

MAXIMA ALCALA, ET AL., PETITIONERS, VS. HON. COURT OF APPEALS, ET AL., RESPONDENTS.

G.R. No. L-9218. October 31, 1956

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Appeal by the spouses Maxima Alcala and Hospicio Redito, defendants in the Court below, from the decision of the Court of Appeals affirming the judgment of the Court of First Instance of Pangasinan in Civil Case No. 9173 thereof declaring appellants owners of a portion of the land in question of about one hectare in area, while' adjudicating another portion thereof of less than one hectare to the spouses Leandro Rangel and Marta Regines, and the remainder of the land to plaintiffs Bernardo Rangel, et al.; and also condemning appellants to pay plaintiffs P300.00 as damages.

The facts of the case are set forth in the decision of the Court of Appeals as follows:

"Plaintiffs Bernarda Rangel, Maria Rangel, Leandro Rangel, Ursula Rangel and Eufemia Rangel were the heirs of Pedro Rangel at the time of his death in the year 1912. Eufemia Rangel is now deceased and her only heir is plaintiff Milagros Serna. When Pedro Rangel died, he left the parcel of land described in paragraph 2 of the complaint, of three (3) hectares, more or less, and bounded: on the north, by Estero Cabatuan; on the east; by Manuel Rabago; before, now Vicente Montemayor on the south, by Macario Navarro and Vicente Montemayor; and on the west, by Creek and Nicolas Navarro, which property was declared under tax Declaration No. 6116 and assessed at P130.00."

In the month of March, 1914, when Leandro Rangel married his wife Marta Regines, Andrea Navarro, the widow of Pedro Rangel, together with Bernalda Rangel, Maria Rangel, Leandro Rangel, Eufemia Rangel and Ursula Rangel, donated propter nuprias to Marta Regines a portion of the above described property which has an area of one (1) hectare and bounded: by the north, by Estero Cabatuan; on the East, by Manuel Rabafeo before, now Vicente Montemayor; on the south, by Vicente Montemayor; and on the west, by Nicolas Navarro and heirs of Pedro Rangel. Thereafter, Marta Regines and her husband Leandro Rangel took possession of the property and since then possessed it publicly, peacefully and in the concept of owner until Civil Case No. 683 for Forcible Entry and Detainer was filed by defendant Maxima Alcala with the Justice of the Peace Court of Alaminos, Pangasinan, against Leandro Rangel claiming that the latter had forcibly entered the land she acquired from Andrea Navarro by virtue of a pacto de retro deed of sale executed by said Andrea. Navarro on July 7, 1930 at Alaminos (Exhibit 1). In that deed, the land sold to Maxima Alcala, then single, has the following boundaries: On the north, by Andrea Navarro; on the east, by Manuel Rabago; on the south, by Leandro Rangel and Nicolas Navarro; and on the west, by estero. In that case, Maxima Alcala, the herein defendant, was the plaintiff and Leandro Rangel, one of the herein plaintiffs, was the defendant. Before the hearing of said case, the parties entered into an amicable settlement by virtue of which Leandro Rangel renounced and quit claim of any right, interest and participation on the land described in the complaint (Exhibit 4) while Maxima Alcala at the same time renounced any claim over the land described in Exhibit A which is bounded: On the north, by a residential lot of Andrea Navarro; on the east, by Manuel Rabago and Gervasio Navarro; on the south, by Vicente Montemayor; and on the west, by Maxima Alcala and Nicolas Navarro; and

by virtue of this amicable settlement, Civil Case No. 683 was dismissed.

On November 21, 1945, Maxima and her husband Hospicio Redito initiated Civil Case No. 709 before the Justine of the Peace court of Alaminos, Pangasinan, against the herein plaintiff Leandro Rangel, for Forcible Entry and Detainer, with a prayer that a preliminary injunction be issued after filing by the plaintiffs therein of the corresponding bond its required by section 4> Rule 60, in connection with section 3, Rule 72 of the Rules of Court. The petition for the issuance of the preliminary injunction was duly heard and thereafter the court granted it. The case was heard on the merits on January 26, and 30, 1946, and thereafter the court rendered judgment in favor of Maxima Alcala and Hospicio Redito and against Leandro Rangel, herein plaintiff. Motion for new trial was filed by -the latter but denied by the court. Leandro did not appeal the case to the Court of First Instance and consequently the decision in that case became final and executory.

On March 14, 1946, plaintiffs herein brought this action against Maxima Alcala and her husband Hospicio Redito to claim for the land described in paragraph 2 and 3 of the complaint on the ground that said lands are their exclusive properties, and also against Nemesio Balonso, as Justice of Peace in Alaminos, on the ground that he had unlawfully issued an injunction in Civil Case No. 709 mentioned above, and decided it against Leandro Rangel and thus caused the latter damages in the sum of P300.00.

After due trial, the lower court rendered decision the dispositive part of which is as follows:

IN VIEW OF THE FOREGOING CONSIDERATIONS, the court renders decision as follows:

'(a) Declaring the defendant Maxima Alcala, owner of the land of about a hectare in area as described in Exh., "C" for the plaintiff and Exh. "1" for the defendants excepting the boundary in the East which should be Leandro Rangel instead of Manuel Rabago, and shown in Exhibit "B";

'(b) Declaring the plaintiff's spouses Leandro Rangel and Marta Regines, owners in fee simple, of the land described in paragraph 3 of the complaint and Exhibit "D", containing an area of one hectare more or less, and condemning the defendants to deliver said portion of land to them;

'(c) Declaring the plaintiffs Bernalda Rangel, Martin Rangel, Ursula Rangel, and Eufemia Rangel, Eufemia represented after her demise by her child Milagros Coma, a minor, of such remaining portion of the land described in paragraph 2 of the complaint after separating the portions of land declared to be the property of defendant Maxima Alcala and the plaintiffs spouses Leandro Rangel and Marta Regines, and condemning the defendants to deliver said portion of land to plaintiffs;

'(d) Condemning the defendants to pay to the plaintiff the amount of P300 representing the value of the owners' share of the products of the land for the agricultural years 1945, 1946 and 1947;

'(e) Dismissing the second cause of action against the defendant Nemesio Balonso.

'(f) Without special pronouncement as to costs.' (Decision, pp. 1-5.

In this Court, appellants question the affirmance by the Court of Appeals of the judgment of the lower court adjudicating a portion of the lot in question to plaintiffs—appellees, and allege that said Court also erred in "altering the eastern boundary owner of appellants' land from Manuel Rabago to Leandro Rangel", and in condemning appellants to pay P300 as the value of the owner's share of the harvest of said land for the agricultural years 1945-1946 and 1946-1947.

In so far as the Court of Appeals adjudged plaintiffs-appellees to be the owner of the remaining area of the land in question, after separating the portions thereof owned by the spouses Leandro Rangel and Marta Regines, and by appellant Maxima Alcala, we find no error in the judgment appealed from. It is clear from the allegations of the complaint and the evidence that all that appellant Alcala purchased in 1930 from Andrea Navarro, mother of the plaintiffs, was a portion of the land in question of about 8,547 square meters (see R. A., p. 26); while another

portion thereof of less than a hectare in area was donated by plaintiffs and their mother Andrea Navarro to their brother Leandro Rangel and his wife Marta Regines in consideration of their marriage in 1914. Since the land now in question is about three hectares in area, the trial court and the Court of Appeals did not err in declaring that plaintiffs-appellees are the owners of the remainder of said property, as heirs of their deceased father Pedro Rangel, the former owner thereof. Appellants cannot rightfully claim the whole land as described in paragraph 2 of the complaint, since their evidence shows that they are entitled to, and have been possessing, only a portion of said land of about 8,500 square meters.

As for that part of the decision of the Court of Appeals changing the eastern boundary owner of appellants' land from Manuel Rabago to Leandro Rangel, we see no reason to alter the same. This holding was based mainly on Exhibit 4, wherein appellant Maxima Alcala appears to have recognized the ownership of Leandro Rangel of that portion of the land in question east of her property. There is no proof whatever to support appellants claim that this document is spurious and anomalous. According to the findings of the Court of Appeals, Notary Public Jose Montemayor, before whom it was acknowledged, testified without objection during the trial in the Court below that the original thereof had been lost, but the Exhibit 4 was a certified copy which he made of the original before its loss. The Rules of Court do not require, as appellants claim, that it should always be the Bureau of Archives who should make the certification of the loss of the original of a public document, in order that secondary evidence thereof could be admissible. As long as the originals thereof in the possession of the parties have been proven lost, a certified copy of the document made before it was lost is admissible as secondary evidence of its contents, and the burden of proof is upon the party questioning its correctness to show that it is not a true and authentic copy of the original. Appellants also claim that Exhibit 4 is anomalous, because its entry number in the notarial register of Notary Public Montemayor (Doc. No. 35, page 96, book 6) had allegedly jumped backward because of another document (Exhibit 8) acknowledged at an earlier date by Montemayor was identified as Doc. No. 86, page 65, book IV. The argument is clearly unfounded, since Exhibit 4 was entered in the sixth book of Montemayor's register, while the earlier one, Exhibit 8, was entered in his fourth, or earlier, book, documents being consecutively entered in each book. In any case, with or without Exhibit 4, there is enough proof to show that Leandro Rangel is one of appellant Alcala's boundary owners; namely, the sale in her favor Exhibit

"1" showing Leandro Rangel to be her boundary owner in the south; the survey plan of her land showing Leandro Rangel to be her boundary owner of the northeast and east (Exhibit "B"); and her own admission when she ordered the survey of her property, noted by the Court of Appeals (Decision p. 6), wherein "she recognized Leandro Rangel as the adjoining owner on the East of her land".

We agree with the appellants, however that the decisions of the Court below erred in ordering them to deliver to plaintiffs and the spouses Leandro Rangel and Marta Regines, those portion of the land in question belonging to the latter, and to pay them the owners' share of the harvest of said land for the agricultural years 1945-1946 and 1946-1947. There is no evidence to show that appellants have at any time possessed the entire lot of three hectares described in paragraph 2 of the complaint. On the other hand, both the lower Court and the Court of Appeals found that appellants entered into the possession of only about 1 hectare of the land, the seedling capacity of which is only 14 gantas, and that its survey of the land possessed by appellants showed that its area was only 8,899 square meters. Furthermore, the decision in the previous case No. 709, which has become final is conclusive that it was Leandro Rangel who usurped the land of the appellants, and not vice-versa. In fact, the basis of appellees' present claim for damages is the alleged nullity of the sale by their mother in favor of Maxima Alcala, and this claim was rejected by both Courts below. Hence the award of damages is without factual or legal basis.

Wherefore, the decision appealed from is modified by eliminating that part of the same requiring defendants to

deliver to plaintiffs Bernardo Rangel, et al., and to the spouses Leandro Rangel and Marta Regines, the portions of the land in question pertaining to them, as well as that part thereof condemning defendants to pay damages to plaintiffs. In all other respects, the judgment of the trial court and of the Court of Appeals are affirmed. No costs in this Instance. So ordered.

Paras, C. J., Padilla, Bautista Angela, Labrador, Concepcion, and Felix, JJ., concur.

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