

VALENTIN PACIA AND TORIBIA LAGMAN, PETITIONERS AND APPELLANTS,, VS. ISIDORO LAGMAN, OPPOSITOR AND APPELLEE. ANACLETA LAGMAN, FELISA LAGMAN, GAUDENCIO SANTOS, EMILIANA SANTOS, CA...

G. R. No. 42952. August 28, 1936

Ponente: DIAZ, J.

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DIAZ, J.:

The spouses Valentin Pacia and Toribia Lagman filed a petition for the confirmation and registration in the registry of deeds of their alleged title to the lands described as parcels Nos. 1, 2, 3, 4 and 5, in the plans Exhibits A and B, and in the sheet of technical descriptions attached thereto, referred to in the record as Exhibit B-1. The petition was opposed on one side by Anacleta Lagman, Felisa Lagman, Gaudencio Santos, Emiliana Santos, Carmen Santos and Juan Garcia; on another side by Isidoro Lagman, with respect to a strip of land extending from east to west along the northern side of parcel No. 1, plan Exhibit A, with an area of 1 hectare, 29 ares and 51 centiares; on another side by Tiburcia Buan, with respect to parcel No. 4 and the creek separating it from parcel No. 1, and on still another side by Cristino Lagman, as to Batasan Creek along the southern side of parcel No. 2, plan Exhibit B.

The petitioners, agreeing to Tiburcia Buan's opposition, excluded parcel No. 4 from their application.

After the judicial proceedings, the lower court rendered judgment confirming the title of the petitioners as to parcels Nos. 1, 2, 3 and 5, except the strip of land alongside parcel No. 1, claimed by Isidoro Lagman; sustaining Isidoro Lagman's opposition with respect to said strip and that of Tiburcia Buan as to parcel No. 4 and the creek separating it from parcel No. 1; declaring Cristino Lagman's opposition unfounded on the ground that the Batasan Creek was not included in the petitioners' plan, and ordering the petitioners to file an amended plan in accordance with said judgment.

The petitioners appealed from the judgment of the lower court depriving them of the strip of land alongside parcel No. 1, claimed by Isidoro Lagman; and the oppositors headed by Anacleta Lagman also appealed because their opposition was entirely overruled. The petitioners base their appeal upon the alleged error committed by the lower court in sustaining Isidoro Lagman's opposition in spite of their evidence, and in denying their motion for a new trial based upon their allegation that the decision was contrary to law and the weight of the evidence. The oppositors, in turn, based their appeal upon the premise that said court committed the following errors:

"I. The court a quo erred in not giving validity and efficacy to the document Exhibit F, as regards the area of the land actually purchased by Valentin Pacia and Toribia Lagman from the children of Feliciano Lagman and Joaquina Gagui.

"II. The lower court erred in not adjudicating to the petitioners 2 hectares, 51 ares and 88 centiares of the plan Exhibit A, and 1 hectare, 35 ares and 69 centiares of the plan Exhibit B, which areas appear to have been sold to them under Exhibit F.

"III. The trial court erred in not holding that the contaneous and posterior acts of the petitioners from 1906 to 1931 as evidenced by public documents, have unequivocally and invariably shown that their intention was to purchase from the appellants three balitas (2 hectares, 51 ares and 88 centiares) of the first parcel, plan Exhibit A, and two balitas (1 hectare, 35 ares and 69 centiares) of the second parcel, Exhibit B."

We have carefully examined the evidence presented by the parties and are satisfied that the findings of the lower court, in connection with the question between the petitioner spouses and the "oppositors headed by Anacleta Lagman, are true. The evidence truly shows that the lands in question originally belonged to the spouses Feliciano Lagman and Joaquina Gagui, parents of Anacleta Lagman and grandparents of the other oppositors who have joined cause with her, named Felisa Lagman, Gaudencio Santos, Emiliana Santos, Carmen Santos, Alfredo Santos, Jose Santos and Juan Garcia. After the death of Feliciano Lagman and Joaquina Gagui, their children Anacleta Lagman, Gregorio Lagman, father of the oppositor Felisa Lagman; Segunda Lagman, mother of the oppositor Juan Garcia; and Maria Lagman, mother of the oppositors Emiliana, Gaudencio, Alfredo, Jose and Carmen, surnamed Santos, sold them with pacto de retro to the petitioners for the sum of P120 on June 16, 1902, it having been stipulated between them that the period of repurchase would be two years from said date (Exhibit E). Six years later, or on April 23, 1908, they were definitely and absolutely sold for the sum of 9200 and the deed of record, Exhibit F, was then executed. Cristino Lagman, one of the oppositors and himself a relative of the latter, was an instrumental witness of said act (Exhibit F). From said date the petitioners possessed parcels Nos. 1, 3 and 5 of plan Exhibit A, and parcel No. 2 of plan Exhibit B under claim of ownership and without interruption, having cultivated them until Angel Suntay leased the last of the above-named parcels from them and converted it into a fish pond, using it in fact for said purpose from the latter part of August, 1930, until January 29, 1932 (Exhibits H and H-4). The petitioners did not fail to pay the taxes corresponding to said lands (Exhibits I and J).

The oppositors Anacleta Lagman and her nephews and nieces alleged in their opposition that they were the exclusive owners of the lands in question. During the trial, and after seeing the documentary evidence, Exhibits E and F, for the petitioners, the genuineness of which they could not deny, they adopted another theory saying that they had sold to the petitioners only a part of parcel No. 1, with an area of three balitas, and another part of parcel No. 2, with an area of two balitas. Sometime later, however, they adopted another new theory in view of the fact that they could not prove occupation thereof, stating that they allowed the petitioners to occupy said lands because the latter had requested their permission to occupy said lands for at least two years in order to be indemnified for the expenses incurred by them for having made improvements thereon. The truth, however, is that aside from the testimony of their witnesses Mauricio Duenas, husband of the oppositor Anacleta Lagman, Juan Garcia, nephew of said oppositor, and Cristino Lagman, a close relative of them all, they presented no other evidence in support of their claim. They did not even declare said lands as their own for land tax purposes from the time they sold said lands with pacto de retro in 1902.

The argument advanced by the oppositors and appellants headed by Anacleta Lagman, that Exhibits E and F merely prove the fact that the land sold by them to the petitioners had a total area of only five (5) balitas, inferring therefrom that all the area in excess thereof must be understood to continue to belong to them, is of no force or value because in the matter of sales of land made for a lump sum and not at so much a unit of measure or number, the boundaries of said land stated in the contract, not the area thereof, are the determining factor of the effects, scope or meaning of said contract. The real and true area of the land must prevail over that given in the document (*Loyola vs. Bartolome*, 39 Phil., 544; *Escudero and Marasigan vs. Director of Lands*, 44 Phil., 83; *Government of the Philippine Islands vs. Abaja*, 52 Phil., 261; and *Beltran vs. Reyes*, 55 Phil., 1004). This is all the more true in the present case because said deeds of transfer Exhibits E and F show that the grantors thereof, in describing the lands transferred by them did not wish to give importance to the area of said lands inasmuch as in describing them they merely stated that the two parcels had an area of approximately three and two balitas, respectively, which

statement implies that their purpose was to sell them in their entirety according to their true area included within the boundaries or limits given in said documents.

By comparing the descriptions given in said documents Exhibits E and F and in the tax declarations Exhibits I and J with those appearing in the application and in the plans and sheet of technical descriptions attached to the application, it will be seen that the lands referred to therein are exactly the same. If Anacleta Lagman and the predecessors of her co-oppositors had reserved for themselves some portion of the lands in question upon executing the deeds of transfer above mentioned, we would necessarily find evidence thereof in said documents because it would have been indicated therein that the land sold adjoined another piece of land or other lands belonging to the grantors, and it is a fact that it does not so appear therein. There is therefore no doubt that the opposition of Anacleta Lagman and her nephews and nieces was unfounded and that the decision of the lower court as to said question was in accordance with law and the evidence.

As to the petitioners' appeal, it should be stated that all the members of the court, with the exception of one who was of the opinion that the preponderance of the evidence is in favor of the petitioners; that Isidoro Lagman failed to prove his alleged possession; that he neither indicated the boundaries of the land in question on the south nor proved that there were fences, hedges or dikes separating it from that of the petitioners, declared it unfounded. They hold with the lower court that the strip of land disputed by the parties, with an area of 1 hectare, 29 ares and 51 centiares, originally belonged to German Lagman, Isidoro Lagman's father; that after German Lagman's death, which took place in 1914, Isidoro Lagman succeeded him in the occupation and cultivation of the land in question under claim of ownership; that as such he declared it for land tax purposes for the first time in 1916, and thereafter he had been regularly paying the corresponding tax every year.

The petitioners certainly proved that they also occupied the strip of land in question and availed themselves of the fruits thereof from the time they acquired it in 1902 from Isidoro Lagman's cousins named Gregorio, Anacleta, Maria, and Segunda Lagman; and that, as said oppositor, they had it assessed for taxation purposes in their name in 1906, paying the corresponding land taxes uninterruptedly. This court, however, following the ruling laid down in the cases of Baltazar vs. Alberto (33 Phil., 336); Lim Soco vs. Roxas (26 Phil., 609); United States vs. Rice (27 Phil., 641); and United States vs. Melad (27 Phil., 488), and taking into consideration the fact that the lower court personally heard and saw all the witnesses testify during the trial and, furthermore, had the opportunity to observe them and pass upon their greater or less credibility, does not feel justified in altering the conclusions of said court.

Wherefore, the appealed judgment is affirmed in toto, with the costs of this instance to the oppositors-appellants headed by Anacleta Lagman. So ordered.

Avanceña, C. J., Villa-Real, Abad Santos, Imperial, Recto, and Laurel, JJ., concur.

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