

MARCOPPER MINING CORPORATION, PETITIONER, VS. MIGUEL GARCIA AND HON. ROSALIO A. DE LEON, IN HIS CAPACITY AS PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE OF MARINDUQUE, RESPOND...

G.R. No. 55935. July 30, 1986

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is a petition for review of the order of the then Court of First Instance of Marinduque which dismissed the petitioner's complaint against the private respondent for "Quieting of Title/Reconveyance and Damages" on the grounds of lack of cause of action and prescription. The petitioner stated that it was raising pure questions of law.

On August 16, 1979, petitioner Marcopper Mining Corporation filed a complaint for quieting of title/reconveyance and damages against private respondent Miguel Garcia praying that Garcia's Free Patent No. 542586 and Original Certificate of Title (OCT) No. P-2186 of the Register of Deeds of Marinduque be declared null and void. It also asked that the Registrar of Deeds be directed to cancel the OCT and to issue a transfer certificate of title in its favor, and that petitioner be declared to be the true, lawful, and exclusive owner of the land in question.

The petitioner alleged in its complaint that it is the owner and present possessor of the land in question, having acquired it in good faith and for value on October 2, 1972 from Buenaventura Paez; that the latter, in turn, who had been in open, continuous, exclusive, adverse and notorious possession, occupation, cultivation and enjoyment thereof since about 1921 until its sale to petitioner, inherited the land from his father Arcadio Paez and had consistently declared it for taxation purposes in his name and religiously paid taxes to the government; and that private respondent, through fraud, deceit, and misrepresentation, succeeded in misleading the Director of Lands to believe that it is still part of the public domain and thus obtained the free patent and the corresponding OCT in his name.

The respondent alleged in his answer with counter-claim that he is the sole and exclusive owner of the land in question as the holder of a free patent and for which a corresponding certificate of title was issued by the Registrar of Deeds of Marinduque on October 23, 1973, in his name; that Paez never possessed nor occupied the land in question in the concept of owner but was just residing in a small portion of the land purely by mere tolerance of the respondent and that therefore, petitioner's alleged purchase of the same from Paez is absolutely of no legal force and effect. Respondent further alleged that Paez had executed an affidavit of quitclaim before the Inspector of the Bureau of Lands who was processing the free patent application, stating categorically that he had absolutely no claim nor interest in the land, thereby unconditionally admitting that respondent is the sole and exclusive owner thereof and that since a free patent covering the said land had been approved and issued in the name of respondent and the corresponding OCT issued on October 23, 1973, both had long become final and indefeasible,

hence, no longer subject to any question nor judicial scrutiny.

After the petitioner had filed its answer to the respondent's counterclaim, the latter filed a request for admission. The petitioner admitted the following facts: 1) It was not able to file any opposition against the issuance of a Free Patent to the respondent because it had no notice of any such application for free patent filed by respondent; 2) It did not file any action for cancellation or annulment of the free patent within one year following its approval because it had no notice thereof but the petitioner filed an action for the annulment of the free patent upon its discovery in 1973; 3) Before the OCT was issued to the respondent, it was not able to file any opposition thereto because it had no notice of such application by respondent; and 4) It did not file any action for the cancellation or annulment of the said certificate of title within one year following its issuance because it had no knowledge of such issuance but it did file an action for the cancellation of such certificate of title upon its discovery in 1975.

On October 1, 1980, the respondent filed a motion to dismiss based on the following grounds: a) that the OCT of the respondent had already become indefeasible and incontrovertible as per admission by the petitioner that said OCT over the land in question was issued on October 23, 1973; b) that petitioner's action for reconveyance has prescribed since the action should have been filed within four years from the issuance of the OCT; c) that even if the action had not yet prescribed, the petitioner could not avail of the same since the land in question before the issuance of the OCT is public and therefore, cannot be the subject of reconveyance; and d) that the petitioner is guilty of laches and inexcusable negligence in not protecting and asserting its rights, if any, over the disputed land.

On November 28, 1980, the respondent Court issued the questioned order dismissing the petitioner's complaint as well as the respondent's counterclaim. In said order, the respondent court, in part, ruled:

"The court on its own has also found, from the complaint and subsequent pleadings of the parties, that indeed plaintiff and its predecessor-in-interest absolutely did not take any legal step to assert and protect their rights over subject land before the issuance of the patent and the corresponding certificate in the name of defendant; that plaintiff and/or its predecessor-in-interest never filed an application for the acquisition of subject land under the Public Land Law; that plaintiff and its said predecessor did not file any action for cancellation or annulment of defendant's patent and the corresponding certificate of title within the one-year period allowed therefore, thereby causing them to become indefeasible and incontrovertible; that plaintiff and its said predecessor did not file any action for reconveyance before the four-year period allowed therefor thereby causing the action to prescribe; that plaintiff did not pursue to completion the administrative case involving subject land which it had already filed and commenced in the Bureau of Lands, thereby rendering it not actionable by the court; that it took plaintiff many long years to finally file instant action but only after so much time has come and gone that the action has vanished to inexorable prescription. The court finds that plaintiff and its predecessor-in-interest were indeed guilty of laches in the assertion of their rights, if any, over subject land.

"Against all the foregoing, plaintiff has put forth nothing but the lame and unsubstantial excuse that it was not notified of defendant's application for the free patent as well as of the proceedings which transpired leading to the granting and registration of the land in defendant's name. In point of fact, Marcopper was fully aware, and it knew, of steps being taken by herein defendant to eventually obtain his patent and title thereon.

"Plaintiff's claim of ownership over subject land, if any, has long been lost and forfeited by its own failure, along with its predecessor-in-interest, to seasonably and diligently assert their rights, if any, over the same. It is axiomatic. No legal right can ever stem from one's own gross indifference and inexcusable negligence.

"The court therefore finds for defendant in all of the four grounds to dismiss as stated earlier.

"WHEREFORE, premises considered, plaintiff's complaint as well as defendant's (the latter per Manifestation

dated October 24, 1980 of defendant) counterclaim are both DISMISSED, without pronouncement as to costs.

"The issue as to the alleged incompetency of the defendant, which supposedly occurred after the filing of this case and during its pendency, has now become moot and academic."

The petitioner appealed to this Court by way of certiorari from the above order, raising the following questions of law:

I

WHETHER OR NOT THE COMPLAINT, ASSUMING THAT THE ALLEGATIONS THEREIN ARE TRUE, STATES A VALID CAUSE OF ACTION IN FAVOR OF PLAINTIFF AGAINST THE DEFENDANT.

II

WHETHER OR NOT POSSESSION FOR MORE THAN THIRTY YEARS HAS VESTED TITLE OVER THE LAND ON THE PETITIONER AND/OR ITS PREDECESSOR-IN-INTEREST AS TO SEGREGATE THE LAND FROM THE MASS OF PUBLIC LAND AND AS SUCH, IT IS NO LONGER DISPOSABLE UNDER THE PUBLIC LAND ACT BY FREE PATENT SUCH THAT ANY FREE PATENT FRAUDULENTLY ISSUED TO PRIVATE RESPONDENT OVER SUCH PRIVATE LAND IS NULL AND VOID.

III

WHETHER OR NOT THE ACTION FOR RECONVEYANCE AGAINST A TRUSTEE IN AN IMPLIED TRUST PRESCRIBES IN TEN YEARS.

IV

WHETHER OR NOT THE DOCTRINE REQUIRING THAT ADMINISTRATIVE REMEDIES BE FIRST EXHAUSTED BEFORE A RECOURSE TO THE COURTS OF JUSTICE MAY BE HAD AND THE LEGAL PROVISION GIVING THE GOVERNMENT THE EXCLUSIVE AUTHORITY TO SEEK CANCELLATION OF A TITLE ISSUED IN CONFORMITY WITH A HOMESTEAD PATENT AND REVERSION OF A LAND TO THE PUBLIC DOMAIN ARE APPLICABLE ONLY TO LANDS OF THE PUBLIC DOMAIN WHICH HAVE BEEN GRANTED BY VIRTUE OF SUCH PATENT IN PURSUANCE OF THE PUBLIC LAND ACT AND ARE NOT APPLICABLE TO PRIVATE LANDS.

V

WHETHER OR NOT THE DEFENSE OF LACHES MAY BE VALIDLY INVOKED IN AN ACTION FOR RECONVEYANCE WHERE THE ACTION HAS NOT YET PRESCRIBED.

In the first issue raised, the petitioner contends that it is a well-settled rule that when the motion to dismiss is based on the ground that the complaint states no cause of action, no evidence may be allowed and the issue should only be determined in the light of the allegations of the complaint. It argues that the motion hypothetically admits, for purposes of the motion itself the truth of the allegations of fact made in the complaint, and that the judge may not inquire into the truth of the allegations, and find them to be false before a hearing is had on the merits of the case. Therefore, assuming that the facts alleged in the complaint are true, this would mean that the land is private. The Director of Lands had no authority to dispose of it and the court should have ordered the reconveyance of the title to the petitioner.

In the case of *Tan v. Director of Forestry* (125 SCRA 302, 315), we ruled on the implications of a motion to dismiss:

"A perusal of the records of the case shows that petitioner-appellant's contentions are untenable. As already observed, this case was presented to the trial court upon a motion to dis-miss for failure of the petition to state a claim upon which relief could be granted (Rule 16 [g], Revised Rules of Court), on the ground that the timber license relied upon by the petitioner-appellant in his petition was issued by the Director of Forestry without authority and is therefore void ab initio. This motion supplanted, the general demurrer in an action at law and, as a rule admits, for the purpose of the motion, all facts which are well pleaded. However, while the court must accept as true all well pleaded facts, the motion does not admit allegations of which the court will take judicial notice are not true, nor does the rule apply to legally impossible facts, nor to facts inadmissible in evidence, nor to facts which appear by record or document included in the pleadings to be unfounded (Vol. 1, Moran's Comments on the Rules of Court, 1970 ed., p. 505, citing cases)."

While the petitioner concludes in the complaint that the land being private, could not have been the subject of an application for free patent, the petitioner based this conclusion from its allegation that "By itself and through its predecessors-in-interest, plaintiff has been in possession of subject land for more than 30 years in the manner prescribed by law, and therefore, it is entitled pursuant to existing laws to have its ownership in fee simple of the land confirmed or ratified." The petitioner thereby admitted that until such confirmation, the land remains public.

Furthermore, the petitioner also alleged that "Buenaventura Paez, was the rightful owner and that it was the latter and his successor-in-interest, the herein plaintiff (petitioner), by virtue of the subsequent sale and transfer of the land to it, who had performed and/or possessed the conditions required by the laws for the issuance of a free patent decree on the land." Thus, the trial court could not have sustained the petitioner's allegation that the land was private even for the purpose of the motion to dismiss as this conclusion would be patently unfounded.

The petitioner also admitted in its complaint that a free patent in respondent's name had been issued for the land in question, after the latter had succeeded in making the land inspector and/or functionaries of the Bureau of Lands and other government agencies believe, among others, that respondent had performed or fulfilled the conditions prescribed under R. A. 782 and Com. Act 141, as amended, for entitlement to a free patent title. It stated that as a consequence, a free patent was issued in favor of respondent on August 29, 1973 and the corresponding OCT on October 23, 1973. While petitioner alleged the above facts, it likewise admitted that it learned of the same only in 1975, after more than one year from the issuance of the respondent's OCT; and that the complaint was filed only in 1979 which was clearly more than the four-year prescriptive period from August 29, 1973 provided by law within which an action for reconveyance on the ground of fraud may be filed. Although the petitioner pleaded the existence of an implied trust in its favor, all of its allegations only attempted to show fraud on the part of the respondent. Thus, it is obvious that from the complaint itself, the prescriptive period which is applicable in the case is four years and not ten years as the petitioner maintains.

Moreover, the rule on a motion to dismiss cited by the petitioner, while correct as a general rule is not without exceptions.

In the present case, before the trial court issued the questioned order dismissing petitioner's complaint, it had the opportunity to examine the merits of the complaint, the answer with counterclaim, the petitioner's answer to the counterclaim and its answer to the request for admission. It was but logical for said court to consider all of these pleadings in determining whether or not there was a sufficient cause of action in the petitioner's complaint. The order of dismissal was in the nature of a summary judgment.

Again, in the case of *Tan v. Director of Forestry*, (supra), we ruled:

"In *Llanto v. Ali Dimaporo, et al.* (16 SCRA 601, March 31, 1966), this Court, thru Justice Conrado V. Sanchez, held that the trial court can properly dismiss a complaint on a motion to dismiss due to lack of cause of action even without a hearing, by taking into consideration the discussion in said motion and the opposition

thereto. x x x.

xxx xxx xxx

"Furthermore, 'even if the complaint stated a valid cause of action, a motion to dismiss for insufficiency of cause of action will be granted if documentary evidence admitted by stipulation dis-closing facts sufficient to defeat the claim enabled the court to go beyond disclosure in the complaint' (LOCALS No. 1470, No. 1469, and No. 1512 of the International Longshoreman's Association v. Southern Pacific Co., 6 Fed. Rules Service, p. 107; U.S. Circuit Court of Appeals, Fifth Circuit, Dec. 7, 1952; 131 F. 2d. 605). x x x.

"Moreover, petitioner-appellant cannot invoke the rule that, when the ground for asking dismissal is that the complaint states no cause of action, its sufficiency must be determined only from the allegations in the complaint. 'The rules of procedure are not to be applied in a very rigid, technical sense; rules of procedure are used only to help secure substantial justice. If a technical and rigid enforcement of the rules is made, their aim would be defeated. Where the rules are merely secondary in importance are made to override the ends of justice; the technical rules had been misapplied to the prejudice of the substantial right of a party, said rigid application cannot be countenanced' (Vol. 1, Francisco, Civil Procedure, 2 ed., 1973, p. 157, citing cases)."

The trial court, therefore, did not err in considering, in addition to the complaint, other pleadings submitted by the parties in deciding whether or not the complaint should be dismissed for lack of a cause of action.

The other issues raised by the petitioner deal with the propriety of the dismissal of the complaint.

In the second and fourth assignments of issues, the petitioner contends that proven possession for more than 30 years shall vest title over the land on the possessor as to segregate it from the mass of public land such that it is no longer disposable under the Public Land Act by free patent. It argues that since by itself and its predecessor-in-interest, it had possessed the land in dispute for more than 30 years, continuously, openly, and without interference from anyone, the land has become private. Consequently, the free patent and the torrens title based upon the patent grant are a nullity because the Director of Lands has no jurisdiction over private lands. Likewise, the doctrine of exhaustion of administrative remedies which is applicable only to public lands cannot be invoked.

The contentions are without merit.

As stated earlier, the petitioner in its complaint, impliedly admitted that the land is public when it alleged that the free patent should have been issued to it by virtue of the allegedly more than 30 years possession by its predecessor-in-interest. Furthermore, the petitioner cannot argue that the Director of Lands had no jurisdiction to issue the free patent to private respondent on the ground that the land was private. The mere possession of the land for 30 years, assuming that Paez really possessed the land for this length of time, did not automatically divest the land of its public character. As we have ruled in the case of Republic v. Iglesia Ni Cristo, (128 SCRA 44, 47-48):

"All that has been stated by this Court in the aforementioned cases in interpreting Section 48 (b) of the Public Land Law (C.A. 141, as amended by R.A. 1942) applies with equal force in the instant case where the application for registration of the herein parcel of land was, in essence, sought on the basis of the alleged open, continuous, exclusive and notorious possession and occupation of the said land by respondent's predecessors-in-interest under a bona fide claim of acquisition or ownership for at least thirty (30) years immediately preceding the filing of the application for registration on August 7, 1979.

"Records reveal that no application for confirmation of incomplete or imperfect title had been filed by respondent's predecessors-in-interest under Section 48 (b) of the Public Land Law. Under the law, the questioned land retains its public character. The application for registration under Section 14 of the Property

Registration Decree (P.D. 1529) which, among others, recognizes possession of alienable lands of the public domain in the manner and for the length of time therein required as basis for registration of title to the land, did not remove the land from the operational effect of Section 48 (b) of the Public Land Law. It nevertheless strengthens the conclusion that the land never ceased to be part of the public domain. x x x."

Moreover, nowhere in the complaint nor in subsequent pleadings of the petitioner did it state that it ever applied for a free patent.

The lower court correctly stated that as a mining corporation, the petitioner could not legally obtain a free patent to the land. The petitioner denies any knowledge as to whether Paez, from whom it bought the land, ever applied for a free patent or obtained one, notwithstanding its own admission that before the alleged sale of the land to it by Paez, it verified from the Bureau of Lands office in Marinduque and Manila if said land was subject to an application for free patent. The petitioner cannot maintain that Paez was the rightful owner of the land, much less the person qualified for the issuance of a free patent for the latter did not do anything to secure a title or confirm an imperfect one, assuming that he was entitled to the same.

At the very least, the petitioner should also have pursued its case in the administrative proceedings it commenced with the Bureau of Lands for the cancellation of the respondent's patent if it really believed that the latter was guilty of fraud in the procurement of the patent and that the land truthfully belonged to Paez, its predecessor-in-interest. The administrative case was filed before the filing of the complaint in these proceedings. The petitioner failed to exhaust whatever administrative remedy was available to it at that time. It was, thus, forced to adopt the position that the land was no longer part of the public domain over which the Director of Lands may exercise the authority to dispose of through a free patent.

We, therefore, hold that prior to the award of the free patent to the respondent, the land in dispute was part of the public domain and the Director of Lands had the power to dispose of it in the manner provided by law to a qualified applicant, who in this case was ascertained to be the respondent. Thus, the free patent issued in the respondent's favor and the corresponding OCT in his name are both valid and binding not only against petitioner but against the whole world.

With regard to the third and fifth assignments of issues, the petitioner contends that since the title over the land was obtained by the private respondent through fraud and by means of which a title was issued in his name, then the law creates what is called a "constructive trust" in its favor as the defrauded party and grants it the right to vindicate the property. An action for reconveyance based on implied or constructive trust prescribes in ten years. Therefore, the petitioner contends that its action has not yet prescribed since it filed the same in 1979, within the ten-year prescriptive period reckoned from October 23, 1973, the issuance of the decree of registration; and consequently, the doctrine of laches will not also apply.

There is nothing in the records to support the contention of the petitioner that an implied or constructive trust was created in its favor.

An implied or constructive trust presupposes the existence of a defrauded party who is the rightful owner of the disputed property. In the case at bar, aside from the fact that the petitioner and its predecessor-in-interest never applied for a free patent although the petitioner claims that it was entitled to the same, it also did not allege the existence of any relationship, fiduciary or otherwise, with the respondent which may justify the creation of an implied trust. The respondent, therefore, could not have committed fraud against the petitioner or its predecessor-in-interest. Besides, the petitioner's failure to file any opposition to the registration of the land in the respondent's favor and its filing of an action for reconveyance only after almost six years from the date of said registration cast doubt on the petitioner's right over the property. In the case of *Guerrero v. Court of Appeals* (126

SCRA 109, 118), we ruled:

"It is well-settled that the negligence or omission to assert a right within a reasonable time warrants not only a presumption that the party entitled to assert it either had abandoned it or declined to assert it (Heirs of Pedro Guminpin v. Court of Appeals, 120 SCRA 687) but also casts doubt on the validity of the claim of ownership (Masagandanga v. Argamora, 109 SCRA 53). x x x"

There being no implied or constructive trust, the petitioner cannot invoke the ten-year prescriptive period within which to file an action for reconveyance. Thus, even assuming that the respondent was indeed guilty of fraud in the procurement of the free patent and the corresponding OCT in his name and that the petitioner is the one entitled to the issuance of a patent, then petitioner's action should have been filed within four (4) years from the issuance of the respondent's OCT which was on October 23, 1973.

In this case, the petitioner filed the action only on August 16, 1979, after the lapse of almost six years. Clearly, the petitioner's action has prescribed. Again, in the case of Guerrero v. Court of Appeals, (supra, pp. 118-119), we ruled:

"Furthermore, an action for reconveyance of real property resulting from fraud may be barred by the statute of limitations, which requires that the action shall be filed within four (4) years from the discovery of the fraud (Balbin v. Medalla, 108 SCRA 666; Alarcon v. Bidin, 120 SCRA 390). Under the circumstances of this case, such discovery must be deemed to have taken place when the respondent was issued Transfer Certificate of Title No. 608 on April 16, 1938 because the registration of the deed of sale is considered a constructive notice to the whole world of its contents, and all interests, legal and equitable, included therein. (Ramos v. Court of Appeals, 112 SCRA 542). x x x."

The petitioner's delay in the filing of the action and its repeated failure to oppose the respondent's application both before the Bureau of Lands and the Register of Deeds also lead us to no other conclusion but that it is guilty of laches in pursuing whatever right it might have had over the land in dispute.

WHEREFORE, IN VIEW OF THE FOREGOING, the petition is hereby DISMISSED for lack of merit. The questioned order of the lower court is AFFIRMED. Costs against the petitioner.

SO ORDERED.

Feria, (Chairman), Fernan, Alampay, and Paras, JJ., concur.

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