

VICTORIA AYLLON, PLAINTIFF AND APPELLEE, VS. MIGUEL SIOJO, DEFENDANT AND APPELLANT.*G.R. No. 10089. January 07, 1916*

Ponente: TRENT, J.

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This is an action to recover rents by the registered owner of a parcel of rice land. The defendant filed an answer admitting the plaintiff's registered title; his (the defendant's) occupation of the land; in a counterclaim pleading that the land had belonged to him and had been wrongfully included in the plaintiff's decree of registration, and in view of the finality of that decree, he asks damages for the value of the land erroneously included in the decree, and for rents. The decree was issued on April 5, 1905, and certificate of title was issued on July 24, 1906.

The court below rendered judgment in favor of the plaintiff for P2,000, representing the value of the crops harvested by the defendant from the land in question during the years 1909 and 1910. Subsequently, and after a bill of exceptions presented by the defendant had been approved, the trial court was of the opinion that damages ought not to have been allowed the plaintiff because the defendant had been a possessor in good faith. The attempt of the court to revise its judgment accordingly was dealt with by this court in *Ayllon vs. Siojo* (26 Phil. Rep., 195.) The case has now been regularly brought before us by the defendant's appeal.

It is insisted that the trial court erred (1) in not absolving the defendant upon the ground that he was a possessor in good faith of the land in question; (2) in not finding that the plaintiff's registered title was fraudulently obtained; and (3) in not rendering judgment for the defendant upon his counterclaim for the sum of P4,000, the value of the land wrongfully included by the plaintiff in her registered title. The three alleged errors will be considered together.

From the evidence presented by the defendant, consisting of a possessory information and the testimony of various witnesses, there is no doubt that he is, in fact, an adjoining property owner of the Ayllon tract on the south. The defendant was not personally served with summons in the Ayllon registration proceedings; neither was he described as an adjoining owner in those proceedings. He lived in another province and the first time that he had actual knowledge of the exact location of the plaintiff's southern line was in 1910, when the Ayllon property was monumented by order of the court. Up to that time the southern line could be located by the technical description only, which was a surveyor's line.

In her application, the plaintiff described the land, which she was seeking to have registered, as follows:

"Bounded on the north by the lands of Emiliano Tecson, on the east by the heirs of Calixto Carmen Jose, on the south by Maria Tuason, and on the west by the heirs of Apolonio Virgenes."

This land was resurveyed on October 15, 1910, in accordance with section 58 of Act No. 926. In the new plan the registered land is bounded on the south by Felisa Roman y Tuason and by the defendant, Miguel Siojo, the former's land occupying about two-thirds of the southern boundary and the latter's one-third.

Moreno, a witness for the defendant, testified that first the revolution in 1896 and then the scarcity of work animals had forced the suspension of work in the vicinity and that he was the first one to resume operations in 1905. He says that the defendant's men were clearing the land in that year, but the extent of their operations is not disclosed. It is not claimed that the defendant started to till the land until 1906. On the other hand, the tenants of the plaintiff testified that in 1907, when they entered upon the land, it was vacant. Upon the whole, we think it quite clear that there was no visible indication of the defendant's ownership of the five hectares, which he now claims, at the time the plaintiff filed her application for registration. This important fact, taken in connection with the rather imperfect description of the extent and boundaries of the plaintiff's property contained in the documents evidencing ownership, show that the plaintiff might easily have believed, as she has always contended, that her parcel included the five hectares. In fact, the record before us does not clearly establish who was the real owner of this narrow strip or, in other words, we cannot say whether the plaintiff's southern line was properly located or not. However this may be, it is clear that she is guilty of no fraud in obtaining her title and that her decree could not be disturbed even if fraud did exist. But if the defendant had clearly established that he was the true owner of this small strip of land, then it would be necessary to proceed to determine whether or not he could now recover its value from the plaintiff. The record does clearly establish, however, that the defendant was a possessor in good faith of this small strip. He vacated it as soon as the plaintiff's southern line was definitely pointed out. He should not, therefore, be required to pay damages for the use and occupation of the land.

For the foregoing reasons, the judgment appealed from is reversed and the action dismissed, without costs in this instance.

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

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