

**LA CORPORACION DE PADRES AGUSTINOS RECOLETOS, PLAINTIFF
AND APPELLANT, VS. PEDRO CRISOSTOMO ET AL., DEFENDANTS
AND APPELLEES.***G.R. No. 10031, December 06, 1915*

Ponente: TRENT, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-10031/>**TRENT, J.:**

This is an action to recover possession of a number of small parcels of land of which the plaintiff alleges it is the owner. Judgment below was in favor of the plaintiff as to some of the parcels and against it as to the others. As to these latter, the plaintiff has appealed. The defendant appellees claim title to their respective parcels by prescription of ownership or adverse possession. From the evidence submitted by them the trial court sustained their defense, and, after a careful review of the record, we cannot say that this finding ought to be disturbed.

Some of the appellees pleaded title by adverse possession in their answers while other merely entered a general denial. As to these latter, the point is made that evidence of adverse possession was not admissible under a general denial but that such a defense must be specially pleaded. Under our system of pleading a defendant may answer (1) by a general or special denial Of the material allegations of the complaint, or (2) by any new matter constituting a defense or counterclaim. (Code Civ. Proc, sec. 94.) The first method puts in issue all the material allegations of the complaint if the denial be general, or one or more of them if the denial be specific. By material allegations are meant those without which the plaintiff would have no cause of action. Only those allegations of the complaint which are thus put in issue require proof. Pleas under the second method are usually in the nature of pleas in confession and avoidance. They import that, admitting the allegations of the complaint to be true, yet the matters set out in the answer deny or take away the plaintiff's right of action. Such are pleas of infancy or other incapacity, fraud, duress, self-defense, etc. In this connection, see section 784, form No. 35, Code of Civil Procedure, where the model form for pleading the statute of limitations is made up in this manner. Plaintiff is required to meet a plea of new matter by amendment to his complaint, but his failure to do so within the period fixed by rules of court is taken to mean that he controverts or denies each material statement made in such new matter. (Code Civ. Proc, sec. 104,) So that, whether the answer be a denial of one or more of the material allegations of the complaint or a defense of new matter, the pleadings have theoretically formed issues of fact or law or both to which the trial must be confined. A general denial of the material allegations in the complaint requires that plaintiff come to the trial prepared to prove each of his material allegations of fact. Conversely, the defendant must produce his evidence tending to show the non-existence of plaintiff's allegations.

In the action to recover possession of land as owner, the plaintiff is required to allege a disseisin and its continuance by the defendant and the amount of his damages. (Code Civ. Proc, sec. 784, form No. 28.) This is all that was done in the present case. Plaintiff was not required and did not allege the source and kind of title under which it claimed, and, under the complaint, it was at liberty to introduce proof of any legal title which it possessed. Conversely the defendants were at liberty to introduce all legally admissible evidence tending to show that title was not in the plaintiff. Hence, they had the right to show that the legal title was in themselves. For, if

legal title to the property were shown to be in the defendants, the evidence of the plaintiff that title belonged to it would certainly be met.

As we have said above, the evidence shows adverse possession in the defendants for the time required by law. Now, does adverse possession for the requisite period of time confer a title upon the disseisor or merely take away the remedy of the title-holder? If it confers a title, it amounts to a direct denial of title in the plaintiff. If it takes away the remedy merely, it operates as a plea of confession and avoidance, is, in other words, new matter which should be specially pleaded.

Under the Civil Code, prescription was either *adquisitiva* or *extintiva*. The former operated to transfer title to the possessor, and the latter extinguished the owner's right of action. Both kinds of prescription were applicable to both real and personal property and were, in their operation, correlative. (Arts. 1955 and 1962, as to personal property; Arts. 1957 and 1959, as to real property.) In *Arnedo Cruz vs. De Leon* (21 Phil. Rep., 199, 210), we said: "As for all other aspects of the case, let it be borne in mind that by abandonment, negligence or carelessness, owners provided with the most perfect titles may be deprived and dispossessed of their properties by usurpers who, by the lapse of the time specified by law, acquire the same by prescription."

All the articles cited have been repealed by the provisions of Chapter III of the Code of Civil Procedure. (*Seoane vs. Franco*, 24 Phil. Rep., 309; *Pelaez vs. Abreu*, 26 Phil. Rep., 415.) Under the new code it is provided that actions with respect to personal property shall prescribe after four years. (Sec. 43, No. 3.) Nothing is said as to the title to such property. Hence, the owner's title is not lost by adverse possession of personal property; his remedy only is barred. As a defense to an action for the recovery of personal property, the adverse possessor may not deny the plaintiff's title by showing his own adverse possession of the property, for the reason that such evidence does not in law amount to a transfer of title. He can, however, admit the title, and offer the evidence as a bar to the remedy. Such a defense is new matter and must be specially pleaded.

With real property, however, it is different. Section 40 bars the owner's remedy after ten years, and section 41 vests in the adverse possessor after the same period of time "full and complete title." Here we have the true prescription *adquisitiva* and prescription *extintiva* of the Civil Code. As a defense, the adverse possessor may rely upon section 40, which bars the remedy, or he may rely upon section 41, which confers title upon him. The former defense, as we have said, is new matter and must be specially pleaded. Under the latter, however, evidence of adverse possession for the requisite period operates as a denial of plaintiff's title and may be proved under the general issue. Where prescription operates as a bar to the remedy only, it is a means of defense only. But when title is transferred by adverse use for the requisite period, it becomes a weapon of offense as well as of defense.

In the United States, from whence our present law of prescription as well as of pleading was taken, the courts are almost all in accord with the proposition that adverse possession of real property may be proved under a general denial or, as is more commonly said, the general issue. Some, of them go even further, and hold that to set up a special plea of adverse possession with a general denial is redundant and is susceptible to a motion to strike out. Thus, in *Home vs. Carter's Admrs.* (20 Fla., 45), an action of ejectment, the defendant pleaded the general denial and then set out his adverse possession in two additional pleas. The court said: "In this case the only plea necessary was that of 'not guilty.' In actions of ejectment the question to be tried is that of title and right of possession, and the first plea of the defendant in this case put those questions in issue. The evidence admitted on the trial was pointed to the very issues tried to be made by the second and third pleas of the defendant. The court did not err in striking out the second plea and in sustaining the demurrer to the third plea. In *Wade et al. vs. Doyle* (17 Fla., 522), this court in its opinion, says: 'Under the plea of "not guilty" evidence to prove adverse possession is admissible, though the statute of limitations is not pleaded.' *Hogan vs. Kurtz* (94 U. S., 773; 24 L. ed., 317.) Special pleas of this character were not admissible at common law, and the statute does not make them so. As

remarked by the Supreme Court of Pennsylvania in *Zeigler vs. Fisher* (3 Pa. St., 367), when treating of a like statute to ours: "The act declares that the plea in ejectment shall be "not guilty," thereby reducing the issue to one simple plea adapted to the trial of the merits with more facility and certainty."

In *Dean vs. Tucker* (58 Miss., 487), it was said: "The defendant in ejectment is not bound, nor even allowed, to plead specially the Statute of Limitations. Under the code he can only plead 'not guilty' under which he can make every defense he has either to the recovery of the land or mesne profits."

In *Farrior vs. Houston* (95 N. C., 457), it was said: "The specific statement in the answer of the seven years' possession with title, was matter of evidence merely, and it should not have been pleaded. It was mere surplusage, and in no way affected the part of the answer which was well pleaded."

In *Sparrow vs. Rhoades* (76 Cal., 208), it was held that evidence was admissible under a general denial to show that the deed under which plaintiff claimed title from defendant was based upon an illegal consideration and therefore void. The court said: "In an action to recover possession of land, if the complaint is in the usual form, merely averring that the plaintiff is the owner in fee of the premises described and entitled to their possession, and that the defendant unlawfully withholds the same, the general denial admits proof of anything that tends to defeat the title which the plaintiff attempts to establish on the trial."

In *Miller vs. Beck* (68 Mich., 76), one of the errors on appeal was, "The statute of limitations relied upon was not pleaded." The court said: "A plea of the general issue is sufficient, in an action of ejectment, to admit, without notice, the defense of title by adverse possession."

In *Grinnell vs. Mayes* (167 Mich., 295), plaintiff brought an action for trespass for cutting a tree upon his premises by the defendant. The defendant pleaded the general issue and gave notice thereunder that he would prove that the tree was taken from his own premises. During the trial the defendant attempted to prove his title by adverse possession to the land on which the tree had stood. The plaintiff objected on the ground that the defendant's plea was not sufficient to admit of such proof, and the objection was sustained. Upon appeal it was held that the lower court erred and that the evidence ought to have been admitted.

Hill vs. Bailey (8 Mo. App., 85) appears to have won considerable approval. The following quotation from this case is quoted with approval in 13 Ency. Plead. & Prac, p. 285, note; 1 Cyc, p. 1141, note 23; *Sutton vs. Clark* (59 S. C., 440; 82 A. S. R., 848); and *Stephenson vs. Van Blokland* (60 Ore., 247). "The plaintiff insists that the findings and judgment were erroneous, because the answer did not set up the statute in defense. When the statute is relied on as a bar to the remedy merely, it must be specially pleaded. The rule is ancient, and needs no citation of authorities to sustain it. But where the title to real estate is in question, the operation of the statute is found to have a higher range. It is capable of conferring an absolute title. Hence it has long been held that a general denial of the plaintiff's title will suffice for the admission of evidence of adverse possession for the statutory period because this will not merely bar the remedy but may establish a title in the defendant which will exclusively negative any ownership in the plaintiff. In other words, it sustains and verifies the denial of the plaintiff's title. (*Nelson vs. Brodhack*, 44 Mo., 596; 100 Am. Dec, 328.) The rule is not confined to actions of ejectment. The reasoning upon which it is founded sanctions its application to any case, wherein the title to land is in dispute. There was, therefore, no error in admitting this defense under the general denial."

In another Missouri case often cited, *Nelson vs. Brodhack* (44 Mo., 596), it is said: "But in ejectment the plea of the statute of limitations is not required in order to entitle the defendant to its benefits. The plaintiff alleges that he is the owner, and is lawfully entitled to the possession, and that defendant unlawfully holds it from him. These are affirmative facts which, if denied, he must prove. He must show such title in himself as should give him possession. If the defendant is the lawful owner, the plaintiff fails and fails upon the issue he tenders. It is not

necessary for the defendant to set up,, by way of answer, title in himself or anyone else; it is involved in his denial of the plaintiff's right But if the defendant wishes to avail himself of any facts that do not amount to such denial, as, for instance, that the plaintiff's remedy is suspended by adverse possession of defendant, if such distinction can be made, he must plead it. The necessity, then, of pleading the statute of limitations depends upon its effect, whether it merely suspends the remedy or vests in the defendant the absolute title to the property. If the latter, there is no more necessity of pleading it than though he held the plaintiff's title."

This case has been followed by the Missouri courts in a long line of decisions. (*Fulkerson vs. Mitchell*, 82 Mo., 13; *Fairbanks vs. Long*, 91 Mo., 628; *Stocker vs. Green*, 94 Mo., 280; 4 Am. St. Rep., 382, to which is appended a monographic note on the subject; *Bird vs. Sellers*, 113 Mo., 580; *Collins vs. Pease*, 146 Mo., 135; *Hedges vs. Pollard*, 149 Mo., 216).

In *Murray vs. Romine* (60 Neb., 94), it was said: "It is claimed that the court erred in permitting evidence of defendant tending to prove adverse possession without having pleaded the statute of limitations. Generally, the statute, to be available as a defense, must be pleaded, but an exception to this rule occurs in cases of ejectment, the reason for which is set forth in the case of *Staley vs. Housel* (35 Neb., 160), it being there held that any defense is available under a general denial in an action of ejectment. Under the rule as there stated, it is not necessary that the statute be pleaded, hence, no error occurred in permitting evidence of adverse possession to be introduced under the general denial contained in the answer.

In *Way vs. Hooton* (166 Penn., 8, 20), it was said: "A point was made on the argument and in the court below that as the statute was not specially pleaded it could not be interposed in defense. But the master and the court below correctly held that the statute is not merely an act of limitations which requires to be specially pleaded, but that it is a statute of repose. This has been so often held by this court that a very slight reference to the authorities will suffice."

In *Southern Iron & Coal Co. vs. Schwoon* (124 Tenn., 176 [1910]; 136 S. W., 786), where defendant entered a general and special denial only, the court said: "It was not necessary that defendant should have pleaded the statute of limitations in order to make his defense under the first section of the Act of 1819, since seven years adverse possession under that act operates as a transfer of title; the adverse possessor tolls the title of the real owner; the rule is otherwise where the defense is merely of a possessory right under the second section of the act of 1819. These principles are so well settled that it is unnecessary to cite authorities to support them."

In *Hogan vs. Kurtz* (94 U. S., 773; 24 L. ed., 317), it is said: "Evidence to prove adverse possession in an action of ejectment is admissible, though the statute of limitations is not pleaded in defense."

The following cases also support the doctrine: *Vanduyne vs. Hepner* (46 Ind., 689); *Clayton vs. School District* (20 Kan., 266); *Cheatham vs. Young* (113 N. C., 161); *Quinn vs. Willamette Pulp Paper Co.* (62 Ore., 549) ; *Cochran vs. Young* (104 Pa., 333); *Sutton vs. Clark* (69 S. C., 440; 82 Am. St. Rep., 848); *Lain vs. Shepardson* (23 Wis., 224); *Mather vs. Hutchinson* (25 Wis., 27); *Donahue vs. Thompson* (60 Wis., 500).

Although in some of the cases referred to the decision is rested upon the requirements of the particular statute which either states all that is required to be pleaded in an action of ejectment or peremptorily specifies the style of the pleadings, there is sufficient basis for the rule from the standpoint of pleading. (*Nelson vs. Brodhack*, 44 Mo., 596.) The code theory of pleading and, indeed, the common law theory, requires only the ultimate material facts to be stated in the pleading. Allegations of mere evidentiary or immaterial facts may be expunged from the pleadings or may be stricken out on motion (Code Civ. Proc., sec. 107) and, in some cases, such matters make the pleading demurrable. (Code Civ. Proc., sees. 91, No. 6, and 100, No. 2.) The whole purpose of alleging facts in the pleadings is to form issues. It is necessary to allege the ultimate facts relied upon as a cause of action or

defense, and, when this is done, all evidentiary or probative facts tending to prove these ultimate facts are admissible at the trial, if they conform to the ordinary rules of evidence. The ideal pleading is "brief" and "concise," (Code Civ. Proc., sec. 90, No. 2). Such were the answers of the defendants herein. As they conform to the true theory of our system of pleading, they should be encouraged and not discouraged. It must be furthermore remembered that under section 784, No. 28, of the Code of Civil Procedure, plaintiff is allowed to make up his complaint in an action to recover possession of land without disclosing the title which he intends to rely upon. And it has been remarked in some cases that to require the defendant to plead specially the title he intends to rely upon as a defense is obviously unfair under such circumstances. It would place him in the predicament of anticipating the nature of plaintiff's evidence and at the same time enable the plaintiff to meet the defense beforehand. (Staley vs. Housel, 35 Neb., 160; Mather vs. Hutchinson, 25 Wis., 27.)

There are some jurisdictions in which the defense of adverse possession is required to be pleaded specially, and this is usually due to a statutory enactment requiring the practice. Such is the case in Colorado (Chivington vs. Colorado Springs Co., 9 Colo., 597; Flemming vs. Howell [Colo. App.], 125 Pac, 551; Empire Ranch & Cattle Co. vs. Howell [Colo. App.], 129 Pac, 521); in Montana (State vs. Quantic, 37 Mont., 32) ; and in Wisconsin, where the defense was based upon a special statute (Orton vs. Nooman, 25 Wis., 672). In Kentucky (Luen vs. Wilson, 85 Ky.(503) and Texas (Burk vs. Turner, 79 Tex., 276), such is the practice, apparently without the aid of a statute. But in *Erp vs. Tillman* (103 Tex., 574), a statute regulating the sale of school lands was held to allow proof of adverse possession under the general issue.

Finally, Warvelle on Ejectment, section 204, sums up the cases in the United in the following language: "In nearly every form of action the statute of limitations, to be made available, must be specially pleaded and cannot be taken advantage of under the general issue. But while this is true as a general rule, it has repeatedly been held nonapplicable to actions of ejectment. It is contended that a plea of the statute is simply a denial of the plaintiff's title and can have no other effect, and that, as a defense to the action, it may be resorted to under the general plea. Hence, it has been said that if such a plea is filed with the general issue the court should strike it out, as tending to embarrass the trial.

"But, usually, while it may not be necessary for a defendant, in order to avail himself of the benefit of the statute of limitations, to specially plead the same, yet this, in the absence of an express prohibition, will not preclude his so doing, while in several of the states if this form of defense is relied upon it must be specially pleaded. The reasons which support this latter rule are not very cogent and usually it is sustained by the courts merely as an arbitrary direction of the statute."

See also Newell on Ejectment, p. 252; 1 Cyc. 1140; 2 Bates' Pleading, p. 1554; Philips on Code Pleading, sec. 382.

The doctrine in this jurisdiction is that the statute of limitations must be specially pleaded. (*Domingo vs. Osorio*, 7 Phil. Rep., 405; *Maxilom vs. Tabotabo*, 9 Phil. Rep., 390; *Harty vs. Luna*, 13 Phil. Rep., 31; *Sunico vs. Ramirez*, 14 Phil. Rep., 500; *Marzon vs. Udtujan*, 20 Phil. Rep., 232; *United States vs. Serapio*, 23 Phil. Rep., 584, 597; *Pelaez vs. Abreu*, 26 Phil. Rep., 415.) None of these cases had to do with title to real estate by adverse possession. Title by adverse possession, which is the question now before us, and the statute of limitations are not convertible terms. The one transfers ownership, the other bars a right of action. One is an absolute denial of plaintiff's claim of ownership, while the other admits the ownership but interposes the statute as a bar to recovery of the property.

In this connection, the cases of *Aldeguer vs. Hoskyn* (2 Phil. Rep., 500, and *Salunga vs. Evangelista* (20 Phil. Rep., 273) appear to call for some comment. In the first case the appellant claimed that he had acquired title to the land by prescription. The trial court made no finding on this point. The evidence not having been brought before this court for review, the findings of fact as found by the trial court were necessarily accepted as a basis of

decision. Hence, the remarks in that decision relating to title by adverse possession were not pertinent to the issues involved. Since the question was not presented to the court, it was not carefully examined. The inaccuracy of the language used in treating title by prescription (adverse possession) and the statute of limitations as synonymous terms is apparent.

In the second case, *Salunga vs. Evangelista*, the question of prescription was raised by the defendants in their appeal from a judgment ordering the annulment of the partition of an inheritance. Their reliance upon prescription of title to the property in litigation was simply one of the grounds whereby they sought to avoid the effects of an annulment of the partition agreement. As the property consisted of both real and personal property, the remarks in that decision were entirely correct so far as they relate to the latter. But the court sustained the partition agreement upon other grounds, and the decision of the point relating to prescription did not assist in sustaining that instrument. The result is that in neither case was the manner of pleading title by adverse possession fairly before the court, and a decision thereon was not necessary nor did it figure in the judgment finally handed down in either case. We conclude, therefore, that neither case can be said to lay a rule relating to the manner of pleading title to real property by adverse possession.

What is said in this opinion regarding the acquirement of title to real property by adverse possession does not, of course, apply to titles registered under the provisions of the Land Registration Act (No. 496). Section 46 of that act provides that title to registered land in derogation to that of the registered owner cannot be acquired by prescription or adverse possession.

For the foregoing reasons, the judgment appealed from is affirmed, with costs against the appellant. So ordered.

Arellano, C.J., Torres, Johnson, and Carson JJ., concur.

Araullo, J., concurs in the result.

Judgment affirmed.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.