

MARIANO ANGELES, PLAINTIFF AND APPELLEE, VS. ELENA SAMIA, DEFENDANT AND APPELLANT.

G.R. No. 44493. November 03, 1938

Ponente: DIAZ, J.

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DIAZ, J.:

The question involved herein refers to the ownership of a parcel of land having an area of 7 hectares, 13 ares and 81 centiares, situated in the municipality of Bacolor, of the Province of Pampanga, included in lot No. 3679 described in cadastral record No. 11 of the said municipality, G. L. R. O. Cadastral Record No. 148 of Pampanga, and now covered by original certificate of title No. 8995 of the registry of deeds of Pampanga, registered and issued on December 15, 1921, in the name of Macaria Angeles, Petra Angeles, Felisberto Samia, and Elena Samia as their common undivided property in the following proportion: One third to Macaria Angeles, 1/6 to Petra Angeles, 1/4 to Felisberto Samia, and 1/4 to Elena Samia.

The plaintiff claims to be the exclusive owner of the property in question, and the defendant alleges the same thing saying: (1) That said property was allotted to her when her coowners made a partition of all the properties owned by them in common, and (2) that if the plaintiff ever had any right thereto prior to the issuance of said original certificate of title, such right prescribed a long time ago.

The lower court decided the question in favor of the plaintiff and ordered the defendant to execute the necessary deed of conveyance to the plaintiff of the land described in the complaint, which constitutes the northern portion of 7 hectares, 13 ares and 81 centiares of said lot No. 3679, the sketch of which appears in the plan Exhibit P as lot No. 3679-A, and to pay the costs of the trial. From this judgment the defendant appealed, assigning in her brief the following alleged errors as committed by the lower court, to wit:

"1. The lower court erred in not sustaining and holding that the plaintiff's action has prescribed.

"2. The lower court erred in not holding that the plaintiff has neither alleged nor proven facts constituting a cause of action.

"3. The lower court erred in not holding that the plaintiff's claim is contrary to the principal objective of the Torrens System established in this country.

"4. The lower court erred in concluding and holding that a constructive or implicit trust exists in the present case, as claimed by the plaintiff.

"5. The lower court erred in not holding that the case of 'Villarosa vs. Sarmiento' (46 Phil., 814), is applicable to and decides the present case, and in holding that the case of 'Dizon vs. Datu', decided by the Supreme Court as case G. R. No. 30517, applies to the case at bar.

"6. The lower court erred in not dismissing the complaint in this case with costs to the plaintiff.

"7. The lower court erred in denying the defendant-appellant's motion for new trial."

It is not disputed by the parties that the land in question was inherited by the plaintiff from his father Antonino Angeles some time before the year 1896; that thereafter the plaintiff possessed and occupied the land in question under claim of ownership up to the present; that about the year 1909, he attempted to register his title to said property in the registry of deeds, pursuant to the Land Registration Act but his application was denied due to errors found in his plan; that, this notwithstanding, he continued to exercise acts of ownership over the land in question openly, uninterruptedly and peacefully at least until March, 1933; that on December 15, 1921, without the plaintiff's knowledge and without having been purposely applied for by the defendant and her coparticipants Macaria, Petra, and Felisberto, said original certificate of title No. 8995 was issued in the name of the latter four coowners; that the said coowners having decided to partition among themselves the properties held by them in common, the land in question was allotted to the defendant; that the defendant, desiring to know the area of said land, had it relocated about the end of February or the beginning of March, 1933, and, as soon as it had been done, although she was then aware that neither she nor any of her former coparticipants ever occupied it before, because it had always been occupied by the plaintiff long before 1896, she entered upon said land to exercise acts of ownership, for which purpose she cut and availed herself of the leaves of nipa palms found therein, notwithstanding the protests and objections of the plaintiff; that the plaintiff, for the purpose of avoiding frictions, requested the defendant, inasmuch as it was through error that the land in question had been adjudicated to her and her coowners, to deign to execute the corresponding deed of transfer thereof in his favor, the land being lawfully his; that the defendant refused to do so claiming that her title was already indefeasible; and that, in view of such attitude of said defendant, the plaintiff brought this action one or two days later.

The defense of prescription, which the defendant-appellant seeks to avail of to support the irrevocability of her title and to counteract the action of the plaintiff-appellee, is untenable because, aside from the fact that neither she nor her coowners ever possessed the land in question in any capacity, they never claimed to be the owners thereof, and u the has done so alter the lapse of more than eleven years from the issuance of the title in their favor, it was due to the fact that they were declared owners thereof through error. The purpose of the Land Registration Act, as this court has had occasion to so state more than once, is not to create or vest title, but to confirm and register title already created and already vested, and of course, said original certificate of title No. 8995 could not have vested in the defendant more title than what was rightfully due her and her coowners. It appearing that said certificate granted her much more than she expected, naturally to the prejudice of another, it is but just that the error, which gave rise to said anomaly, be corrected (*City of Manila vs. Lack*, 19 Phil., 324). 'The defendant and her coowners knew or, at least, came to know that it was through error that the original certificate of title in question was issued by the court which heard cadastral case No. 11 of Bacolor, not only in or prior to March, 1933, but from the time said certificate was issued in their favor, that is, from December 15, 1921. This is evidenced by the fact that, ever since, they remained passive without even attempting to make the least showing of ownership over the land in question until alter the lapse of more than eleven years. The Land Registration Act as well as the Cadastral Act protects only the holders of a title in good faith and does not permit its provisions to be used as a shield for the commission of fraud, or that one should enrich himself at the expense of another (*Gustilo vs. Maravilla*, 48 Phil., 442; *Angelo vs. Director of Lands*, 49 Phil., 838). The above-stated Acts do not give anybody, who resorts to the provisions thereof, a better title than he really and lawfully has. If he happened to obtain it by mistake or to secure, to the prejudice of his neighbor, more land than he really owns, with or without bad faith on his part, the certificate of title, which may have been issued to him under the circumstances, may and should be cancelled or corrected (*Legarda and Prieto vs. Saleeby*, 31 Phil., 590). This is permitted by section 112 of Act No. 496, which is applicable to the Cadastral Act because it is so provided expressly by the provisions of section 11 of the latter Act. It cannot be otherwise because, as stated in the case of *Domingo vs. Santos, Ongsiako, Lim y Cia.* (55 Phil., 361), errors in the plans of lands sought to be registered in the registry and reproduced in the certificate of title issued later, do not annul the decree of registration on the ground that it is not the plan but the land itself which is

registered in the registry. In other words, if the plan of an applicant for registration or claimant in a cadastral case alleges that the land referred to in said plan is 100 or 1,000 hectares, and the land which he really owns and desires to register in the registry is only 80 ares, he cannot claim to be the owner of the existing difference if afterwards he is issued a certificate of title granting him said area of 100 or 1,000 hectares.

Let it not be said that, as the decree of registration which gave rise to original certificate of title No. 8995 was issued on December 15, 1921, and the plaintiff failed to ask for the review of said decree within one year, in accordance with section 38 of Act No. 496, he still has the right to question the legality or validity of the decree in question, because the action brought by him in this case is not for said purpose but merely to ask that the land in dispute, which was erroneously included in original certificate of title No. 8995, be transferred to him by the defendant, he being the owner thereof. This is possible and it is authorized by law, upon the amendment of the plan which must be approved by the competent court, for which purpose there is no necessity of altering or modifying in the least the decree already issued.

For the foregoing reasons and for those taken into consideration in the cases of *Dizon vs. Datu* (G. R. No. 30517, promulgated on June 3, 1929, not reported); *Government of the Philippine Islands vs. Court of First Instance of Nueva Ecija* (49 Phil., 433); and *Palet vs. Tejedor* (55 Phil., 790), which are not repeated herein, for the sake of brevity, this court holds that the errors attributed to the lower court are unfounded; that the appeal is unwarranted, and that the appealed judgment is in accordance with the law.

Wherefore, the appealed judgment in question is affirmed in toto, and it is ordered that, upon the amendment of the plan of parcel No. 3679 of cadastral survey No. 11 of Bacolor, G. L. R. O. Cadastral Record No. 148 of Pampanga, the corresponding writ for the execution of said judgment be issued by the lower court, with the costs to the appellant. So ordered.

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

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