

[G.R. No. 2471. April 27, 1906]

**SEVERINA LERMA Y MARTINEZ DE ALMEDA, PETITIONER AND APPELLEE, VS.
EMETERIO ALVAREZ ET AL., RESPONDENTS AND APPELLANTS.**

D E C I S I O N

ARELLANO, C.J.:

This was a petition presented by Severina Lerma under Act No. 496 for the registration in the new registry of a certain tract of land divided into a number of lots. The land for the registration of which application was made had already been registered in the old registry in accordance with the provisions of the Mortgage Law. The date of the first registration was February 3, 1892, as shown by the certificate of the registrar, and the instrument then recorded was a patent issued by the Government, which appears on page 217 of the record. Jose Lerma, a resident of the district of Tondo of the city of Manila, bought, on the 4th of July, 1881, from the corporation of Dominican Friars of these Islands, for 37,400 pesos, six tracts of land of considerable extent in the barrio of Gagalangin of the said district of Tondo, as shown by the instrument then executed before a notary public.

Jose Lerma, following the provisions of the law then in force as to arable public land applied to the Government for the composition of the lands thus acquired by purchase from the Dominican Friars, and a patent was issued to him by the Government on the 3d day of February, 1892.

On February 10, 1892, he caused the said patent to be recorded in the Registry of Property. According to the certificate of the registrar the four entries then made were numbered 110, 111, 112, and 113.

Jose Lerma died leaving a will, and included in the property left by him at the time of his death was the land referred to in the two said title deeds. Severina Lerma, the wife of Manuel Almeda and the daughter of the deceased, was one of the heirs among whom the

said land was distributed, the other participants in the estate being the children of Clemente Manotoc and his wife, Benita Lerma, a daughter of the deceased, and another child of the deceased named Pastor Lerma.

According to the certificate issued by the registrar of property the land recorded under entries 111 and 112 included the portion thereof awarded to Severina Lerma in the partition of the estate.

The foregoing clearly shows the title of ownership vested in the petitioner Severina Lerma as to two of the tracts of land recorded in the registry of property in the name of her deceased father, Jose Lerma. Such title she acquired (1) by testamentary succession, (2) by virtue of a contract of partition of the estate of her deceased father, (3) by the purchase made by her father from the Dominican Friars, and (4) by the patent issued by the Government to the deceased Jose Lerma. All these rights were sufficiently established in this case by authentic public documents admissible in evidence in and out of court under the laws which govern and regulate the validity and efficacy of such documents.

The application for the new certificate of registration was opposed by twenty individuals, all of whom alleged that they had been in possession of the parcels of land which they occupied for about sixty years, they having inherited the same from their respective ancestors. The petitioner, in view of the answer filed by Martin Santos, one of the contestants in this case, setting up the above defense, stipulated that all the others would set up the same defense in their respective answers. Martin Santos, in addition to his title by inheritance as to one of the tracts in question, set up title by purchase from one Miguel Lara as to another tract., But Miguel Lara, according to a contract entered into by him with Jose Lerma on the 3d day of May, 1897, was a mere lessee of the parcels of land he occupied. (Record, p. 195.)

The petitioner in her petition refers to twelve of these contestants as being in possession of the land under a contract entered into with the deceased, Jose Lerma.

Prudencia del Eosario was the plaintiff in case No. 2241 of the docket of this court against the petitioner in this case, in which she, Prudencia, sued for the possession of the land in question. It was fully proved in that case that she occupied part of the land, but not adversely to the petitioner herein, it having been adjudged that she occupied the land as a mere tenant under a contract with Jose" Lerma, the owner of the same. (Prudencia Rosario vs. Severina Lerma.^[1])

At no time has the possession by Jose" Lerma, and after his death, by his heir, the petitioner

in this case, as to the two tracts of land awarded to her in the partition of the estate, been interrupted, as has been established by the documentary and parol evidence introduced in this case, which shows that both the deceased and his heir exercised acts of ownership in connection with the juridical possession of the land in question. This documentary evidence consists of contracts of lease signed by some of the contestants in this case or by their predecessors in possession, and of written demands made upon all of those who occupied the land or parts thereof as tenants for payment of the stipulated rent; also of certain demands made upon these tenants requiring them to sign contracts of lease for the land they occupied. The parol evidence introduced confirms the fact that the occupants of this land held the same as mere tenants, and it was so held by the court below. The court in so holding committed no error either of fact or of law.

Without other proof than the physical occupation of the land, supplemented with the very common allegation of universal title by inheritance, and without any showing as to how this title was transmitted or as to how it was converted from universal into individual title in favor of the possessor, we can not ignore the legal force and efficacy of documents establishing title, duly recorded in the Registry of Property, and the right to the actual possession of the land, which possession was continuously held by the owners, and we hold that the mere occupation of the land by the contestants can not overcome or otherwise affect such rights, nor can such occupation be considered as a formal possession independent of the title or concession of another. We accordingly affirm the judgment appealed from, with the costs of this instance against the appellants; and twenty days from the date hereof let judgment be entered in accordance herewith. So ordered.

Torres, Mapa, Carson, and Willard, JJ., concur.

^[1] Page 192, *supra*.
