

PHILIPPINE NATIONAL BANK, PLAINTIFF AND APPELLEE, VS. SERGIO M. SILO, DEFENDANT AND APPELLANT.

G. R. No. L-3498. March 19, 1951

Ponente: PARAS, J.

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PARAS, J.:

In G. R. No. 47920, Philippine National Bank vs. Sergio M. Silo, (72 Phil., 141), the Supreme Court rendered, on April 30, 1941, a decision with the following dispositive part: "Por todo lo expuesto, revocamos la decision apelada, y ordenamos al apelado a desalojar los cuatro terrenos objeto de cuestion para que el apelante pueda disponer de los mismos, y a pagar el a dicho apelante el precio de la cosecha de los referidos terrenos, si no puede entregarla a el, previa determinacion de dichos hechos por el Juzgado, teniendo en cuenta las pruebas ya presentadas o que se presenten por los litigantes."

As this decision remained unexecuted for five years, the Philippine National Bank filed, on October 22, 1947, in the Court of First Instance of Sorsogon an action against Sergio M. Silo for the enforcement of said decision. The defense set up was that the latter had acquired ownership over the lots in question by adverse possession for more than one year from April 30, 1941, or at least from the expiration of five years within which the decision might be enforced by execution. After hearing, judgment was rendered, reviving the decision of the Supreme Court in G. R. No. 47920 for all legal effects, with costs against Sergio M. Silo. From this judgment, the latter has appealed, contending that the trial court erred in not applying article 460 of the Civil Code which provides that possession may be lost, among others, by adverse possession of another for more than one year.

A judgment may be executed on motion within five years from the date of its entry, and thereafter, but before it is barred by the statute of limitations, it may be enforced by action. (Rule 39, sec. 6, Rules of Court.) The prescriptive period for an action upon a judgment is ten years. (Act No. 190, section 43.) The same period is fixed in the new Civil Code. (See articles 1144 and 1152.)

As the decision in G. R. No. 47920 was rendered on April 30, 1941, the action filed by the appellee on October 22, 1947, was well within the prescriptive period of ten years. To adopt appellant's theory is to shorten the time within which the appellee, under the law, may enforce its judgment by action. Appellant's possession very obviously could not have ripened into any valid title in himself, first, because appellee's judgment is enforceable by action within ten years from April 30, 1941 (assuming that this is the date when the judgment became final), and, secondly, because title to land by prescription may be acquired only after ten years of actual adverse possession (Act No! 190, section 41).

Wherefore, the appealed judgment is affirmed, with costs of both instances against the appellant. So ordered.

Moran, C. J., Feria, Pablo, Bengzon, Padilla, Tuason, Montemayor, Reyes, Jugo and Bautista Angelo, JJ., concur.

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