

SINFOROSO LOYOLA, PLAINTIFF AND APPELLANT, VS. CANUTO BARTOLOME, SHERIFF OF TAYABAS, FLORENCIO CHANGCO, AGAPITO VILLASEÑOR, AND LEONCIO CARNEO, DEFENDANTS AND APPELLEES.

G.R. No. 13406. January 24, 1919

Ponente: STREET, J.

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STREET, J.:

This action was instituted by the plaintiff, Sinforoso Loyola, for the purpose of recovering a parcel of land and annulling the effects of the action taken by the sheriff under an execution issued pursuant to a judgment rendered in a former action wherein Leoncio Carneio was plaintiff and Sinforoso Loyola was defendant. From a judgment entered in this case in favor of the defendants the plaintiff has appealed.

The more material facts are these: On December 3, 1912, Leoncio Carneio brought an action (Civil Case No. 864) in the Court of First Instance of Tayabas against Sinforoso Loyola and Buenaventura Bobadilla for the recovery of a parcel of land. In paragraph 2 of the complaint in that case Leoncio Carneio alleged that he was the owner of a parcel of land situated in the barrio of Limbon, in the municipality of Sariaya, and described as follows:

"A coconut land having an area of 12 hectares, 31 ares, and 25 centares, bounded on the North by lands of Marlln Orendain and Felipe Galindo; on the East by lands O;f Martin Orendain and a stream called Bucal; on the Southby the stream called Canda; and on the West by coconut lands of Antonio Albunian."

He also alleged in,paragraph 3 thereof that Sinforoso Loyola and Buenaventura Bobadilla were in possession of a strip of said land of an-area of about 3 hectares more or less and described as follows:

"A coconut land having an area of three hectares, bounded' on the North by lands of Martin Orendain and Felipe Galindo, formerly, but now of Catalino Zaballero; on the East by lands of Sinforoso Balabad, formerly owned by Martin Orendain, and a stream called Bucal; on the South by lands of Regino Odias and Sinforoso Odias, and a stream called Canda , and on the West by coconut lands formerly belonging to Antonio Albunian, now to Isidrp Herrera."

The plaintiff in said action, Leoncio Carneio, further alleged that the defendant, Sinforoso Loyola, was asserting ownership over the parcel of land last above described, claiming to have purchased the same from one Buenaventura Bobadilla, who was named as codefendant in the same action. Theplaintiff accordingly prayed that the defendant be required to restore the possession of the land in question, i. e., that described in paragraph 3 of the complaint, to the plaintiff, and to pay damages in the sum of P10,000, together with the. costs of the proceeding.

Both of the defendants responded to the complaint with a general denial and asserted that neither of them had any interest in the land described in the complaint, "since the land which Sinforoso Loyola bought of his codefendant Buenaventura Bobadilla was located in the barrio of Canda, formerly Hanagdong, in Sariaya, Tayabas," its

boundaries being described as follows:

"On the North by land of Julio Reyes, formerly, and now of Catalino Zaballero, and the main road of the barrio; on the East by land of Martin Orendain, formerly, and now of Sinforoso Balabad; on the South by land of Antonio Camania, formerly, and now of Regino and Sinforoso Odias; and on the West by land of Joaquin Garcia Lopez, formerly, and now of Isidro Herrera."

On January 28, 1914, judgment was rendered in the Court of First Instance of Tayabas declaring the defendant in that case, Sinforoso Loyola, to be the owner of the land in question. Leoncio Carneo, plaintiff therein, appealed to the Supreme Court and secured, a reversal of the judgment.[1] The dispositive part of the judgment of the latter court says:

"From all the foregoing, we are persuaded that the plaintiff is entitled to the possession of the strip of land in question (i. e., the land described in paragraph 3 of the complaint) * * *. Therefore the judgment of the lower court is hereby revoked, and it is hereby ordered that a decree be entered declaring that the plaintiff is entitled to the immediate possession of the strip of land in question."

Said judgment having been returned to the court below, a writ of execution was issued on November 29, 1915, by which the sheriff was ordered to place the plaintiff in possession of the strip of land described in paragraph 3 of the complaint; and the sheriff did in fact place the plaintiff in possession of the land contained within the limits described in the third paragraph of the complaint, but it was then found that in so doing, instead of having delivered a strip of land with a superficial area of three hectares, the sheriff had in fact delivered a compact parcel containing an area of 12 hectares, 31 ares, and 25 centares.

To obtain relief against the error of the sheriff, thus supposed to have been committed, the attorney for Sinforoso Loyola appeared in the Court of First Instance on December 3, 1915, and moved the court to vacate the writ of execution on the ground that it ordered the delivery to the plaintiff of a parcel of land of an area of 12 hectares more or less and different from the strip of three hectares for which judgment had been obtained. The Court of First Instance, with a view to getting at the truth of the contention, thereupon ordered each of the respective parties to procure a survey to be made of the land supposed to be covered by the judgment. These surveys were made, the plans were presented to the court, and with the approval of the court the sheriff again delivered to the plaintiff the possession of the same land he had before delivered to him. Objection was again made by attorney for the defendant Sinforoso Loyola on the same ground stated in his previous objection. The court below overruled said objection and finally ordered the sheriff to put the plaintiff in possession of the parcel of land described in paragraph 3 of the complaint, with the result that, so far as the proceedings in that case are concerned, Leoncio Carneo became finally and effectually seated upon the same parcel of land, of an area of more than 12 hectares, which had already been delivered to him by the sheriff. Sinforoso Loyola thereupon instituted the present independent action, seeking the restitution of so much of the land as is in excess of three hectares. As already indicated, the result in the Court of First Instance was unfavorable to this contention, and he has brought the case here for review upon appeal.

The record in the original cause of Carneo vs. Loyola et al., Civil Case No. 864 of the Court of First Instance of Tayabas, was introduced in evidence in the present proceeding; and the court has, therefore, in this case had before it not only the original evidence taken in this proceeding but also the additional matter on which the former judgment was founded.

The statement contained in the original complaint in the case of Carneo vs. Loyola, et al., was misleading with respect to the superficial extension of the land described in paragraph 3 of said complaint, for when reference is had to the boundaries therein laid down, it is found that said area is 12.3125 hectares, or exactly the area attributed to the larger parcel described in paragraph 2 of the same complaint. The area of this latter parcel is itself in turn

understated in the complaint, for by referring to the plans it is seen that, if the limits of this parcel are extended to the estero [estuary] Bucal on the east and to the estero Canda on the south, the tract of land included in the limits indicated is greatly in excess of 12 hectares. It is further to be noted here that although the boundaries of the parcel described in paragraph 2 are in several features identical with those of the parcel 3, they differ in the fact that the esteros mentioned are given only as boundaries to parcel 2. It is proved that Leoncio Carneio did in fact once own a larger tract in this neighborhood reaching, perhaps, to the esteros in question, but he had sold off several parcels to various purchasers before the first lawsuit was begun, and it does not clearly appear from the proof whether at that date he owned any more in this neighborhood than the 12 hectares, more or less; included in the boundaries described in paragraph 3.

If the complaint filed by Leoncio Carneio was misleading with respect to the area of the parcel which he sought to recover, the answer interposed by Sinforoso Loyola and Buenaventura Bobadilla was no less misleading in the statement that said defendants had nothing to do with the land described in the complaint, for at that very time, Sinforoso Loyola had in his possession the entire 12 hectares included in the boundaries mentioned in paragraph 3 of the complaint and was unlawfully excluding Leoncio Carneio therefrom.

In the original action Leoncio Carneio proved ownership of the entire 12 hectares now in question by means of a composition title originally issued in the name of one Sixto Galera, in connection with certain other documents and testimonial proof showing the plaintiff's title thereto. The proof adduced by Leoncio Carneio in said action showing ownership over this entire property was most complete and perfect; and the proposition cannot be refuted that he was, upon the date when his original action was instituted, the real and true owner thereof. It is also to be observed that Carneio's title to the whole was of the same character throughout, and if he was the owner of a supposed strip of three hectares, he was also the owner of the entire parcel of 12 hectares.

It is not to be denied that when this court decided the case upon the prior appeal, it was here supposed that the parcel in question, contained within the boundaries described in paragraph 3 of the complaint, and for which judgment was given in favor of the plaintiff, was a strip lying within a larger parcel and that this controverted strip contained an area of only 3 hectares. The question is therefore presented whether a judgment awarding a recovery of certain land with specified boundaries is vitiated or in any wise affected by the erroneous statement contained in the judgment with respect to the area of such land.

We are of the opinion that where the boundaries stated are sufficiently clear and explicit to identify the land which is the subject of the judgment, the erroneous statement concerning the area should be ignored. As was well said in the lower court by Judge Paredes on January 14, 1916, in disposing of the motion by the attorney for Sinforoso Loyola for the annulment of the execution in this case, that which really defines a piece of ground is not the area, to calculate with more or less certainty, mentioned in its description, but the boundaries therein laid down, as enclosing the land and indicating its limits.

The idea here to be applied is of necessity the same as that applicable in a contract for the sale of land in a mass, with respect to which it is well established that the specific boundaries stated in the contract must control over any statement with respect to the area contained within those boundaries. It is not of vital consequence that a deed or contract for the sale of land should declare the area with mathematical accuracy. It is sufficient if its extent is objectively indicated with sufficient precision to enable one to identify it; and where the boundaries given are adequate for this purpose, an error as to the superficial area is immaterial.

Similarly, an error in a judgment of a court, in supposing that the land inclosed within certain defined limits is of less extension than it in fact possesses, cannot invalidate the judgment. This must be especially true in a case where it is evident, as here, that the land contained in the stated boundaries was the real and true subject matter of

the dispute.

In the case before us, if an attempt were made to limit the area, for which judgment is supposed to have been given, to three hectares, there is no means by which said three hectares could be identified with any certainty. There is to be sure a patch, or strip, lying in the southeastern corner of the larger parcel and containing an area of something more than one hectare, which the plaintiff herein would have us believe was the strip actually in dispute; but there is nothing to indicate clearly the modern and western boundaries which would have to be followed in order to include an area of three hectares. In other words the three' hectares to which the present plaintiff would limit the operation of the prior judgment could not be located at all.

There is, in our opinion, no just basis for the assumption that the boundaries described in paragraph 3 of the original complaint (Carneo vs. Loyola et al.) refer to any other parcel of land than that which the sheriff has delivered to Leoncio Carneo. The only mistake, which has been made, so far as we can discover, is in the mistaken assumption as to the area of the parcel for which this court intended judgment should be given. It is, however, earnestly contended for the appellant that there is not only error as to the area but error as to the identity of the questioned parcel. This contention is, we think, untenable. Everything done by the sheriff was done under the eye of the Court of First Instance, and several judges at one time or another have intervened in the proceeding. Under their supervision every care was taken to carry the judgment of this court into effect in accordance with its true intent; and in our opinion the identity of the parcel delivered is clearly established by an inspection of the plans, in connection with the other proof. It is the duty of a Court of First Instance to see that its own judgments, as well as judgments returned for execution from this court, are properly carried into effect. The sheriff is the appointed executive for executing such judgment, and what he does is subject to the control of the court. Therefore, the action of the sheriff, under the order and direction of the court, is presumptively correct; and his return must be accepted as true until error is clearly shown. The proof, we think, fully supports the correctness of this presumption in the present case.

What we have said suffices for the determination of the vital point of the case and demonstrates that the plaintiff is entitled to no relief in this or any other proceeding. There is another point, however, which impressed the lower court as showing an entire lack of merit in the plaintiff's contention. As was noted by Judge Abreu, in the Court of First Instance, the plaintiff herein, Sinforoso Loyola, has not shown, nor attempted to show that he is the real owner of any part of the parcel of land of which he has been deprived. Indeed, he could not show that fact, for the record contains indubitable evidence that the true owner of the whole is Leoncio Carneo. What the present plaintiff seeks in this proceeding is to have restitution of possession, basing his claim in this regard upon the fact of his own prior possession[^] and the supposed irregularity of the proceedings by which he was deprived of that possession. The trial judge was of the opinion that the plaintiff was not entitled to relief without proof of ownership. Without meaning definitely to determine the point we incline to the view that his Honor was correct. The action to obtain relief against a mistake in a former judgment or against error in the proceedings for carrying a former judgment into effect is of an equitable nature; and in such a proceeding a court should not grant relief in the absence of proof that injustice has been done. Even if it were shown that this plaintiff had lost possession as an accidental consequence of irregular action in the prior proceeding, could a court of equity be induced to exert its powers in his favor in this independent proceeding without proof that he had been deprived of property which justly belonged to him? We think not. The mere possessory right must be considered to have been destroyed as a consequence of the proceedings taken in the former action, for those proceedings involved" the legitimate exercise of judicial power and the action of the sheriff therein was *prima facie* lawful.

Our conclusion is that the judgment entered in the lower court denying the relief sought is correct, and the same is hereby affirmed, with costs against the appellant. So ordered.

Arellano, C.J., Torres, Johnson, Malcolm, and Avanceña, JJ., concur.

Judgment affirmed.

[1] Carneo vs. Loyola and Bobadilla, R. G. No. 10391, decided October 26, 1915, not published.

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