

JUANA GALIT, PLAINTIFF AND APPELLANT, VS. GETULIO GINOSA AND MELECIO HERNANDEZ, DEFENDANTS AND APPELLEES.

G.R. No. 43145. October 31, 1935

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

The plaintiff Juana Galit appeals to this court from a decision of the Court of First Instance of Tayabas the dispositive part of which reads:

"Wherefore, the court is of the opinion that it must rule, as it does hereby, that the defendants Getulio Ginosa and Melecio Hernandez be absolved from the complaint. As to the counterclaim of the defendant Getulio Ginosa, the plaintiff Juana Galit is ordered to indemnify him in the amount of P33,449.71. As to the counterclaim of the defendant Melecio Hernandez, the plaintiff is ordered to indemnify him in the amount of P80.95. The costs should be taxed against the plaintiff. The writ of preliminary injunction issued in this case is hereby dissolved. It is so ordered."

In support of her appeal, the appellant assigns the following alleged errors committed by the trial court in its judgment, namely:

"1. That the lower court erred in dismissing the complaint filed in this case and in absolving the defendants therefrom notwithstanding the sufficiency of plaintiff's evidence to support the allegations of the complaint.

"2. That the lower court likewise erred in admitting as competent evidence in this case the certificate marked Exhibit 6 containing statistics of the Bureau of Commerce and Industry relative to the production and price of copra in the Province of Tayabas,

"3. That the lower court also erred in rejecting the documents marked Exhibits A to Z, inclusive, as evidence for the plaintiff.

"4. That the lower court likewise erred in giving more weight to the evidence of the defendants than to that presented by the plaintiff Juana Galit.

"5. The lower court finally erred in rendering a decision ordering the plaintiff to pay the defendants Getulio Ginosa and Melecio Hernandez the amounts of P33,449.71 and P80.95, respectively, plus the costs of the suit."

Being procedural in nature, we will first address ourselves to the question of whether or not the subject matter in suit is *res judicata*, that is, as to the ownership of the improvements for which the plaintiff-appellant Juana Galit seeks to recover indemnity from the defendants-appellees Getulio Ginosa and Melecio Hernandez.

In land registration case No. 1510 (G. L. R. 0. Record No. 25134), the herein plaintiff-appellant Juana Galit presented an application alleging that she was the absolute owner of several parcels of land with its improvements, among which was that for whose improvements she seeks to recover indemnity in this case, and asking the registration thereof in her name under Act No. 496. The herein defendants-appellees Getulio Ginosa and Melecio Hernandez filed their oppositions to said application. Getulio Ginosa's opposition was based upon an

alleged right of ownership and possession from time immemorial enjoyed by him and by his predecessors in interest as owners. After the case was heard, the Court of First Instance of Tayabas, then presided by Judge Francisco Enage, rendered a decision the dispositive part of which recites:

"Wherefore, the court renders judgment decreeing the registration of a fifth part of the land applied for, on the southern portion, in the name of the applicant Juana Galit, and dismissing her application as to the rest. The opposition of Melecio Hernandez as to the portion of the land described in his sketch Exhibit I-Hernandez, and that of Getulio Ginosa as to the rest of the land applied for on the northern part are sustained, and the oppositions of Narciso Galit and Mariano Reta are overruled.

"Pursuant to the provisions of Act No. 3630, which took effect on December 5, 1929, four-fifths part of the land applied for on the northern portion is adjudicated to Getulio Ginosa, excepting the land described in the plan Exhibit 1-Hernandez and claimed by the oppositor Melecio Hernandez, which is likewise adjudicated to the latter; and these oppositors are ordered to pay the applicant four-fifths part of the costs of this proceeding, the share to be paid by Melecio Hernandez to be proportionate to the area of the land claimed by him. The applicant and said oppositors Getulio Ginosa and Melecio Hernandez are likewise ordered to file a common plan delimiting the portions of land herein adjudicated to them respectively, within the period of thirty days from the date of this decision becomes final. So ordered."

Unable to agree with said decision, Juana Galit, applicant therein and plaintiff herein, appealed therefrom to this court, which found it to be in accordance with the proven facts and the law and affirmed it, with costs to the appellant.

We, therefore, find that the ownership of the land and the improvements thereon here in question had already been settled in a former registration case, wherein fourfifths thereof on the northern portion had been adjudicated, not to the applicant therein and plaintiff herein, Juana Galit, but to the oppositor therein and defendant herein, Getulio Ginosa, except the portion claimed by the other oppositor, Melecio Hernandez; hence, the matter is *res judicata* and cannot be litigated anew by the same parties.

Moreover, after the decision in favor of the oppositor and appellee in the registration case and the defendant and , appellee in the instant case had become final, and pursuant to an order for the issuance of a decree, the chief of the General Land Registration office, on July 25, 1933, issued the corresponding decree of registration free from all liens and incumbrances, except those provided by law.

In the case of *Lavarro vs. Labitoria* (54 Phil., 788), this court laid down the following doctrine:

"4. LAND REGISTRATION; OWNERSHIP OF TREES AND PLANTS; PROCEEDINGS IN EQUITY.—Trees and plants annexed to the land are parts thereof, and unless rights or interests in such trees or plants are claimed in the registration proceedings by others, they become the property of, the persons to whom the land is adjudicated. By timely proceedings in equity matters of that character, if fraudulent, may sometimes be corrected."

In the case of *Bias vs. De la Cruz and Melendres* (37 Phil., 1), relied upon in the case of *Atkins, Kroll & Co. vs. Domingo* (46 Phil., 362, 368), the following doctrine was enunciated:

"REGISTRATION OF LAND; CERTIFICATE OF TITLE ISSUED BY THE COURT OF LAND REGISTRATION; WHAT INCLUDES.—Held: Under the facts stated in the opinion, that inasmuch as the plaintiff herein did not, during the pendency of the litigation for the registration of the land in question, have excluded therefrom and have noted upon the certificate of title issued, his alleged rights and interests in the improvements in question, he thereby lost his right to such improvements'

In the last cited case, the improvements were not claimed in the corresponding registration case, and the

certificate of title having been issued free from all liens and incumbrances, it was held that all claim to said improvements came too late and could in no wise affect said title. In the instant case, as we have observed, the plaintiff-appellant applied in the registration case for the registration of the land and its improvements in her name as owner. The defendants-appellees Getulio Ginosa and Melecio Hernandez filed oppositions to said application and, in turn, claimed the said land with its improvements as their own. The result was that only one-fifth was adjudicated to the applicant Juana Galit, and the remaining four-fifths were adjudicated to the oppositor Getulio Ginosa, except the portion claimed by the other oppositor Melecio Hernandez. This is the more reason, therefore, why the plaintiff-appellant could not claim here the aforesaid improvements or an indemnity therefor, because they were not only not noted as an incumbrance upon the certificate of title issued in the name of the defendant-appellee Getulio Ginosa for the four-fifths part of the land wherein they are found, but, having laid claim upon them in the said registration case, they were not adjudicated to her but to the oppositor.

The plaintiff-appellant makes the point that the doctrine of *res judicata* could not be invoked in the instant case because she does not seek to recover the improvements themselves but only the reimbursement for the amount spent thereon.

If, as we have said, the improvements for which the plaintiff-appellant seeks to be indemnified, were claimed in her application for registration and were not adjudicated to her, but instead were declared to be the property of Getulio Ginosa, she can not claim any indemnity because this is only granted to one whose property has been damaged.

But even if she were the owner of the improvements oft-referred to and she had lost her right thereto due to her failure to claim them in the registration case and to the issuance of a certificate of title for the land upon which they were found, without noting thereon the right of retention over said improvements, yet she can not now recover any indemnity therefor under the doctrine laid down by this court in the already cited case of *Lavarro vs. Labitoria*, reading:

"But it is intimated that, while in the earlier case the issues related to the ownership of the improvements, the issue here is only a question of money payment and that therefore the causes of action are different. Assuming, without conceding, that such is the case, the result would be the same. The issues in both cases arose from the same source or transactions and should have been determined in the same case (sec. 97, Code of Civil Procedure). A judgment upon the merits bars a subsequent suit upon the same cause, though brought in a different form of action. (*White vs. Martin*, 1 Port. [Ala.], 215.) The principle is firmly established that a party will not be permitted to split up a single cause of action and make it the basis for several suits. If several suits be brought for different parts of such a claim, the pendency of the first may be pleaded in abatement of the others, and a recovery of any part of the cause of action will be a bar to an action brought upon the other part. Not only is it a bar to a suit, but the plaintiff in the former action cannot subsequently avail himself of the residue by way of offset in an action against him by the opposite party.' (15 R. C. L., 965.) In passing, it may be noted that a close examination of the facts in the case of *Bautista vs. Jimenez* (24 Phil, 111), will show that it differs materially from the present case; the case of *Berses vs. Villanueva* (25 Phil., 473), is more in point."

As to the provision of section 70 of Act No. 496, subjecting registered property to certain burdens created by law, among them the right of retention, the same has no application to the instant case, for, as we have said, in the registration case it was held that the herein plaintiff-appellant was not entitled to the ownership of the land and its improvements of which she applied for registration. Not being the owner of said improvements, she has no right of retention over them, and the provisions of article 453 of the Civil Code are not applicable to her.

Having reached these conclusions, we do not find it necessary either to discuss or to pass upon the first, third, and fourth alleged errors assigned by the plaintiff-appellant in her brief, relative to the sufficiency of the evidence adduced by her to establish her right to an indemnity for the improvements on the land whose ownership was

adjudicated to the defendants-appellees Getulio Ginosa and Melecio Hernandez, and whose registration was decreed in the name of the latter respectively.

To the argument of the defendant-appellee Getulio Ginosa, that no notation having been made in the certificate of title issued in his name of any right of retention over the improvements in favor of the plaintiff-appellant, the latter cannot claim any indemnity therefor, said plaintiff-appellant advances the same reasoning, stating that the defendants-appellees Getulio Ginosa and Melecio Hernandez not having claimed, in their oppositions, the damages which they claim to have suffered as a result of the plaintiff-appellant's alleged! illegal possession of the questioned land from the year 1916 to the present, and not having noted said damages on the certificate of title issued in their favor, they are not entitled to claim said damages in their counterclaim.

Under section 2 of Act No. 496, as amended by Act No. 2347, Courts of First Instance taking cognizance of land registration cases have jurisdiction only to hear applications for the registration of title to lands or buildings or of any right therein in accordance with the provisions of the aforesaid Act No. 496, with the power to hear and determine all questions arising from said applications or raised before said courts under the aforesaid law. An indemnity for damages resulting from the illegal possession of a land whose registration is applied for and whose ownership is in contention, is neither a real right nor a question arising from the application for registration nor one which, under the oft-repeated Act No. 496, is raised before a land registration court, which should be noted as an incumbrance on the certificate of title to be issued and without which notation such right or question will not bind the registered land. It is a personal right which should be enforced by an action likewise personal, independently of the application for registration. The defendant-appellee Getulio Ginosa could not, therefore, include his claim for damages in his opposition to the application for registration filed by the plaintiff-appellant Juana Galit, because as it is neither a real right upon the land whose registration was applied for, nor a question raised in said application or under Act No. 496, the Court of First Instance of Tayabas, wherein the aforesaid application was filed, lacked jurisdiction to pass upon said claim in the same registration case.

The failure, therefore, of Getulio Ginosa and Melecio Hernandez to claim in their oppositions indemnity for damages against the plaintiff-appellant Juana Galit for her illegal possession of the land is no bar to the filing¹ of said claim either in an independent action or in a counterclaim.

The case of *Bias vs. De la Cruz and Melendres*, supra, relied upon by the plaintiff-appellant Juana Galit to avoid the counterclaim of the defendants-appellees, did not involve damages but improvements over which, under article 453 of the Civil Code, a possessor in good faith enjoys the right of retention, and the land applied for therein was not registered in the name of the oppositor but in that of the applicant and, naturally, it was necessary that the oppositor, as a possessor in good faith, should claim the improvements and should ask for the notation upon the certificate of title of his right of retention over the said improvements in order to protect said right; otherwise, upon the issuance of the said certificate of title free from all liens and incumbrances, the right to claim said improvements would be cut off under the provisions of section 39 of the aforesaid Act No. 496.

As to the amount of the damages asked for by the defendants-appellees in their counterclaim, the fact that in the original and amended complaints filed by their attorney, Jose M. Casal, in civil case No. 818 (Exhibit II), the number of coconut trees for which indemnity was asked was less than that for which indemnity is asked in their counterclaim in the present action, does not bar Getulio Ginosa, who did not sign said complaints, from asking and securing the indemnity claimed by him in said counterclaim (*Sons of I. de la Rama vs. Benedicto*, 5 Phil., 512; *De la Vega vs. Lavin*, 13 Phil., 63).

As to the admissibility of the certificate issued by the Director of the Bureau of Plant Industry, of data on file in paid office relative to the productivity of the coconut trees in the Province of Tayabas and the price of the

products thereof, which is attached to the deposition of the Assistant Chief Statistician of the Department of Commerce and Industry, Antonio Pefia (Exhibit 5) the same being statistical data compiled under section 1753 (g), in connection with section 2202, of the Revised Administrative Code, it is admissible as competent evidence of such facts (*Salmon, Dexter & Co. vs. Wijangco*, 46 Phil., 386; 23 Corpus Juris, 162), and the trial court committed no error in basing upon said official data found in said certificate its estimate of the average number of coconut fruits produced annually and the price thereof from 1916 up to 1933.

For the foregoing considerations, we are of the opinion, and so hold: (1) That when an application for registration filed under the provisions of Act No. 496, praying for the adjudication and registration of a parcel of land together with its improvements, of which the applicant claims to be the absolute owner, is denied, and the ownership and registration of said land with its improvements are adjudicated to the oppositor, the question of ownership of said land and its improvements is *res judicata* and constitutes a legal bar to the filing of an ordinary action by the applicant whose application was denied, to recover indemnity for said improvements; (2) that the issuance of a certificate of title in favor of an oppositor covering a land and its improvements which have been the subject matter of an application for registration, without noting thereon any incumbrance upon said improvements in favor of the applicant, is a bar to the filing of an ordinary action to recover indemnity for said improvements (*Lavarro vs. Labitoria*, 54 Phil., 788; *Bias vs. De la Cruz and Melendres*, 37 Phil., 1; *Atkins, Kroll & Co. vs. Domingo*, 46 Phil., 362, S68); and (3) that an oppositor to whom property was adjudicated whose registration was applied for by another, is not estopped from instituting an ordinary action to recover indemnity for damages resulting from the detainer of said land and its improvements by the applicant during the pendency of the application, notwithstanding the fact that said indemnity was not asked for in his opposition, because the Court of First Instance which heard the registration case lacked jurisdiction to award damages therein.

Wherefore, and with the sole modification that the indemnity for damages be computed from the year 1924, when the defendants and cross-plaintiffs presented their opposition to the application for registration filed by the plaintiff and cross-defendant Juana Galit, until the surrender by the latter of the possession of the land in question, at the rate of P1,967.63 a year, with legal interest thereon until fully paid, the appealed judgment is affirmed in all other respects, with costs to the appellant. So ordered.

Malcolm, Hull, Imperial, and Goddard, JJ., concur.

Judgment affirmed.

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