

JULIANA CARAGAY-LAYNO, ASSISTED BY HER HUSBAND, BENITO LAYNO, PETITIONER, VS. HONORABLE COURT OF APPEALS AND SALVADOR ESTRADA AS ADMINISTRATOR OF THE ESTATE OF THE DECEASED, MAR...

G.R. No. 52064. December 26, 1984

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

Respondent Appellate Court, then the Court of Appeals, affirmed in toto the judgment of the former Court of First Instance of Pangasinan, Branch III, at Dagupan, adjudging private respondent entitled to recover possession of a par-cel of land and ordering petitioners, as defendants below, to vacate the premises. Petitioners, as paupers, now seek a reversal of that judgment.

It was established by a relocation survey that the Disputed Portion is a 3,732 square-meter-area of a bigger parcel of sugar and coconut land (Lot No. 1, Psu-24206 [Case No. 44, GLRO Rec. No. 117]), with a total area of 8,752 square meters, situated at Calasiao, Pangasinan. The entire parcel is covered by Original Certificate of Title No. 63, and includes the adjoining Lots 2 and 3, issued on 11 Sep-tember 1947 in the name of Mariano M. DE VERA, who died in 1951 without issue. His intestate estate was adminis-tered first by his widow and later by her nephew, respondent Salvador Estrada.

Petitioner, JULIANA Caragay, and the decedent, Mariano DE VERA, were first cousins, "both orphans, who lived together under one roof in the care of a common aunt."

As Administratrix, DE VERA's widow filed in Special Proceedings No. 4058 of the former Court of First Instance of Pangasinan, Branch III, an Inventory of all properties of the deceased, which included "a parcel of land in the poblacion of Calasiao, Pangasinan, containing an area of 5,147 square meters, more or less, and covered by Tax Declaration No. 12664."

Because of the discrepancy in area mentioned in the Inventory as 5,147 square meters (as filed by the widow), and that in the title as 8,752 square meters, ESTRADA repaired to the Disputed Property and found that the north-western portion, subsequently surveyed to be 3,732 square meters, was occupied by petitioner-spouses Juliana Caragay Layno and Benito Layno. ESTRADA demanded that they vacate the Disputed Portion since it was titled in the name of the deceased DE VERA, but petitioners refused claiming that the land belonged to them and, before them, to JULIANA's father Juan Caragay.

ESTRADA then instituted suit against JULIANA for the recovery of the Disputed Portion (Civil Case No. D-2007), which she resisted, mainly on the ground that the Disputed Portion had been fraudulently or mistakenly included in OCT No. 63, so that an implied or constructive trust existed in her favor. She then counterclaimed for reconveyance of property in the sense that title be issued in her favor.

After hearing, the Trial Court rendered judgment order-ing JULIANA to vacate the Disputed Portion.

On appeal, respondent Appellate Court affirmed the Decision in toto.

Before us, JULIANA takes issue with the following find-ing of respondent Court:

"Although Section 102 of Act 496 allows a Petition to compel a trustee to reconvey a registered land to the cestui que trust (Severino vs. Severino, 44 Phil. 343; Escobar vs. Locsin, 74 Phil. 86) this remedy is no longer available to Juliana Caragay. Mariano de Vera's land, Lot 1, Psu-24206, was registered on September 11, 1947 (Exhibit 'C') and it was only on March 28, 1967 when the defendants filed their original answer that Caragay sought the reconveyance to her of the 3,732 square meters. Thus, her claim for reconveyance based on implied or constructive trust has prescribed after 10 years (Banaga vs. Soler, L-15717, June 30, 1961; J.M. Tuason & Co. vs. Magdangal, L-15539, Jan. 30, 1962; Alzona vs. Capunitan, 4 SCRA 450). In other words, Mariano de Vera's Original Certificate of Title No. 63 (Exhibit 'C') has become indefeasible." [1]

We are constrained to reverse.

The evidence discloses that the Disputed Portion was originally possessed openly, continuously and uninterruptedly in the concept of an owner by Juan Caragay, the deceased father of JULIANA, and had been declared in his name under Tax Declaration No. 28694 beginning with the year 1921 (Ex-hibit "2-C"), later revised by Tax Declaration No. 2298 in 1951 (Exhibit "2-B"). Upon the demise of her father in 1914, JULIANA adjudicated the property to herself as his sole heir in 1958 (Exhibit "4"), and declared it in her name under Tax Declaration No. 22522 beginning with the year 1959 (Exhibit "2-A"), later cancelled by TD No. 3539 in 1966 (Exhibit "2"). Realty taxes were also religiously paid from 1938 to 1972 (Exhibits "3-A" to "3-H"). Tacking the previous possession of her father to her own, they had been in actual, open, continuous and uninterrupted pos-session in the concept of owner for about forty five (45) years, until said possession was disturbed in 1966 when ESTRADA informed JULIANA that the Disputed Portion was registered in Mariano DE VERA's name.

To substantiate her claim of fraud in the inclusion of the Disputed Portion in OCT No. 63, JULIANA, an unlettered woman, declared that during his lifetime, DE VERA, her first cousin, and whom she regarded as a father as he was much older, borrowed from her the Tax Declaration of her land purportedly to be used as collateral for his loan and sugar quota application; that relying on her cousin's assurances, she acceded to his request and was made to sign some documents the contents of which she did not even know because of her ignorance; that she discovered the fraudu-lent inclusion of the Disputed Portion in OCT No. 63 only in 1966 when ESTRADA so informed her and sought to eject them.

Of significance is the fact, as disclosed by the evi-dence, that for twenty (20) years from the date of registration of title in 1947 up to 1967 when this suit for recovery of possession was instituted, neither the deceased DE VERA up to the time of his death in 1951, nor his successors-in-interest, had taken steps to possess or lay adverse claim to the Disputed Portion. They may, therefore, be said to be guilty of laches as would effectively derail their cause of action. Administrator ESTRADA took interest in recovering the said portion only when he noticed the discrepancy in areas in the Inventory of Property and in the title.

Inasmuch as DE VERA had failed to assert any rights over the Disputed Portion during his lifetime, nor did he nor his successors-in-interest possess it for a single moment; but that, JULIANA had been in actual, continuous and open possession thereof to the exclusion of all and sundry, the inescapable inference is, fraud having been unsubstantiated, that it had been erroneously included in OCT No. 63. The mistake is confirmed by the fact that deducting 3,732 sq. ms., the area of the Disputed Portion, from 8,752 sq. ms., the area of Lot 1 in OCT No. 63, the difference is 5,020 sq. ms., which closely approximates the area of 5,147 sq. ms. indicated in the Inventory of Property of DE VERA. In fact, the widow by limiting the area in said Inventory to only 5,147 sq. ms., in effect, recognized and admitted that the Disputed Portion of 3,132 sq. ms. did not form part of the decedent's estate.

The foregoing conclusion does not necessarily wreak havoc on the indefeasibility of a Torrens title. For, mere possession of a certificate of title under the Torrens System is not conclusive as to the holder's true ownership of all the property described therein for he does not by virtue of said certificate alone become the owner of the land illegally included.[2] A Land Registration Court has no jurisdiction to decree a lot to persons who have never asserted any right of ownership over it.

"x x x Obviously then, the inclusion of said area in the title of Lot No. 8151 is void and of no effect for a land registration Court has no jurisdiction to decree a lot to persons who have put no claim in it and who have never asserted any right of ownership over it. 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." [3]

JULIANA, whose property had been wrongfully registered in the name of another, but which had not yet passed into the hands of third parties, can properly seek its reconveyance.

"The remedy of the landowner whose property has been wrongfully or erroneously registered in another's name is, after one year from the date of the decree, not to set aside the decree, but, respecting the decree as in-controvertible and no longer open to review, to bring an ordinary action in the ordinary court of justice for reconveyance or, if the property has passed into the hands of an innocent purchaser for value, for damages." [4]

Prescription cannot be invoked against JULIANA for the reason that as lawful possessor and owner of the Disputed Portion, her cause of action for reconveyance which, in effect, seeks to quiet title to the property, falls within settled jurisprudence that an action to quiet title to property in one's possession is imprescriptible.[5] Her undisturbed possession over a period of fifty two (52) years gave her a continuing right to seek the aid of a Court of equity to determine the nature of the adverse claim of a third party and the effect on her own title.[6]

Besides, under the circumstances, JULIANA's right to quiet title, to seek reconveyance, and to annul OCT No. 63 accrued only in 1966 when she was made aware of a claim adverse to her own. It was only then that the statutory period of prescription may be said to have commenced to run against her, following the pronouncement in *Faja vs. Court of Appeals*, supra, a case almost identical to this one.

"x x x Inasmuch as it is alleged in paragraph 3 of Frial's complaint, that Felipa Faja has been in pos-session of the property since 1945 up to the present or for a period of 30 years, her cause of action for reconveyance, which in effect seeks to quiet her title to the property, falls within that rule. If at all, the period of prescription began to run against Felipa Faja only from the time she was served with copy of the complaint in 1975 giving her notice that the property she was oc-cupying was titled in the name of Indalecio Frial. There is settled jurisprudence that one who is in actual pos-session of a piece of land claiming to be owner thereof may wait until his possession is disturbed or his title is attacked before taking steps to vindicate his right, the reason for the rule being, that his undisturbed pos-session gives him a continuing right to seek the aid of a court of equity to ascertain and determine the nature of the adverse claim of a third party and its effect on his own title, which right can be claimed only by one who is in possession. No better situation can be conceived at the moment for Us to apply this rule on equity than that of herein petitioners whose mother, Felipa Faja, was in possession of the litigated property for no less than 30 years and was suddenly confronted with a claim that the land she had been occupying and cultivating all these years, was titled in the name of a third person. We hold that in such a situation the right to quiet title to the property, to seek its reconveyance and annul any certificate of title covering it, accrued only from the time the one in possession was made aware of a claim ad-verse to his own, and it is only then that the statutory period of prescription commences to run against such possessor."

WHEREFORE, the judgment under review is hereby REVERSED and SET ASIDE, and another one entered ordering private respondent Salvador Estrada, as Administrator of the Estate of the Deceased, Mariano de Vera, to cause the segregation of the disputed portion of 3,732 square meters forming part of Lot No. 1, Psu-24206, Case

No. 44, GLRO Rec. No. 117, presently occupied by petitioner Juliana Caragay-Layno, and to reconvey the same to said petitioner. After the segregation shall have been accomplished, the Register of Deeds of Pangasinan is hereby ordered to issue a new certificate of title covering said 3,732 sq. m. portion in favor of petitioner, and another certificate of title in favor of the Estate of the deceased, Mariano de Vera covering the remaining portion of 5,020 square meters. No costs.

SO ORDERED.

Teehankee (Chairman), Plana, De La Fuente, and Cuevas, JJ., concur.

Relova and Gutierrez, Jr., JJ., took no part.

[1] Rollo, p. 33.

[2] Ledesma vs. Municipality of Iloilo, 49 Phil. 769 (1926), cited in Vda. de Recinto vs. Inciong, 77 SCRA 201 (1977).

[3] Vda. de Recinto vs. Inciong, supra.

[4] Ibid.

[5] Sapto, et al. vs. Fabiana, 103 Phil. 683, 687 (1958).

[6] Faja vs. Court of Appeals, 75 SCRA 441 (1977).

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