

JUAN DULDULAO AN MODESTO DULDULAO, PETITIONER, VS. HON. EUSEBIO F. RAMOS, JUDGE OF THE COURT OF FIRST INSTANCE OF ORIENTAL MINDORO; AND TOMAS SALVADOR, RESPONDENTS.

G.R. No. L-4615. November 20, 1951

Ponente: TUASON, J.

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TUASON, J.:

This is a contempt proceeding growing out of the facts and incidents to be presently set out.

Juan Duldulao was issued a homestead patent on December 26, 1936, which was afterward registered in the office of the Register of Deeds of the province of Mindoro. Having an area of 23 hectares, according to the official plat of the survey, this property, it is alleged, was conveyed by Juan Duldulao to Modesto Duldulao on March 13, 1950. But Tomas Salvador claimed to have purchased from Juan Duldulao on March 1, 1950, 16 hectares of the same parcel; and armed with the alleged deed of sale, and alleging that the owner's duplicate certificate of title had been destroyed on April 7, 1947, when Juan Duldulao's house in San Jose was razed by fire, he filed a motion with the Court of First Instance asking that "another Owner's Duplicate Certificate of Title No. 2497 in the name of Juan Duldulao, in substitution of that which was destroyed be ordered issued by the Register of Deeds." That motion was granted.

Thereafter Juan Duldulao and Modesto Duldulao brought an original action for certiorari in this Court (G. R. No. L-4615) attacking the judge's (Judge Eusebio F. Ramos) jurisdiction to act on Salvador's motion, and complaining that the registered owner was not notified of that motion.

The above petition for certiorari is still pending hearing, but soon after it was docketed Juan Duldulao and Modesto Duldulao secured from this Court a writ of preliminary injunction couched in the words following:

"In G. R. No. L-4615, Juan Duldulao, et al. vs. Hon. Eusebio F. Ramos, etc. et al., the Court resolved to grant the ex-parte urgent motion of attorney for petitioners, praying for the issuance of a writ of preliminary injunction enjoining respondent Tomas Salvador from dealing with the property in question in any manner or interfering with the tenants therein, and requiring him to surrender to this Court the owner's duplicate certificate of title now in his possession for further disposition by this Court, and ordered that, upon the filing by the petitioners of a bond for P500, the writ of preliminary injunction prayed for be issued."

This injunction was issued on April 23, 1951, and the parties and their attorneys were duly notified thereof. Subsequently the petitioners filed a motion for contempt charging that Tomas Salvador "has disobeyed and still is disobeying the aforequoted injunction in that he has dislodged the tenants of the petitioners; that he insists in appropriating the property; that he has prevented and still prevents the duly appointed representative of the petitioners, Eusebio Candalora, from entering and administering the property as well as petitioner Juan Duldulao, said respondent threatening with bodily harm anyone who would interfere in the premises." This is the complaint that initiated the present proceeding.

Required to answer, Tomas Salvador, through counsel, filed a writing in which "he denies specifically the (complainants') allegations," and attached to his answer sworn statements of himself, of Eliseo A. Zubiri, Chief of Police of San Jose, Occidental Mindoro, Silverio Eugenio, and Jose Sarmiento, all denying that the complainants had been disturbed in their possession. On this answer being filed, the clerk of this Court was appointed commissioner to receive the evidence of the parties, and hearing was held on October 10, after it was postponed on motion of Salvador's counsel from October 8. At the hearing only Juan Duldulao testified; Tomas Salvador's attorney appeared but Salvador himself did not, and no witness was called or any evidence adduced in his behalf.

The bone of contention centers on the sufficiency of Joan Duldulao's testimony to sustain the accusation.

Juan Duldulao in substance testified. He was residing in Camlling, Tarlac, and made a trip to San Jose on July 7, 1951 arriving in that town the next day, Sunday. In San Jose, he called at the house of the chief of police accompanied by one Felipe Arevalo. Not finding the chief of police at his home, he went to see the mayor, Isabelo Abeleda, at his residence and manifested his desire to talk with Tomas Salvador. The mayor promised to send for Tomas Salvador on Monday so that Duldulao and Salvador could get together, and the next day Salvador did come. In the presence of the Mayor he (witness) told Salvador that he wanted to get back his land but Salvador said "no". Whereupon Duldulao took from his pocket his copy of the order of injunction, the mayor asked Salvador "Will you give?" and Salvador again answered "no". Thereupon the mayor instructed his secretary to draw a "reply" which the secretary did. (The so-called reply was introduced in evidence as Exhibit "B". It was a sworn statement signed by Felipe Arevalo and Rodolfo Guarin, Juan Duldulao's companions, with the mayor certifying that it had been subscribed and sworn to by the affiants. It recites that "Tomas Salvador * * * alleged that he intends to file a counter bond with the end in view of continuing his cultivation on the land in question or the land involved in this case."))

Duldulao further declared before the commissioner that Eusebio Candalora was his "encargado"; that in San Jose he stayed in Candalora's house; that Candalora told him he had been driven out of the land. He admitted that he did not go to the land itself, but said it was because he was warned that if he went "they will be angry." He also declared that he had tenants on the land who had been driven away.

Juan Duldulao's testimony was not as comprehensive and explicit as it might have been. Its inadequacies are due in no small measure to the defendants' attorney's persistent objections to questions the answers to which might have been enlightening. Yet there is ample direct and competent evidence to show that Salvador did defy the writ of injunction. His curt "no" retort to Duldulao's remark that Duldulao wanted to have the land, and his similar reply to the mayor's query whether he would surrender the property to Duldulao, are certain and eloquent corroboration of the motion for contempt.

Exhibit "B" is of special significance. Official in character and written spontaneously at the instance of the mayor who had no axe to grind, the import of its content—that Salvador was ready and willing to put up a counter-bond to continue his cultivation of the land—is so apparent on its face as to be beyond conjecture, it could mean no other than that Salvador was in physical possession of the farm and would not part with it. The circumstances under which this exhibit was prepared preclude the idea of deliberation or fabrication.

Although the witness did not see his "encargado" and tenants ejected from the land, he spoke through his own knowledge when he said that those people were out and were no longer tending the property when he arrived in San Jose from Tarlac. This fact is at least a confirmation of what they had told their employer, that they were being kept out of the land in question. No one but Salvador or his accomplices had any interest in excluding Duldulao's tenants from it.

The unexplained failure of the defendant to refute by himself or through other witnesses his accuser's assertions is

presumptive proof of the truth of the charge. The affidavits which accompanied his answer to the motion for contempt are not competent evidence. He relies on the supposed weakness of his adversaries' evidence, no little of which was due to his attorney's resort to technicalities, rather than on the force of his denial which he could easily have substantiated if the same had any truth behind it.

We are satisfied that Tomas Salvador is guilty of contempt as charged, and he is hereby sentenced to pay a fine of P200 or be imprisoned at the rate of one day for every P2.50 he fails to pay.

Paras, C.J., Feria, Pablo, Bengzon, Padilla, Reyes, Jugo and Bautista Angelo., concur.

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