

REPUBLIC OF THE PHILIPPINES, PETITIONER-APPELLEE, VS. PABLO FELICIANO AND INTERMEDIATE APPELLATE COURT, RESPONDENTS-APPELLANTS.

G.R. No. 70853. March 12, 1987

Ponente: YAP, J.

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YAP, J.:

Petitioner seeks the review of the decision of the Intermediate Appellate Court dated April 30, 1985 reversing the order of the Court of First Instance of Camarines Sur, Branch VI, dated August 21, 1980, which dismissed the complaint of respondent Pablo Feliciano for recovery of ownership and possession of a parcel of land on the ground of non-suability of the State.

The background of the present controversy may be briefly summarized as follows:

On January 22, 1970, respondent Feliciano filed a complaint with the then Court of First Instance of Camarines Sur against the Republic of the Philippines, represented by the Land Authority, for the recovery of ownership and possession of a parcel of land, consisting of four (4) lots with an aggregate area of 1,364.4177 hectares, situated in the Barrio of Salvacion, Municipality of Tinambac, Camarines Sur. Plaintiff alleged that he bought the property in question from Victor Gardiola by virtue of a Contract of Sale dated May 31, 1952, followed by a Deed of Absolute Sale on October 30, 1954; that Gardiola had acquired the property by purchase from the heirs of Francisco Abrazado whose title to the said property was evidenced by an *informacion posesoria*; that upon plaintiff's purchase of the property, he took actual possession of the same, introduced various improvements therein and caused it to be surveyed in July 1952, which survey was approved by the Director of Lands on October 24, 1954; that on November 1, 1954, President Ramon Magsaysay issued Proclamation No. 90 reserving for settlement purposes, under the administration of the National Resettlement and Rehabilitation Administration (NARRA), a tract of land situated in the Municipalities of Tinambac and Siruma, Camarines Sur, after which the NARRA and its successor agency, the Land Authority, started subdividing and distributing the land to the settlers; that the property in question, while located within the reservation established under Proclamation No. 90, was the private property of plaintiff and should therefore be excluded therefrom. Plaintiff prayed that he be declared the rightful and true owner of the property in question consisting of 1,364.4177 hectares; that his title of ownership based on *informacion posesoria* of his predecessor-in-interest be declared legal, valid and subsisting and that defendant be ordered to cancel and nullify all awards to the settlers.

The defendant, represented by the Land Authority, filed an answer, raising by way of affirmative defenses lack of sufficient cause of action and prescription.

On August 29, 1970, the trial court, through Judge Rafael S. Sison, rendered a decision declaring Lot No. 1, with an area of 701.9064 hectares, to be the private property of the plaintiff, "being covered by a possessory information title in the name of his predecessor-in-interest" and declaring said lot excluded from the NARRA settlement reservation. The court declared the rest of the property claimed by plaintiff, i.e. Lots 2, 3 and 4,

reverted to the public domain.

A motion to intervene and to set aside the decision of August 29, 1970 was filed by eighty-six (86) settlers, together with the barrio council of Pag-asay, alleging among other things that intervenors had been in possession of the land in question for more than twenty (20) years under claim of ownership.

On January 25, 1971, the court a quo reconsidered its decision, reopened the case and directed the intervenors to file their corresponding pleadings and present their evidence; all evidence already presented were to remain but plaintiff, as well as the Republic of the Philippines, could present additional evidence if they so desire. The plaintiff presented additional evidence on July 30, 1971, and the case was set for hearing for the reception of intervenors' evidence on August 30 and August 31, 1971.

On August 30, 1971, the date set for the presentation of the evidence for intervenors, the latter did not appear but submitted a motion for postponement and resetting of the hearing on the next day, August 31, 1971. The trial court denied the motion for postponement and allowed plaintiff to offer his evidence "en ausencia", after which the case would be deemed submitted for decision. On the following day, August 31, 1971, Judge Sison rendered a decision reiterating his decision of August 29, 1970.

A motion for reconsideration was immediately filed by the intervenors. But before this motion was acted upon, plaintiff filed a motion for execution, dated November 18, 1971. On December 10, 1971, the lower court, this time through Judge Miguel Navarro, issued an order denying the motion for execution and setting aside the order denying intervenors' motion for postponement. The case was reopened to allow intervenors to present their evidence. Unable to secure a reconsideration of Judge Navarro's order, the plaintiff went to the Intermediate Appellate Court on a petition for certiorari. Said petition was, however, denied by the Intermediate Appellate Court, and petitioners brought the matter to this Court in G.R. No. 36163, which was denied on May 3, 1973. Consequently, the case was remanded to the court a quo for further proceedings.

On August 31, 1970, intervenors filed a motion to dismiss, principally on the ground that the Republic of the Philippines cannot be sued without its consent and hence the action cannot prosper. The motion was opposed by the plaintiff.

On August 21, 1980, the trial court, through Judge Esteban Lising, issued the questioned order dismissing the case for lack of jurisdiction. Respondent moved for reconsideration, while the Solicitor General, on behalf of the Republic of the Philippines filed its opposition thereto, maintaining that the dismissal was proper on the ground of non-suability of the State and also on the ground that the existence and/or authenticity of the purported possessory information title of the respondents' predecessor-in-interest had not been demonstrated and that at any rate, the same is not evidence of title, or if it is, its efficacy has been lost by prescription and laches.

Upon denial of the motion for reconsideration, plaintiff again went to the Intermediate Appellate Court on petition for certiorari. On April 30, 1985, the respondent appellate court rendered its decision reversing the order of Judge Lising and remanding the case to the court a quo for further proceedings. Hence this petition.

We find the petition meritorious. The doctrine of non-suability of the State has proper application in this case. The plaintiff has impleaded the Republic of the Philippines as defendant in an action for recovery of ownership and possession of a parcel of land, bringing the State to court just like any private person who is claimed to be usurping a piece of property. A suit for the recovery of property is not an action in rem, but an action in personam.[1] It is an action directed against a specific party or parties, and any judgment therein binds only such party or parties. The complaint filed by plaintiff, the private respondent herein, is directed against the Republic of the Philippines, represented by the Land Authority, a governmental agency created by Republic Act No. 3844.

By its caption and its allegation and prayer, the complaint is clearly a suit against the State, which under settled jurisprudence is not permitted, except upon a showing that the State has consented to be sued, either expressly or by implication through the use of statutory language too plain to be misinterpreted.[2] There is no such showing in the instant case. Worse, the complaint itself fails to allege the existence of such consent. This is a fatal defect,[3] and on this basis alone, the complaint should have been dismissed.

The failure of the petitioner to assert the defense of immunity from suit when the case was tried before the court a quo, as alleged by private respondent, is not fatal. It is now settled that such defense "may be invoked by the courts sua sponte at any stage of the proceedings." [4]

Private respondent contends that the consent of petitioner may be read from the Proclamation itself, when it established the reservation "subject to private rights, if any there be." We do not agree. No such consent can be drawn from the language of the Proclamation. The exclusion of existing private rights from the reservation established by Proclamation No. 90 can not be construed as a waiver of the immunity of the State from suit. Waiver of immunity, being a derogation of sovereignty, will not be inferred lightly, but must be construed in strictissimi juris.[5] Moreover, the Proclamation is not a legislative act. The consent of the State to be sued must emanate from statutory authority. Waiver of State immunity can only be made by an act of the legislative body.

Neither is there merit in respondent's submission, which the respondent appellate court sustained, on the basis of our decision in the Begosa case,[6] that the present action is not a suit against the State within the rule of State immunity from suit, because plaintiff does not seek to divest the Government of any of its lands or its funds. It is contended that the complaint involves land not owned by the State, but private land belonging to the plaintiff, hence the Government is not being divested of any of its properties. There is some sophistry involved in this argument, since the character of the land sought to be recovered still remains to be established, and the plaintiff's action is directed against the State precisely to compel the latter to litigate the ownership and possession of the property. In other words, the plaintiff is out to establish that he is the owner of the land in question based, incidentally, on an informacion posesoria of dubious value, and he seeks to establish his claim of ownership by suing the Republic of the Philippines in an action in personam.

The inscription in the property registry of an informacion posesoria under the Spanish Mortgage Law was a means provided by the law then in force in the Philippines prior to the transfer of sovereignty from Spain to the United States of America, to record a claimant's actual possession of a piece of land, established through an ex parte proceeding conducted in accordance with prescribed rules.[7] Such inscription merely furnishes, at best, prima facie evidence of the fact that at the time the proceeding was held, the claimant was in possession of the land under a claim of right as set forth in his application.[8] The possessory information could ripen into a record of ownership after the lapse of 20 years (later reduced to 10 years), upon the fulfillment of the requisites prescribed in Article 393 of the Spanish Mortgage Law.[9]

There is no showing in the case at bar that the informacion posesoria held by the respondent had been converted into a record of ownership. Such possessory information, therefore, remained at best mere prima facie evidence of possession. Using this possessory information, the respondent could have applied for judicial confirmation of imperfect title under the Public Land Act, which is an action in rem. However, having failed to do so, it is rather late for him to pursue this avenue at this time. Respondent must also contend, as the records disclose, with the fact admitted by him and stated in the decision of the Court a quo, that settlers have been occupying and cultivating the land in question since even before the outbreak of the war, which puts in grave doubt his own claim of possession.

Worthy of note is the fact, as pointed out by the Solicitor General, that the informacion posesoria registered in the

Office of the Register of Deed of Camarines Sur on September 23, 1952 was a "reconstituted" possessory information; it was "reconstituted from the duplicate presented to this office (Register of Deeds) by Dr. Pablo Feliciano," without the submission of proof that the alleged duplicate was authentic or that the original thereof was lost. Reconstitution can be validly made only in case of loss of the original.[10] These circumstances raise grave doubts as to the authenticity and validity of the "informacion posesoria" relied upon by respondent Feliciano. Adding to the dubiousness of said document is the fact that "possessory information calls for an area of only 100 hectares,"[11] whereas the land claimed by respondent Feliciano comprises 1,364.4177 hectares, later reduced to 701.9064 hectares. Courts should be wary in accepting "possessory information" documents, as well as other purportedly old Spanish titles, as proof of alleged ownership of lands.

WHEREFORE, judgment is hereby rendered reversing and setting aside the appealed decision of the Intermediate Appellate Court, dated April 30, 1985, and affirming the order of the court a quo, dated August 21, 1980, dismissing the complaint filed by respondent Pablo Feliciano against the Republic of the Philippines. No costs.

SO ORDERED.

Narvasa, Cruz, Feliciano, Gancayco, and Sarmiento, JJ., concur.

Melencio-Herrera, J., on leave.

[1] Ang Lam v. Rosellosa, 86 Phil. 447.

[2] Providence Washington Insurance Co. v. Republic of the Philippines, 29 SCRA 598, 601.

[3] Insurance Company of North America v. Republic of the Philippines, 20 SCRA 627.

[4] Insurance Company of North America v. Osaka Shosen Kaisha, 27 SCRA 780.

[5] Mobil Philippines Exploration, Inc. v. Customs Arrastre Service, 18 SCRA 1120; Insurance Company of North America v. Warner, 21 SCRA 765.

[6] Begosa v. Philippine Veterans Administration, 32 SCRA 466.

[7] Alfonso v. Commanding General, 7 Phil. 600, 615.

[8] Bishop of Segovia v. Mun. of Bantay, 28 Phil. 347, 351.

[9] Querol and Flores v. Querol, 48 Phil. 90, 98-99.

[10] Republic of the Philippines v. Court of Appeals, 94 SCRA 865.

[11] Government of the Philippines v. Heirs of Abella, 49 Phil. 374, 379.

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