

**JOSE M. BAGTAS, JR., PETITIONER, VS. COURT OF APPEALS &
EDILBERTO PASAMON, NELIA TALLADA, PRIMITIVO OLETA,
LORETO PASAMON, ANTONIO QUIBRANDO, PRIMO TALENTO,
GREGORIO CABANELA, R...**

G.R. No. 50732. August 10, 1989

Ponente: PARAS, J.

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PARAS, J.:

Before Us is a petition for review on certiorari of the decision* of the Court of Appeals affirming the decision** of the Court of First Instance of Quezon in a civil case for "Recovery of Better Right of Possession with Damages", the dispositive portion of which reads:

"WHEREFORE, in view of all the foregoing, the plaintiff*** is hereby ordered to reimburse GREGORIO CABANELA P10,494.50, RESTITUTO ABACA P300.00, TEODULO MARCO P450.00, PRIMO TALENTO P1,739.00, LORETO PASAMON (with brother) P4,037.00, or a total of SEVENTEEN THOUSAND TWENTY PESOS AND FIFTY-CENTAVOS (P17,020.50) Philippine currency, representing the reasonable value of their improvements, and should the plaintiff fail or refuse to pay, the said defendants have the right to retain and enjoy the fruits of their improvements until reimbursed at legal interest of 6% per annum; denying both plaintiff's and defendants' claim for actual, moral, nominal and exemplary damages as well as attorney's fees; vacating and cancelling the Preliminary Writ of Injunction issued on February 25, 1965; and, with costs against the plaintiff.

"SO ORDERED." (pp. 75-76, Printed Record on Appeal)

Alleging that it is a question of law which may be properly reviewed by Us, petitioner poses the lone issue of "whether or not the respondent Court of Appeals, correctly made a ruling upon the facts of the case, that, indeed, private respondents were possessors or planters in good faith." (p. 11, Petition)

Petitioner's contention does not merit our consideration.

The instant petition originated from Civil Case No. C-184 which petitioner filed with the lower court on February 23, 1965, being the registered owner of the land involved in the controversy against the alleged intruders (private respondent herein included).

Petitioner's mother, Felicidad M. de Bagtas, was an applicant in November, 1927, for a Sales Patent under Commonwealth Act #141 as amended of the subject land located at Bo. San Antonio, Guinyangan, Quezon, with a total area of 1,132,692 square meters. After being able to fulfill all the legal requirements, the applicant was on August 12, 1952, finally issued her Original Certificate of Title No. P-1304 covering said land. Three years later, she transferred her ownership and title to the property to her son, Jose Bagtas, Jr., herein petitioner, who was issued TCT No. 22119.

It is the theory of the petitioner that private respondent, together with the other defendants in Civil Case No.

Q-184, entered the land in question since the year 1951 as intruders or trespassers without authority or consent of the registered owner and continued to do so notwithstanding their knowledge and the warning of petitioner's representatives or workers that the land which defendants were occupying and were cultivating belongs to petitioner who is the registered owner.

Among the defendants, only private respondent Gregorio Cabanela in the hearing of the case on the merits, presented evidence. The other defendants however filed their answers namely: defendants Loreto Pasamon, Primo Talento, Gregorio Cabanela, Rodolfo Cabanela, Restituto Abaca and Teodulo Marco. No answer of defendants Edilberto Pasamon and Antonio Quibrando was filed. Defendants Nonelon Alano, Juanita Maramba, Abundio Mandares and Rodolfo Mandares voluntarily appeared in Court as defendants and promised to obey the injunction issued on February 25, 1965 enjoining defendants "simply or collectively from entering, evading, intruding and trespassing upon plaintiff's land, as well as cutting and removing woods, timber, and other products found therein." (Note: this injunction was cancelled by the trial court as expressed in the dispositive portion of its decision, aforementioned earlier). Defendants Nelia Tallada and Primitivo Oleta died and the proceedings were dismissed as against them.

Defendant Gregorio Cabanela testified before the trial court that the litigated property has been occupied by them since 1947 or earlier, which was then a forested area without traces of occupation and cultivation (tsn., June 29, 1966, Cabanela) that it had already been also alienable and disposable government property since July 28, 1926 under BF-MAP-LC-609 (Annex "B", Motion dated March 18, 1963, defendants). Defendants-appellees' portion was in the area covered by Sales Application No. 7678 (E--1460) applied for by Mrs. Felicidad M. Vda. de Bagtas, appellant's mother, consisting of an area of 113.269 hectares, more or less (Record on Appeal, p. 69). Defendants-appellees did not have any knowledge of said application. In fact they made inquiries with the Bureau of Lands requesting for its subdivision thru the help of a certain Mr. Pablo Joson and petitioned the late President Ramon Magsaysay contending that they, having occupied the area since 1947 or earlier upon information received from Mr. Agapito Tagarao, then officer in charge of said Bureau and that the property they occupied was within the alienable and disposable area embraced under Quezon Land Classification Project No. II-G (BF-MAP-LC-609) and open to homesteaders, are therefore qualified to apply.

However, in the investigation reports dated June 6, 1950 and May 5, 1951 of the Bureau of Lands inspectors and surveyors, no mention was made of the names of the defendants and the extent and nature of their improvements. Consequently OCT No. P-1304 of the Register of Deeds of Quezon was issued on August 12, 1952 in the name of Mrs. Felicidad M. Vda. de Bagtas. All these series of transactions were not known to appellees although they were in continuous possession of the property and it was only in the year 1964 when appellant personally saw Gregorio Cabanela and showed him his title with the advice that they (defendants) are squatters on his property. Appellees pleaded that they tilled the property in their honest belief it was public land and they have already introduced considerable improvements for a period of 17 years, and that it would not be easy to leave the fruits of their labor. Because of appellee's uncompromising attitude, appellant requested the aid of Philippine Constabulary authorities (tsn. p. 64, June 6, 1966, Bagtas). Petitioner offered to reimburse the improvements (tsn. p. 62, June 2, 1964, Bagtas) but the defendants refused to accept the bargain being not commensurate to the value of the property (tsn. p. 56, June 29, 1966, Cabanela).

In appealing the decision of the trial court to the Court of Appeals, plaintiff-appellant (petitioner herein) assigned three errors hinging on the issue as to whether or not Gregorio Cabanela was a planter in good faith.

In deciding the issue in favor of defendants-appellees, (private respondents herein) the appellate court was given by the plaintiff-appellant the impression that the acts of depredations and intrusions in the property were committed by the defendants-appellees after the issuance of O. C. T. P-1304 in the name of the

predecessors-in-interest of the appellant on August 21, 1952, in spite of the warnings that the land had belonged to Felicidad Bagtas since 1952. To substantiate plaintiff-appellant's claim, he presented evidence to prove that Cabanela was seen for the first time to make "kaingin" on December 2, 1951 by Eusebio Abenoja, a tenant of Felicidad Bagtas, that on May 5, 1952, Cabanela was again seen making "kaingin" on the property, thus he was advised by Bonifacio Mariano, overseer of the land in question, not to plant any permanent crop. This was followed by another warning of Bo. Lieutenant Ambrosio Lindio and company to defendants not to continue working on the land in August, 1952. But no evidence was presented to refute the claim of appellee Cabanela that he had been in possession and started cultivating the portion of the land in question which was then forested land since 1947.

In resolving in favor of defendants-appellees the issue of whether or not the defendants-appellees were planters in good faith to entitle them to the reimbursement of the improvements introduced, the appellate court in the assailed judgment stated:

"x x x Granting arguendo for the sake of argument, that Cabanela was first seen to make a kaingin on December 2, 1951, it could not be said that he had acted in bad faith in making a kaingin for the simple reason that the title issued to Felicidad Bagtas was dated August 12, 1952. Ergo: if her application was only approved on August 12, 1952, Felicidad Bagtas could not have been seen in possession of the said land prior to its approval in 1952, so that Cabanela would be in a position to know in 1951 that the land he had entered and cleared belonged to Felicidad Bagtas.

'Homestead: Approval for application is required before entry on homestead is allowed. - Under Section 13 of the Public Land Act, entry on a homestead is allowed only after the approval of the application.' (Serapio Dauan v. The Secretary of Agriculture and Natural Resources, etc., 19 SCRA, p. 223)

"The Transfer Certificate of the Title No. 22119 in the name of the appellant is not enough to sustain the cause of action of appellant. There is a need to further prove the prior knowledge on the part of the appellees that the land they have been tilling or entered into belongs to a third party. In this regard, the appellant claims that as far back as December 2, 1951, Eusebio Abenoja, a tenant of Felicidad Bagtas informed Cabanela not to make any clearing. This is far from the truth because on the same date December 2, 1951, Felicidad Bagtas could not have any claim of ownership over the land as yet considering that her application was only approved as per Original Certificate of Title No. P-1304 issued on August 12, 1952. Worse still, Felicidad Bagtas, knowing as she does, that the land in question was titled in her favor since August 1952 and herein plaintiff having become the new owner of the land in litigation since 1955, by virtue of the transfer of ownership as per Transfer Certificate of Title No. T-22119 and both claiming to know of the fact that Cabanela and other squatters (other defendants), have entered the area since 1951 and for that matter, they were advised not to make a clearing, followed by another confrontation with Cabanela on May 5, 1952 by Eusebio Abenoja who, likewise, advised him not to make any permanent planting and later in October 1952, with the assistance of Barrio Lieutenant Ambrosio Lindio and others, warned Cabanela not to continue working thereon for the land was ultimately transferred in the name of Dr. Jose Bagtas, Jr., in the year 1955, who likewise, ordered his tenant and later soliciting the assistance of authorities in stopping Cabanela from further making permanent kaingin, why did it take appellant until February 23, 1965 to file this instant action, when the same could have been instituted way back in the year 1952 when the property has been titled, for the first time in the name of Felicidad Bagtas? The answer to this query is the observation made by the Court a quo to which this Court is in full accord:

'If the plaintiff or his predecessor-in-interest did not take action from 1947 up to 1964 or a period of 17 years it can only be surmised that they deemed it premature to disturb the defendants to avoid protest against the said sales application, because they (the defendants) were in actual occupancy and cultivation, which is a valid ground for the cancellation of the same under Section 28, C.A. 141 as amended so that they chose to remain silent until after the expiration of one year from the issuance of the title and that in 1955 the property was transferred to the

plaintiff herein, to make it appear that he is an innocent purchaser for value and in good faith. While it may be true on the surface that these matters may be considered as actual fraud and misrepresentation in the acquisition of sales application No. 7678, we are not permitted under the law to question the title in view of the doctrine of indefeasibility after one year when a title has been issued in the absence of positive proof to that effect. Besides, the title cannot be attacked collaterally in this proceeding. The defendants also claimed that the survey conducted on April 24-28, 1951 was at a table survey, otherwise it would be impossible for the investigators of the Bureau of Lands not to have seen or discovered that there were actually improvements and landholdings of the defendants within the area. On the testimony of Anacleto Anonuevo, the original applicant (Mrs. Bagtas) never had any occupancy in the property because it was then a virgin forest with an area of 113,269 hectares, which was physically impossible for her to comply with the requirements of the Public Land Law, unless she misrepresented that the clearings and improvements of the defendants were hers.'

"This question may be asked: If it were true that the appellees were in actual occupancy of the land how come that in the investigation report made by the land officer, the names of the appellees as occupants thereon has never been incorporated in the said report? The answer could be taken from the testimony of Eusebio Abenoja, encargado of the appellant in the hearing on June 2, 1966:

ATTY. JUBILO:

"Q - And you have seen these improvements of Mr. Cabanela when the relocation was made by Mr. Herrera, when according to you was relocated by Mr. Herrera?

"A - We did not see them because we were passing this point (witness pointing to a straight line, Exh. 'C-1' to Exh. 'C--7').

"Q - You have not seen the improvements because you have not reached this place, is it not?

"A - That is right, sir.

(tsn., pp. 48-49, hearing on June 2, 1966)

"It does appear now that Mr. Esguerra, who submitted the report, actually was not the one who conducted the survey. It was Mr. Herrera who conducted the survey without even reaching the place cleared and occupied by the appellees. From this testimony of Abenoja, we have no alternative but to arrive at the conclusion that the property was only a Table survey as claimed by the appellees. This testimony of Abenoja clearly explains why the names of the appellees as occupants of the area in litigation, have not been incorporated in the report. Had the appellees been duly apprised by Felicidad Bagtas or Jose Bagtas, Jr., of the approval of the application of Felicidad Bagtas, way back on August 12, 1952, there would have been no reason for Cabanela to still solicit the help of Mr. Pablo Josen, to petition the late President Ramon Magsaysay for the subdivision of land occupied by the appellees, in the same way that there appears no further necessity on the part of the appellees, through the late Primitivo Oleta and Emigdio Pasamon to still inquire from the Bureau of Lands as to the status of the property occupied by them, as evidenced by the reply letter of Mr. Agapito Tagarao, officer-in-charge of said Bureau (Annex 'A' to the Answer) certifying the area (sic) by them as alienable and disposable as of July 28, 1926, under Quezon Land Classification Project No. II, BF-MAP-LC-609, the same duly marked and presented as Exh. '1' for appellees.

"The occupation of the land by appellees is further bolstered by the Report of the Commissioner duly appointed by the trial court, wherein appears the improvements introduced by the appellees, consisting of clearings, fruit bearing trees of different variety, some of them more than 10 years old. With the above evidence presented by the parties, this Court is more than convinced that the appellees had been in the actual, open and peaceful possession and cultivation of the property before the approval of the application of Felicidad Bagtas and that it was only upon the filing of this instant action on February 25, 1965 that they came to know

that the property they were occupying was declared in the name of the late Felicidad Bagtas and later by the herein plaintiff, Jose Bagtas, Jr." (pp. 40-52, Rollo)

Again respondents in their Comment point out that the records of the case as established by evidence show:

'a) The letter of Mr. Agapito Tagarao, under date of 30 June, 1949, showed that there were several claims in the sales application of the property in question of Mrs. Felicidad Bagtas, for which he promised to take field action.

"But no field action or investigation was taken, hence, the rights or claims of defendants-appellees were not heard or determined in any administrative investigation. The survey and the report were both disciplined (sic) facilitate issuance of title. Disclosure of actual possession and improvements of defendants-appellees would invite protest and would amount to a denial and cancellation if not an amendment of the Sales Application or non-issuance of title in favor of Mrs. Felicidad Vda. de Bagtas.

'b) The letter signed by Mr. Andres C. Ayala, Jr., Public Land Inspector dated June 1, 1950 showed that about two-thirds (2/3) of the property was cleared and fully cultivated with existing valuable considerable improvements, and that some of the persons who made improvements thereat had withdrawn their claims after finding out that Mrs. Felicidad Bagtas had filed her Sales Application.

"Mrs. Felicidad Bagtas, the original applicant of the property considering her civil status, physical condition and the area of 113.269 hectares (virgin forest) could not physically and practically comply with the occupation and cultivation requirements of the Public Land Law and what she did as the trial court found out from plaintiff's own witness, Anacleto Anonuevo, reads:

'On the testimony of Anonuevo, the original applicant, (Mrs. Bagtas) never had any occupancy in the property because it was then a virgin forest with an area of 113.269 hectares, which was physically impossible for her to comply with the requirements of the Public Land Law, unless she misrepresented that the clearings and improvements of the defendants were hers.' (Record on Appeal, p. 69)

"And plaintiff-appellant, Dr. Jose Bagtas, corroborated Abenoja, and:

'Stated further that when he was a kid he used to go to the place when there was still no road, and it was only in 1956 after the property was transferred to him from his mother when he learned that there have been squatters in the area.' (Ibid., p. 66)

"The survey whether original or relocation, should reflect and disclose the true status and actual condition of the property and its occupants should be stated and more importantly the investigation report must contain a faithful data. This being basic and will serve as reference of the Bureau of Lands whether a title be issued in the name of Felicidad Vda. de Bagtas.

"Both the Tagarao and the Ayala Reports confirmed the existence in the area of 113.269 hectares applied for by Mrs. Felicidad Bagtas, 25 hectares of which were occupied by defendants-appellees (Commissioner's Report) who should be considered bona-fide occupants having priority rights over the portion they occupy of a public land which is alienable and disposable. This significant factual condition if reported would have been taken cognizance of by the bureau and a valid ground for revocation and/or amendment of application of the whole area (appellees' possession might have been segregated or excluded) or (the title of Mrs. Felicidad Bagtas would not have been issued or granted.) (Annex F, pp. 95-96, Rollo)

It is a condition precedent that at least 1/5 of the whole area applied for should be cultivated by the applicant both in homestead as well as in sales application. The presumption of occupancy of Mrs. Felicidad Bagtas after the sales award was granted to her and before the issuance of the title on August 12, 1952 was indeed completely refuted by the facts established and the findings of the court during the trial as previously discussed.

The conclusive findings of the trial court establish that defendants-appellees had occupied the subject land prior to 1947 or earlier which is no less than five (5) years before title was issued on August 12, 1952 in the name of Mrs. Felicidad Bagtas. When defendants-appellees entered and occupied the land Mrs. Bagtas' title had not yet been brought under the operation of the Torrens System and since no title was then existing there is nothing to be verified. Notwithstanding this, these defendants-appellees, in their desire to acquire ownership of the land they were occupying sent (a) a communication dated June 14, 1959, addressed to the Director of Lands, Manila, inquiring whether the land occupied and cultivated by them is actually alienable and disposable and that it should be subdivided in their favor (Annex "B" for the defendants, R.A. p. 63) and (b) a letter signed by Mr. Primitivo Oleta, dated April 5, 1957 sent to the Acting Chief, Forest Land Uses Division of the Bureau of Forestry (R.A. p. 63). However, there was no action taken by the Bureau; neither were defendants informed that the land they occupied was already titled in the name of Mrs. Felicidad Vda. de Bagtas.

Silence or tolerance by plaintiff-appellant of the occupation/cultivation by defendants-appellees of the land for a period of years worked against their favor. It was only in 1964 when Cabanela for the first time was confronted and was shown document of ownership in the name of Dr. Jose M. Bagtas, Jr., and it was only in 1965 when the complaint was filed against defendants-appellees. Plaintiff's considerable delay in asserting his right before a court of justice is strongly persuasive of the lack of merit of his claim, since it is human nature for a person to enforce his right when same is threatened or invaded.

Be it noted that in 1952 when title was issued in favor of Mrs. Bagtas, plaintiff's predecessor-in-interest, said title was still subject to petition for review and thus, not yet final. To distract defendants-appellees in their possession of the subject land by filing an action in court, would be to invite protest and exposure of the misrepresentation made by plaintiff that there were no other claimants or applicants of the land in controversy, thus endangering approval of the application.

We find meritorious the conclusion reached by the trial court that since plaintiff was in bad faith for having tolerated the defendants in making improvements on his property without positive steps to eject them and even assuming that defendants were also in bad faith for continuously planting notwithstanding the advice of the overseer of the plaintiff, following Art. 453, Civil Code, the rights of one and the other shall be the same as though both had acted in good faith.

Hence, considering all the foregoing evidence and arguments it has been shown that aside from the contested Commissioner's Report there are other credible proofs and undisputed facts relied upon both by the trial court and the appellate court. We quote with approval the following law and jurisprudence considered by the trial court, to wit:

"a) In the spirit of fair play and equity, and in order to give meaning and validity to the doctrine of Social Justice, which is enshrined in our Constitution, let alone the pertinent provisions of the New Civil Code, it would seem to be the better part of wisdom that the defendants herein be granted due compensation for the improvements they have done, because they are in contemplation of law planters or possessors in good faith. (Record on Appeal, p. 70)

"b) On the truism that no one should fatten or enrich himself at the expense of another, the plaintiff should pay, the reasonable value of said improvements. (Ibid., pp. 70-71)

"c) His having failed to take positive steps to eject the defendants on his property for about 17 years is tantamount to acquiescence or toleration for the defendants to continue making improvements. Even if the defendants are the plaintiff's tenants or farm hands, still following the custom of the place, which is consistent with law and justice, he is still liable to pay said improvements. (Ibid., p. 71)

"Under Art. 447 of the New Civil Code, the owner of the land who makes thereon personally or thru another, plantings, construction or works with the materials of another, shall pay their value. On our resolution that defendants are possessors and planters in good faith, pursuant to Art. 448, the owner of the land in which anything has been built, sown or planted in good faith, shall have the right to appropriate as his own the works, sowing or planting, after payment of the indemnity provided for in Art. 546 and 548, x x x. (Record on Appeal, p. 71)

"If we believe in the truism that man is not only endowed with the natural right to exist but also the God-given right to live, in order to give relevance to Christian brotherhood and minimize if not eradicate the cancerous growth of communism, it is only doing simple human justice to defendant if plaintiff pays for their improvements." (p. 100, Rollo)

WHEREFORE, premises considered, the petition is hereby DENIED for lack of merit, with costs against petitioner.

SO ORDERED.

Padilla, Sarmiento, and Regalado, JJ., concur.
Melencio-Herrera, J., (Chairman), In the result.

* Penned by Justice Carlos L. Sundiam, concurred in by Justices Pacifico P. de Castro and Samuel F. Reyes. (Note: Motion for Reconsideration of the same decision was denied in a Resolution of the appellate court's Ninth Division composed of Justices Emilio Gancayco, Samuel F. Reyes and Carlos Sundiam.

** Penned by Judge Union C. Kayanan

*** Petitioner herein

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