

34 Phil. 143

[ G.R. No. 8473. March 07, 1916 ]

**SANTIAGO YASON AND MARIA NAVARRO, PLAINTIFFS AND APPELLEES, VS.  
JULIO MAGSAKAY AND THE DIRECTOR OF LANDS, DEFENDANTS. THE DIRECTOR  
OF LANDS, APPELLANT.**

## **D E C I S I O N**

### **JOHNSON, J.:**

This action was commenced in the Court of First Instance of the Province of Nueva Ecija, on the 25th of July, 1911. Its purpose was to recover of the defendant, Julio Magsakay, the possession of 8 hectares of land, particularly described in paragraph 5 of the complaint. The complaint alleges that the plaintiff, Maria Navarro, is the absolute owner and in the possession of 30 hectares, more or less, of land located in the barrio of Sangitan, in the municipality of Cabanatuan, Province of Nueva Ecija; that the 8 hectares of land in question constitute a part of said mass of land. The plaintiff prayed for a judgment for the possession of the land and for damages in the sum of P500,

On the 23d of August, 1911, the defendant, Julio Magsakay, filed a general and special answer. In the special defense the defendant alleges that the plaintiffs had appropriated a certain parcel of land, very indefinitely described, supposedly the land in question, which belonged to him, and prayed that the court should declare that said 8 hectares belonged to him, and that a judgment for damages in the sum of P2,100 be rendered against the plaintiffs and in his favor.

On the 24th of August, 1911, the provincial fiscal of the Provinces of Tarlac and Nueva Ecija appeared, without first having obtained permission of the court and without having been made a defendant, and presented a general and special defense. In his special defense he alleged that the land occupied by the defendant, Julio Magsakay, was involved in a petition for homestead which had theretofore been presented, and prayed that the defendant be absolved from all liability under the complaint.

On the 30th of October, 1911, the defendant, Julio Magsakay, presented an amended answer, in which, in addition to the facts alleged in his original answer, he alleged that he had presented a petition to the Bureau of Lands, requesting that he be granted a homestead upon said lands, and prayed that he be declared to be the owner of said 8 hectares of land, and that a judgment be rendered against the plaintiffs and in his favor for the sum of P2,100.

On the 7th of October, 1911, the plaintiffs presented an answer to the amended answer of the defendant, Julio Magsakay, in which it was again alleged that the plaintiff, Maria Navarro, was the owner of the 8 hectares of land, and that they constituted a part of the 30 hectares described in paragraph 3 of her complaint. She denied that she had appropriated the 8 hectares of land in question, and alleged that she had been in possession of the same for a period of 30 years; that the action interposed by the defendant had been prescribed.

On the 22d of November, 1911, the defendant presented a petition asking that the Director of Lands be made a party to the action. On the 25th of November, 1911, said petition was granted and the Director of Public Lands was made a party to the action.

On the 25th of January, 1912, the Attorney-General, on behalf of the Director of Lands, appeared and answered. His answer was a general and special defense. In his special defense he alleged that the complaint of the plaintiffs did not contain facts sufficient to constitute a cause of action, and prayed that the defendants be absolved from any liability under the complaint, with costs against the plaintiffs.

Upon the issue thus presented the action was brought on for trial in the month of January, 1912. After hearing the evidence the court *a quo* reached the conclusion that the plaintiff, Maria Navarro, was entitled to the possession of the 30 hectares of land described in paragraph 3 of her complaint, including the 8 hectares in question, and rendered a judgment ordering the defendant, Julio Magsakay, to deliver the possession of said parcel of land, composed of 8 hectares, to the plaintiffs and to pay the costs.

On the 9th of May, 1912, the fiscal of the Provinces of Tarlac and Nueva Ecija excepted to the judgment of the court and presented a motion for a new trial, which motion was denied, and he now appeals to this Court. The defendant, Julio Magsakay, did not appeal from the judgment of the lower court.

The brief presented on behalf of the appellant is signed by the Attorney-General.

From an examination of the record, certain facts seem to be proved by a large preponderance of the evidence:

First. That Teodulo Navarro was the father of the plaintiff, Maria Navarro; that the plaintiff, Santiago Yason, is the husband of Maria Navarro.

Second. That Teodulo Navarro had been in the quiet and peaceable enjoyment of the possession of said 30 hectares of land described in paragraph 3 of the complaint for a period of 25 or more years; that when he died the plaintiff Maria Navarro entered into the possession of said parcel of land and remained in the peaceable and quiet possession of the same for a period of 11 years or more.

Third. That in the month of March, 1910, the defendant, Julio Magsakay, presented a petition to the Director of Public Lands, praying that he be granted a homestead of a piece or parcel of land measuring 800 meters in length and 200 meters wide; that the defendant took possession of the said 8 hectares of land (presumably the same land described in his petition for a homestead) in the month of May, 1910.

Fourth. By Exhibit B (see record, p. 46) it will be seen that the defendant, Julio Magsakay, in a letter dated the 20th of March, 1911, and directed to the Director of Public Lands of the Philippine Islands, requested that the concession that had been made to him under his petition for a homestead be canceled.

Fifth. In the month of April, 1911, the defendant, Julio Magsakay, in an affidavit (see Exhibit A) again affirmed that the 8 hectares of land, more or less, which he had solicited for a homestead, is the exclusive property of Maria Navarro, and that the latter inherited the same from her deceased father, Teodulo Navarro; that Maria Navarro had possessed the land for a long period; that the petition for homestead had been presented without his consent.

During the trial of the cause, Julio Magsakay attempted to show, while admitting that he had signed Exhibits A and B, that he had not understood their contents nor their purpose. Some of the witnesses who signed said documents were called as witnesses and they insisted that Julio fully understood the contents and purpose of said documents. In view of his admissions and considering the declarations of the witnesses who were present and signed said documents with him, and considering the further fact that he did not appeal from the judgment of the lower court against him, we are not inclined to believe his contention that he did not intend to have his petition for a homestead canceled, as he expressly prayed in

his letter Exhibit B directed to the Director of Lands, dated the 20th of March, 1911.

In view of the foregoing facts and circumstances, we are not inclined to change, alter, or modify the judgment of the lower court upon the appeal only of the Attorney-General. The defendant himself having renounced the right of homestead, there is no apparent reason why the Attorney-General, on behalf of the Director of Lands, should object.

For all of the foregoing reasons, we are of the opinion that the judgment of the lower court should be and is hereby affirmed, with costs against the appellant. So ordered.

*Arellano, C. J., Torres, Moreland, and Trent, JJ., concur.*

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