Ading; the sixth, by Marcelina Uata; that the defendants Quiome, a Japanese, Murios, a Japanese, Oimas, a Japanese, Wee Yap, a Chinese, Urbano Pastor and one Agustin, are tenants illegally holding said lands under the said codefendants under a contract to pay 10 per cent of the profits of said lands.

The plaintiff prays that he be declared the sole and absolute owner of said lands and that the defendants be required to surrender possession and pay the sum of P10,000 as damages and for general relief.

The defendants answered with a general denial and set up the following special defenses: that the defendant Omanan (Bagobo) has a Torrens title to lot No. 703; that the defendant Marcelina Uata has a Torrens title to lot No. 704 and Carlos Ading (Bagobo) has a Torrens title to lot No. 709; that the defendant Basilisa Moncayo is the owner of lot No. 708 by virtue of inheritance from her parents who have held possession "desde un tiempo inmemorial"; that the defendant Ingay (Bagobo) inherited lot No. 707 and Agapito Albay inherited lot No. 713 from their respective parents who held possession for time immemorial.

It is also alleged that the cause of action of the plaintiff has prescribed.

Wherefore the defendants pray that they be declared the owners respectively of the lots in question.

It appearing that the lands involved in this law suit are also the subject matter of pending claims in the cadastral survey of Davao, it was agreed by both parties that the two cases should be heard jointly and the court entered the following order on February 18, 1930:

"Vista la motion de fecha 18 de febrero de 1930, presentada por el abogado Sr. Vicente Hizon Panlilio que representa al reclamante Ciriaco Lizada, en la que pide que se vean estos lotes 703, 704, 707, 708, 709, 710 y 713 para cuando se senale causa civil No. 888 de este Juzgado, entre las mismas partes, por estar envueltos estos lotes en dicha causa civil, y estando conforme el abogado de los demas reclamantes, Sr. Domingo Braganza;

"Transfierase la vista de los referidos lotes hasta que se vea la causa civil No. 888. Asi se ordena."

On December 13, 1930, the provincial fiscal, in representation of the Insular Government, asked leave to file a petition of intervention in which it is recited that the Director of Lands was contending in cadastral case No. 1, Record No. 317, of Davao that lots Nos. 703, 704, 707, 708, 709 and 713 were public lands; that lots Nos. 707, 708 and 713 were embraced in applications for a free patent of the Bagobos Ading, Ingay and Agapito Albay, respectively, the last two mentioned being defendants in this case; that the defendants Omanan, Ading and Marcelina Uata already hold free patents by concession of the Director of Lands, granted on December 21, 1921, December 1, 1921, and October 17, 1921, respectively, covering lots Nos. 703, 709 and 704; that the plaintiff has no right whatever in said land; and praying that the said lots Nos. 703, 704, 709 and 713 be declared public lands under the control of the Government of the Philippine Islands and confirming the said free patents heretofore issued.

On February 5, 1931, the court admitted the intervention of the fiscal as aforesaid without objection from either party.

On March 31, 1932, the following agreed statement of facts was filed at the hearing of this cause:

CONVENIO DE HECHOS

"Comparecen todas las partes en este asunto, representadas por sus respectivos abogados que subscriben, y respetuosamente exponen:

"Que convienen dichas partes en que los hechos que mas abajo se especifican, sean considerados por este Juzgado como hechos debidamente probados durante la vista de esta causa, sin perjuicio de que dichas partes puedan presentar otras pruebas sobre otros hechos que no constan en este convenio:

"1.º Lote No. 703 ha sido solicitado por el demandado Umanan, bagobo, en el Catastro de Davao. Este demandado tiene a su favor, sobre dicho lote, expedido por el Registrador de Titulos de esta Provincia de Davao, un certificado original de Titulo de Free Patent No. 8, desde el 21 de diciembre de 1921.

"2.º Lote No. 704 ha sido solicitado por Urauy, bagoba, hija de Andao, bagobo, y Marcelina Uata, alias Buyaya, demandada, en el Catastro de Davao. Sobre este lote Marcelina Uata, alias Buyaya, demandada, posee un certificado original de titulo de Free Patent No. 3 a su favor expedido por el Registrador de Titulos de dicha Provincia de Davao, desde el 17 de octubre, 1921.

"3.º Lote No. 709 ha sido solicitado en el Catastro de Davao por el demandado Carlos Ading. Carlos Ading posee sobre este lote un certificado original de titulo de Free Patent No. 4 expedido a su favor por el Registrador de Titulos de Davao el dia 1.º de diciembre de 1921.

"4.º Lote No. 707 ha sido solicitado por el demandado Ingay, bagobo, en el Catastro de Davao. Sobre este lote existe una solicitud de Eding, bagobo, hermano de Ingay, bagobo, demandado, de Free Patent No. 23566 presentada el 24 de mayo de 1920 en la Oficina del Buro de Terrenos en Manila.

"5.º Lote No. 708 ha sido solicitado por la demandada Basilisa Moncayo en el Catastro de Davao. Sobre este lote existe una solicitud de Free Patent No. 23569 presentada por Ingay, bagobo, demandado, y esposo de su codemandada Basilisa Moncayo, el día 24 de mayo de 1920 en la Oficina del Buro de Terrenos en Manila.

"6.º Lote No. 713 ha sido solicitado en el Catastro de Davao por el demandado Agapito Albay. Sobre este lote existe una solicitud de Free Patent No. 23559 (E-10206) presentada por este demandado el 24 de mayo de 1920 en la Oficina del Buro de Terrenos en Manila.

"Respetuosamente sometido."

Upon the hearing of this cause, the defendants introduced only one witness, Omanan, the Bagobo; the intervenor Director of Lands introduced only one witness, Anastacio Cabel, an inspector of the Bureau of Lands.

The latter testified that he inspected the lands in question in the year 1930; that lot No. 703 was occupied by Omanan, a Bagobo; that he found on said land 7 coconut trees of from 25 to 30 years of age, 4 bongas of the same age, 2 nancas 30 years of age, 1 camansi 30 years of age, 8 biao from 40 to 50 years of age and several thousand abaca plants very recently planted there. On lot No. 704 he found 14 coconut trees, 2 nancas, 2 manga trees and 100 bongas. He also saw a thousand abaca plants. On lot No. 707 he saw 100 coconut trees and several thousand plants of abaca, the property of the Japanese. On lot No. 708 he saw 16 coconut trees 15 years old, 28 bongas and other trees besides 15,000 plants of abaca. On lot No. 709 the improvements consisted of coconut trees and abaca. Lot No. 713 is likewise covered by a number of coconut trees, bongas and by abaca; that the various tenants of said lots have houses there.

The only witness for the defendants, Omanan the Bagobo, testified in substance that he and his codefendants have been in possession of said lands "desde que eramos pequenos"; that "ese terreno era de nuestros antepasados"; that the improvements on said lands consist of "canas, nancas, dulian y cafia dulce, y hay siembras de abaca tambien"; that said improvements were made by him and his codefendants; that in the year 1916 he and his codefendants signed the lease contracts with the applicant Lizada referred to in the record as Exhibits B, C, D and F; that no one was present when said contracts were made except Lizada who was then the municipal president; that Lizada told them: "firmen estos documentos porque estos son documentos que justifican vuestra herencia."

On behalf of the plaintiff the signatures of the contracting parties and the witnesses to said leases were identified without contradiction by the testimony of Manuel Lizada who personally knows the signers. He testified also of his own knowledge that his father Ciriaco Lizada, the plaintiff, improved and was in possession of the land here involved prior to the year 1915 and that he held the same as owner. The first year any rent fell due under said contracts, namely in 1918, his father was under treatment for illness in Manila; that although demand was made, the tenants refused to pay any rent; asserting a possession in their own right which became the basis of the free patents issued to them in 1921 as aforesaid.

Early in 1918 Ciriaco Lizada protested against the subdivision of his lands in the new cadastral survey of Davao and Governor Sales wrote Lizada as follows:

"PROVINCIAL GOVERNMENT OF DAVAO

"OFFICE OF THE GOVERNOR

"DAVAO, P. I.

"April 30, 1918

"QUERIDO SR.: La Oficina de Terrenos Publicos me dice, a proposito de su carta de 17 del actual, lo

siguiente:

" 'Respectfully returned to the Provincial Governor, Davao, with the information that the survey that was being executed in the barrio of Sirauan was for all land claimants in that barrio. In the case of the tracts of land that are claimed by Mr. Lizada and contested by other persons, the boundaries of such conflicting claims had to be surveyed and shown in the plan according to instructions by the Director of Lands, and the claims of those persons can not be denied by this Office. The Court of Land Registration will decide the true owners of such conflicting claims during the court hearing of the cadastral survey. Thus every body will have to be given chance to prove his title. The survey as being executed by this Office does not give any title nor have right to drive either one of the contesting claimant away from the land he claims.

" 'A copy of the notice of survey in English and Spanish, which was posted in front of the Municipal building of Davao is attached hereto for your information in regard to the undergoing cadastral survey.

(Sgd.) AGUSTIN FLORES

'Chief, Survey Party No. 6'

"Sinceramente suyo,

"(Fdo.) F. SALES

"Gobernador Provincial

"Sr. CIRIACO LIZADA

"Bolton St., Davao,

"(Davao), I. F."

As noted above, this cadastral survey is still uncompleted and the plaintiff, impatient of the long delay, instituted this action of reivindicacion which should likewise determine the cadastral case between the same claimants.

It is further established by the evidence that the Japanese who are farming said lands are operating under contracts with the said Bagobos.

It is further established by the testimony of Domingo Loteria, a farmer sixty-eight years of age, that he knew Ciriaco Lizada and knows all of the defendants and is likewise well acquainted with the lands in question because Lizada was his neighbor; that he knows that Lizada has had uninterrupted possession of said lands since the year 1892; that the defendant Bagobos first came on said lands in 1916, this witness showing an intimate acquaintance with the defendants by naming the various towns from which they came before occupying the lands in question; that up to the time the defendants, who were the tenants of Lizada, disputed his ownership, the possession of Lizada had been public and continuous since 1892; that he had never been molested in his possession; that said lands were improved and cultivated since Spanish times but no abaca was planted before the present tenants of the defendant Bagobos came; that he knows that the defendant Bagobos first entered the lands in 1916 as the tenants

of Lizada.

Exhibit A, being a survey plan made by the surveyors of the Bureau of Lands, approved January 21, 1931, by the Director of Lands, shows that Domingo Loteria owns the tract adjacent to the land claimed by Ciriaco Lizada and that lot No. 16 is claimed by Jacobo Mendoza who was identified as one of the witnesses who signed the contracts of lease entered into between Ciriaco Lizada and the defendant Bagobos as above stated.

The court below made the following finding:

"El demandante pretende que estaba en posesion del terreno hasta el ano 1916 en que los demandados tomaron el terreno en cuestion mediante arrendamiento, pero aparte de los contratos de arrendamiento exhibits B, C, D, E y F, no hay otras pruebas que apoyan la pretens⁴⁶ⁿ del demandante." This finding is plainly erroneous in two respects: First, in completely ignoring the rental contracts, Exhibits B, C, D and F, and in stating that apart from them there is no evidence to support the claim of the plaintiff that he was in possession of the land up to the year 1916. Not to mention other details, the testimony of Domingo Loteria, a disinterested witness and a neighbor of Lizada since the year 1892, cannot thus be arbitrarily ignored. His testimony is contradicted only by the vague statement of the Bagobo Omanan that "sus antepasados", not naming them, possessed the land. Omanan's testimony on this point is inconsistent with his application for a free patent to the same lands as public domain. It is to be noted that not another one of the defendants took the stand in his own behalf to support the testimony of Omanan.

Coming to the rental contracts, Exhibits B, C, D, E and F, there is not the slightest doubt in our minds as to the genuineness of these contracts. Each one of them was executed by the parties in the presence of two signing witnesses and acknowledged before the justice of the peace. Omanan's pretense (in which none of his codefendants joined him) that Lizada told them these rental contracts were documents of inheritance, is utterly frivolous and in our opinion false. It is elementary law that a tenant will not be heard to dispute his landlord's title, hence, the proceedings whereby the defendants obtained free patents were fraudulent.

We cannot concur with the distinguished trial judge that it is necessary that the plaintiff "presente pruebas concluyentes o titulos positivos que justifiquen con la claridad de la luz meridiana el derecho de propiedad o dominio del demandante sobre los terrenos cuestionados." By virtue of his possession since 1892, established by the preponderance of the evidence, the plaintiff is entitled to a certificate of title to the lands described in his petition, under the provisions of section 45, paragraph (b), of Act No. 2874, the Public Land Law, and he is conclusively presumed to have performed all the conditions essential to a government grant. That being so, the original certificates of title of free patent issued to the various defendants, as recited in the agreed statement of facts, were unauthorized and void as against this plaintiff.

With respect to the plaintiff's claim for damages, it appears that the rent to be paid plaintiff by his tenants was to be 15 per cent of the net products, but there is no evidence whatever in the record as to what such net products were during the fifteen years for which said rental contracts were to run. The testimony of Manuel Lizada that the amount of the debt is "mas de P10,000" is purely speculative and is unsupported by any itemization. Under the circumstances, we must disallow the claim for damages.

For the reasons stated, the judgment of the court below is reversed and the plaintiff is found and declared to be the sole and absolute equitable owner of the lands in question and the defendants and each of them are required and ordered to vacate said lands and surrender possession thereof to the plaintiff. Costs against the appellees.

Street, Abad Santos, Imperial, and Diaz, JJ., concur.

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