

CATHOLIC VICAR APOSTOLIC OF THE MOUNTAIN PROVINCE, PETITIONERS, VS. COURT OF APPEALS, HEIRS OF EGMIDIO OCTAVIANO AND JUAN VALDEZ, RESPONDENTS.

G.R. Nos. 80294-95. March 23, 1990

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

Before the Court are a motion for reconsideration and a supplemental motion for reconsideration filed by petitioner relating to the decision of the Court dated September 21, 1988. The comment and opposition thereto have been filed by the private respondents and a reply was filed by petitioner.

Petitioner argues that the findings of facts of the Court of Appeals in CA-G.R. No. 38830-R are: (1) contrary to the law; (2) contrary to the findings of the trial court; (3) contrary to the findings of the Court of Appeals in CA-G.R. No. 08890-R; (4) contrary to the admissions of the parties; and (5) based on a clear misapprehension of historical and ecclesiastical facts made of judicial notice, which are well within the exceptions consistently adhered to by this Court as in *Republic vs. Court of Appeals*.^[1]

The Court finds no merit in this contention. The said decision of the Court of Appeals dated May 4, 1977 in CA-G.R. No. 38830-R was already elevated to this Court by petitioner through a petition for review in G.R. No. L-46832 entitled *Catholic Vicar Apostolic of the Mountain Province vs. Court of Appeals and Heirs of Egmidio Octaviano*, while the heirs of Juan Valdez and Pacita Valdez also filed a petition for review of the same decision in this Court docketed as G.R. No. L-46872 entitled *Heirs of Juan Valdez and Pacita Valdez vs. CA, et al.* In a minute resolution dated January 13, 1978, this Court denied both petitions for lack of merit.

It is in said petition for review wherein the petitioner should have questioned the findings of facts of the appellate court in CA-G.R. No. 38830-R but since said petition had been denied outright, the aforesated decision of the appellate court which has long become final and executory, is *res judicata* as between the parties and the findings of facts therein are conclusive. Thus, the factual findings in said final judgment cannot be reviewed anew in the present proceedings.

The relevant question that should now be asked is, considering the aforesated decision of the appellate court and guided by the findings of facts therein, who is entitled to the possession of the lots in question? Who owns these lots?

CA-G.R. No. 38830-R was a land registration case where petitioner and private respondents were asking for confirmation of their alleged imperfect titles to the lots in question under Section 49(b) of the Public Land Act.^[2]

In the said decision, the appellate court found that the petitioner was not entitled to confirmation of its imperfect title to Lots 2 and 3. In separate motions for reconsideration filed by private respondents Heirs of Octaviano and Heirs of Juan Valdez relating to the same decision, they also asked that said two lots be registered in their names. On August 12, 1977, the Court of Appeals denied both motions. Effectively, therefore, in the said decision the

appellate court ruled that neither the petitioner nor the private respondents are entitled to the confirmation of imperfect title over said two lots. That is now res judicata.

What is the nature of these two lots? Pursuant to the said decision in CA-G.R. No. 38830-R, the two lots in question remained part of the public lands. This is the only logical conclusion when the appellate court found that neither the petitioner nor private respondents are entitled to confirmation of imperfect title over said lots.

Hence, the Court finds the contention of petitioner to be well-taken in that the trial court and the appellate court have no lawful basis in ordering petitioner to return and surrender possession of said lots to private respondents.

Said property being a public land its disposition is subject to the provision of the Public Land Act, as amended.[3]

The present actions that were instituted in the Regional Trial Court by private respondents are actions for recovery of possession (accion publiciana) and not for recovery of ownership (accion reivindicatoria).

In the aforesaid decision of the appellate court in CA-G.R. No. 38830-R, the following are among the findings of facts:

"9th. The totality of foregoing together with evidence of oppositors must convince this Court that as to lots 2 and 3, it was oppositors who were possessors under bona fide claim of ownership thru their predecessors since around 1906; and that appellee came in only in the concept of a borrower in commodatum, but that appellee took it upon itself to claim and repudiate the trust sometime in 1951, and since from that time at least, possession of oppositors had been interrupted, neither can they claim registration under Sec. 48, par. b of the Public Land Law, Com. Act 141, as amended by R.A. 1942; this must be the final result, and there would be no more need to rule on the errors impugning the personality of appellee to secure registration;"[4]

From the foregoing, it appears that the petitioner was in possession of the said property as borrower in commodatum from private respondents since 1906 but in 1951 petitioner repudiated the trust when it declared the property for tax purposes under its name. When it filed its application for registration of the said property in 1962, petitioner had been in adverse possession of the same for at least 11 years.

Article 555 of the Civil Code provides as follows:

"Art. 555. A possessor may lose his possession:

- (1) By the abandonment of the thing;
- (2) By an assignment made to another either by onerous or gratuitous title;
- (3) By the destruction or total loss of the thing or because it goes out of commerce;
- (4) By the possession of another, subject to the provisions of Article 537, if the new possession has lasted longer than one year. But the real right of possession is not lost till after the lapse of ten years. (460a)"
(Underscoring supplied.)

From the foregoing provision of the law, particularly paragraph 4 thereof, it is clear that the real right of possession of private respondents over the property was lost or no longer exists after the lapse of 10 years that petitioner had been in adverse possession thereof. Thus, the action for recovery of possession of said property filed by private respondents against petitioner must fail.

The Court, therefore, finds that the trial court and the Court of Appeals erred in declaring the private respondents to be entitled to the possession thereof. Much less can they pretend to be owners thereof. Said lots are part of the public domain.

WHEREFORE, the motion for reconsideration is GRANTED and the decision of this Court dated September 21, 1988 is hereby set aside and another judgment is hereby rendered reversing and setting aside the decision of the appellate court in CA-G.R. Nos. 05148-49 dated August 31, 1987 and dismissing the complaints for recovery of possession, without pronouncement as to costs.

SO ORDERED.

Narvasa, (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] 132 SCRA 514 (1984).

[2] Commonwealth Act No. 141.

[3] Ibid.

[4] Pages 289 and 290, Rollo.

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