

BRUNO GARCIA, PETITIONER, VS. DALMACIO ANAS, ET AL., RESPONDENTS.

G. R. No. L-20617. May 31, 1965

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Dalmacio Anns filed on August 3, 1957 before the Justice of the Pence Court of Zablan, Mt. Province a complaint for forcible entry against Bruno Garcia praying that the latter be ordered to deliver to the former the possession of the land in litigation. Defendant, in his answer, averred that the properly allegedly owned by the plaintiff is within the parcel of land handed down to him by his father as his inheritance and that since then he has been in possession thereof and has never been molested nor dispossessed by anyone.

The justice of the peace dismissed the case holding that the defendant is the one entitled to the possession of the land. On appeal, the Court of First Instance of Baguio reached practically the same conclusion. It dismissed the complaint on the ground that plaintiff has failed to identify the land which he claims to have been dispossessed by defendant.

The case went to the Court of Appeals, but this time this Court found that the complaint is meritorious. It ordered defendant to restore to plaintiff the possession of the land and to pay him P500.00 as attorney's fees. The case is now before us on a petition for review.

The court a quo, after an examination of the evidence, concluded that plaintiff has not been able to identify the land which lie claims to have been dispossessed by defendant for, according to the court, even his own witness Rosita Gayo gave as a description of the land sold by her father one consisting of 10 hectares instead of only 4 which is the one allegedly sold by her father to the plaintiff, while, on the other hand, the preponderance of evidence shows that defendant is the owner of the land and h one entitled to its possession. Consequently, on the s of this finding, the court dismissed the complaint.

The Court of Appeals, however, reached a different contusion. Thus, it found that the plaintiff is the rightful, sole and absolute owner since time immemorial of the parcel of land described in the complaint; that plaintiff bought 4 of the 10 hectares of the land from one Pablo Galbo in 1945 which he occupied and expanded by including the 6 hectares he acquired through a patent application; and that in May, 1957, defendant entered the land, had the same surveyed over his protest, fenced it and turned loose his carabao thereon. And considering that defendant did not deny these facts but limited himself to proving his title to the land by identifying the tax declarations covering the same, the Court of Appeals reached the conclusion that plaintiff was in actual possession of the land of which he was dispossessed by defendant by having it surveyed and possessed.

We agree with the Court of Appeals that in an action for ejectment the only issue involved is one of possession de facto the purpose of which is merely to protect the owner from any physical encroachment from without. The title of the land or its ownership is not involved, for if a person is in actual possession thereof he is entitled to be maintained and respected in it even against the owner himself. The main thing to be proven is prior possession

and if same is lost through force, stealth or violence, it behooves the court to restore it regardless of its title or ownership (Moran, Comments on the Rules of Court, Vol. 2, 1957 ed., p. 289). In this sense, we find incorrect the procedure adopted by the court a quo wherein, to determine the right to possession, it resorted to an analysis of the evidence regarding its title or ownership, and when it found that the plaintiff failed to establish his ownership it dismissed his complaint. Such finding is not necessary. What is important is to find out who the actual possessor is and if his possession has been disturbed. This the Court of Appeals did, which finding we cannot now look into.

Wherefore, the decision appealed from is affirmed.

Costs against petitioner.

Bengzon, C. J., Reyes, J. B. L., Barrera, Paredes, Regala, Makalintal, Bengzon, J. P. and Zaldivar, JJ., concur.

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