

FABIAN B. S. ABELLERA, PETITIONER, VS. MEYNARDO M. FAROL ET AL., RESPONDENTS.*G.R. No. 48480. July 30, 1943*

Ponente: BOCOBO, J.

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Whether in a cadastral case, the judge may upon motion of adverse claimants order the cancellation of the claimant's answer and keep the latter from introducing evidence to prove his ownership because the case is barred by a prior judgment, is the legal question at issue in this case. An order to that effect issued by the Court of First Instance of La Union, is impugned by Fabian B. S. Abellera in a petition for a writ of certiorari.

Abellera, in a previous case concerning the same real estate involved herein, sued Hermegildo Balanag and others who are either the same parties in this case or the latter's predecessors in interest, alleging ownership of the land. But his complaint was dismissed by the Court of First Instance on two grounds: (1) prescription in favor of defendants; and (2) the deed of donation of these lands to him had not been formally accepted according to Article 633 of the Civil Code. Upon appeal to this Court, the judgment of the trial court was affirmed on the second ground aforementioned (Abellera vs. Balanag G. R. No. 11970, promulgated March 22, 1918, and reported in 37 Phil 865)

It appears in that decision of this Court that after the perfection of the appeal, Abellera executed a public document formally accepting the donation of the land, and presented said deed of acceptance together with proofs of notification of acceptance to the donor, as ground for new trial. This Court held that this was not newly-discovered evidence, and that Abellera had not acquired title to the hacienda until the execution of the deed of acceptance and the notification thereof to donor. This Court added:

"So that, whatever rights he may have to institute and maintain a new action of ejectment in reliance upon his claim that he has acquired title to the hacienda, since the date of the dismissal of this action, it is clear that the present action was properly dismissed on the ground of failure of proof of title in the plaintiff at the time when the action was instituted and later when judgment of dismissal was entered by the trial court.

In July of 1918, or four months after the above-mentioned decision of this Court, petitioner herein brought another action for recovery of the land against the the same defendants in the previous case. The second suit was later dismissed by the Court of First Instance and transferred to cadastral case No. 5 which included the hacienda in question that had in the meantime been subdivided into lots. When the cadastral case came up before the Hon. Meynardo M. Farol at Aringay, La Union, in July 1941, Fabian B. S. Abellera appeared as claimant while Narciso de Guzman and others appeared as adverse claimant. The latter through counsel moved that Abellera's claim over the lots concerned be dismissed on the grounds of res judicata and prescription.

A careful examination of the decision of this Court in the previous case (37 Phil., 865) convinces us that there is no res judicata. We merely held that Abellera had not acquired title to the hacienda until the execution of the deed of acceptance and the notification thereof, and we clearly refused to prevent Abellera from instituting a new

action based upon his assertion that he had acquired title to the estate since the dismissal of his original action.

The other ground for the motion for dismissal, prescription, is not involved in the present proceedings.

The next question is: Did the cadastral court, on the ground of *res judicata*, have any power to entertain the motion to dismiss Abellera's claim and bar him from presenting evidence to prove his ownership of these lots?

Rule 132 of the Rules of Court provides;

"These rules shall not apply to land registration, cadastral and election cases, naturalization and insolvency proceedings, and other cases not herein provided for except by analogy or in a supplementary character and whenever practicable and convenient."

The Rules of Court may be applied in cadastral cases when two conditions are present; (1) analogy or need to supplement the cadastral law, and (2) practicability and convenience.

If the nature and objective of the cadastral scheme are kept in view, a motion to dismiss in a cadastral case on the ground of prior judgment would seem to be out of place. The Government initiates a cadastral case, compelling all claimants in a municipality to litigate against one another regarding their respective claims of ownership. By this plan, all the private lands in a town are registered in one single collective proceeding. Thus, the piece-meal and isolated registration of lands, so inadequate in more ways than one, is avoided. The principal aim is to settle as much as possible all disputes over land and to remove all clouds over land titles, as far as practicable, in a community. To attain this purpose, the cadastral court should allow all claimants ample freedom to ventilate whatever right they may assert over real estate, permitting them, in keeping with the law of evidence, to offer proofs in support of their allegations. To countenance the contrary opinion, by suppressing the presentation of evidence in support of claims, would but serve to perpetuate conflicts over land, for such stifled affirmations of ownership will fester like wounds unskillfully treated. No sufficient leeway having been given all claimants to demonstrate the strength and consistency of their alleged rights, the stability of decrees of title is jeopardized.

In *Haw Pia vs. Roman A. Cruz* (G. R. No. 48506), we declared that the Court of First Instance in a cadastral proceeding cannot appoint a receiver because its jurisdiction is special and limited. We declined in that case to apply the new Rules of Court by analogy.

We are, therefore, of the opinion that, while in a cadastral case, *res judicata* is available to a claimant in order to defeat the alleged rights of another claimant, nevertheless prior judgment can not be proceedings are analogous in so far as the set up in a motion to dismiss.

The order appealed from is hereby reversed. Petitioner herein shall in the cadastral proceedings be allowed to present evidence to prove his claim over the lots in question. With costs against the adverse claimants who are respondents herein So ordered.

Yulo, C. J., Moran, and Ozaeta, JJ., concur.

DISSENTING

PARAS, J.,

Years ago a judge of first instance said that *res adjudicate* cannot be set up as a defense in land registration proceedings. On appeal this Court held:

"A final judgment in an ordinary civil case determining the ownership of certain land is *res adjudicata* in a

registration proceedings when the parties and the property are the same as in the former case." (Menor vs. Quintans, 56 Phil., 657.)

This doctrine is a reiteration of that laid down in *Verzosa vs. Nicolas*, 29 Phil., 425, and *Santiago vs. Santos*, 54 Phil., 619, which stated:

"A decision in ejectment bars a loser from opposing registration under Act No. 496 by the prevailing party

"When the same parties have heretofore litigated over the same land for the recovery of real property, the judgment in that case (48 Phil., 567) constitutes res adjudicate in proceedings for registration of the land. A party cannot by varying the form of action escape the operation of the principle that one and the same cause of action shall not be twice litigated."

"In a revindicatory action it was declared that the plaintiffs had no right to the land sued for. In a subsequent action some of the former or successful plaintiffs sought to recover various portions of the same land from certain individuals to whom such portions had been deeded by the principal defendant in the prior case. Held: Judgment in the first case was conclusive against the plaintiffs in the second case." (*Baguinguito vs. Rivera*, 56 Phil., 423)

"The answers in a cadastral proceedings partake of an action to recover title, as real rights are claimed therein." (*Dais vs. Court of First Instance of Capiz*, 51 Phil., 896.)

The reason for the application of the rule must lie in the fact that actions and proceedings are analogous in so far as the Court is therein called upon to adjudicate land in favor of any of the conflicting parties or claimants.

The parcels of land involved in the instant case had been litigated between the same parties since the year 1914. The petitioner here, who was plaintiff in the case of *Abellera vs. Balanag* (27 Phil., 865), alleged that the defendants had been possessing the land since 1907. They are in fact still in possession thereof. Notwithstanding the decision of this Court in 1918 which affirmed the judgment of the lower court in the aforesaid case absolving the defendants-respondents from the complaint on the ground that the plaintiff-petitioner had failed to show title in his favor, the majority are now allowing the same parties to continue their odyssey in court.

I dissent because in my opinion Rule 132 in connection with Rule 8 of the Rules of Court, instead of prohibiting, expressly authorizes the lower court in land registration or cadastral proceedings to entertain a motion for dismissal on the ground of res adjudicate or prescription. Of course the dismissal of petitioner's claim will not necessarily or automatically mean adjudication of title to the individual respondents, but it will certainly facilitate the consideration of their claims which cease to be contested. Prompt disposal of cases or such claims is the main purpose of the said rules. Let there be no retrogression in the application of sound rules and doctrines.

The decision in *Abellera vs. Balanag* (37 Phil., 865) is on the merits and not one without prejudice to the filing of a new action against the same defendants. The dispositive part reads as follows:

"Twenty days Hereafter let judgment be entered affirming the judgment of dismissal in the court below, with the costs of this instance against the appellant, and ten days thereafter let the record be returned to the court wherein it originated. So ordered."

It must be borne in mind that the documentary title on which the plaintiff relied covers a large area of land and the defendants are occupying only small portions thereof. The new action contemplated must therefore refer to the remaining unoccupied portion, should any question be raised in relation thereto. And if the lower court had erred in granting the motion for dismissal, the remedy would have been an appeal from the said order.

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