

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
EN BANC**

SOCORRO DE LA CRUZ,
Petitioner,

-versus-

**G.R. No. L-4875
November 27, 1953**

**LICERIO SOSING and THE COURT OF
APPEALS,**

Respondents.

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DECISION

BAUTISTA ANGELO, J.:

Plaintiff brought this action in the Court of First Instance of Samar to recover the ownership and possession of a parcel of land situated in Pambujan, Samar, plus the sum of P10,000 as damages.

Plaintiff claims to be the owner of the land from time immemorial having inherited it from her father, Tomas de la Cruz, who in turn bought it from Felipe Adora. She alleges that on March 21, 1938, defendant, by means of force and violence, occupied the land, thus depriving her of its possession.

Defendant in turn claims to be the owner of the land having acquired it by purchase from Felipe Balanquit. Tomas de la Cruz, father of

plaintiff, acted in bad faith when he acquired it from Felipe Adora, who had no right to, nor was the owner of, the land. And defendant had been in possession of the land since time immemorial by himself and through his predecessor in interest, Felipe Balanquit. By way of counterclaim, defendant also claims the sum of P1,000 yearly as damages consisting of the fruits he had been deprived since 1940, when plaintiff and her predecessor in interest took possession illegally of the land. This counterclaim was denied in due course by the plaintiff.

After the reception of the evidence, the lower court rendered decision holding that plaintiff is the true owner of the land and ordering defendant to restore its possession to plaintiff and to pay damages in the amount of P3,000, plus the costs of suit.

The Court of Appeals, to which the case was taken, reversed the decision of the lower court holding that defendant had already acquired the land in question by prescription it appearing that since March 21, 1938, he had usurped it and had been in possession thereof under claim of ownership up to the time of the filing of the complaint, - February 17, 1949. The court said that "even admitting that the appellant sold the property to Adora and that the latter, in turn, sold it to De la Cruz and, upon his death, the appellee remained in possession thereof - until March 21, 1938, the appellant had acquired full title to the same by prescription at the time the present action was commenced." When appellee was notified of the decision of the Court of Appeals, she filed in due time a motion for reconsideration attaching thereto a certified copy of the original complaint with which this case was initiated showing that the action was commenced, not on February 17, 1949 as pointed out by the Court of Appeals, but on November 13, 1940 as certified to by the clerk of court of the court of origin. Said motion was denied, hence this petition for review.

There is no question that the decision of the Court of Appeals is premised on a misapprehension of fact, not only as pointed out by appellee in her motion for reconsideration, but as may be seen from a perusal of the pertinent portion of the record on appeal submitted in this case. It should be noted that the initial pleading appearing in said record on appeal is an amended complaint. This amended complaint appears to have been filed on February 17, 1949. The original

complaint with which this case was initiated has been omitted undoubtedly because appellant did not consider it necessary to include it because its allegations are already reproduced in the amended complaint. That is the reason why the true date of the commencement of the action does not appear therein which led the Court of Appeals to believe that the action commenced on February 17, 1949. But the truth is that the correct date of the commencement of the action is November 13, 1940, the date of the filing of the original complaint. This fact being important to make a correct adjudication, fairness requires that proper rectification be made to give justice where justice is due. This rectification the court can do in the exercise of its discretion because it is a matter that can be gleaned from the record. Thus rectified, the logical consequence is that defendant has not acquired any title by prescription over the land in litigation contrary to the finding of the Court of Appeals.

It appearing that the decision appealed from is premised on a misapprehension of fact, the next question that crops up hinges on who is the real owner of the property in litigation. The decision of the Court of Appeals contains merely a restatement of the evidence but does not make any finding as to the issues of fact. This silence makes it necessary for us to review the evidence. This we have done, and after carefully examining the evidence, we are persuaded that the lower court did not err in finding that plaintiff is the owner of the property in question.

Wherefore, the decision appealed from is reversed. The decision of the court of origin is affirmed, with costs against appellant.

Paras, C.J., Pablo, Bengzon, Padilla, Tuazon, Montemayor, Reyes, Jugo and Labrador, JJ., concur.