

**MARCELINO VILLAFUERTE, PLAINTIFF AND APPELLANT, VS.
MIGUEL EREGA AND MARGARITO DIA, DEFENDANTS AND
APPELLEES.***G.R. No. 11080. September 19, 1917*

Ponente: JOHNSON, J.

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This action was commenced in the Court of First Instance of the Province of Tayabas on the 3d day of June, 1913. Its purpose was to recover the possession, as owner, of a certain piece or parcel of land which is particularly described in paragraph 2 of the complaint, together with damages for the illegal use and occupation of the same. The plaintiff alleged that he was the absolute owner of the land in question; that the defendants had deprived him of the use of the land for a period of about six months previous to the filing of the complaint; that the damages of the plaintiff would be P200 per year; that the defendants are occupying the land without right and without title; that the house which the defendant Miguel Erega was constructing upon this land in question was being constructed in bad faith, and that the same should be adjudged to the plaintiff.

On the 1st day of July, 1913, the defendant Miguel Erega answered said petition denying each and all of the facts therein alleged; alleged that he had purchased the land in question from Margarito Dia; and prayed that he be made a party to the present action. On the 30th day of September, 1913, Margarito Dia, having been made a party to the action, appeared and answered the petition of the plaintiff. After denying each and all of the material allegations of the petition, he alleged that he had been in the possession, as owner, of said parcel of land for many years; that he had inherited the same from Anselmo Ranees; that Anselmo Ranees had inherited the said parcel of land from his father Candido Ranees; that Candido Ranees had occupied the land in good faith for many years; and that he had obtained the same by "composicion con el Estado."

Upon the issue thus presented the Honorable George R. Harvey, in a very carefully prepared opinion, reached the conclusion that that part of the land in question marked "lot 1" in plan Exhibit A belonged to the plaintiff, and without making any finding as to the ownership of the rest of the property possessed by the defendant Miguel Erega, absolved the defendants from any liability under the complaint, without any finding as to costs. From that judgment of the lower court the plaintiff appealed.

In his first assignment of error he alleged that the lower court committed an error in declaring that Exhibits B and C were not genuine, that they did not bear the genuine signature of the said Anselmo Ranees. The land in question is a rectangular piece, composed of lot 1 and lot 2, divided by a line running diagonally through said rectangle. The defendants admit that lot 1 belonged to the plaintiff. The question, therefore, relating to the possession of lot 1 is eliminated from this discussion. The plaintiff admits that lot 2 originally belonged to Anselmo Ranees, but alleged and attempted to prove by Exhibits B and C that said lot was exchanged by Anselmo Ranees for a lot which belonged to him. If said Exhibits B and C are genuine and were really executed, then there would be some merit in the contention of the plaintiff. The defendants, however, attempted to prove that Exhibits B and C were

forgeries; that Anselmo Ranees never signed them. The defendants presented Exhibits F and 8 (pages 53 and 54 of record), which were admitted to be the genuine signatures of Anselmo Ranees. A comparison of the alleged signatures of Anselmo Ranees as found in Exhibits B and C with what was proved to be his genuine signature as appears in Exhibits F and 8 shows that there is a great dissimilarity between them. The lower court reached the conclusion that the signatures in Exhibits B and C were not the signature of Anselmo Ranees. An examination of said signatures shows a very great dissimilarity. Upon examination of the signatures in said Exhibits B and C it will be noted that in the letter "A" in that signature there is apparently a tracing underneath the letter, as well as in the letters "R" and the small letter "e" at the end of the name. If the signatures were genuine it is not likely that such tracing would appear. An examination of the dates of said documents will show that Exhibit B was supposed to have been made in January 1, 1904, and Exhibit C on January 12, 1905. Exhibit 8, which is admitted to be a genuine document and bears the genuine signature of Anselmo Ranees, was made on January 24, 1905. Signatures made by a person within practically the same period of time would ordinarily be similar—ordinarily there would not be the difference which appears in the signatures to Exhibits B and C and those found in Exhibits F and 8. Another fact which tends to destroy the veracity of the contention of the plaintiff, to wit, that he obtained lot 2 from Anselmo Ranees is the fact that Anselmo Ranees continued to pay the taxes upon said property (page 90 of record).

The second assignment of error relates simply to the preponderance of the evidence. Eliminating Exhibits B and C there is practically no evidence in the record which supports the contention of the plaintiff. The defendants having been in possession of the land in question for a long period of time under claim of title, they have in their favor the legal presumption that they had occupied the same under sufficient title. (Article 448, Civil Code; *Heirs of Jumero vs. Lizares*, 17 Phil. Rep., 112.)

After a careful examination of the record we are of the opinion that a large preponderance of the evidence sustains the conclusions of the lower court. The judgment appealed from is, therefore, hereby affirmed, with costs. So ordered.

Arellano, C. J., Carson, Araullo, Street, and Malcolm, JJ., concur.

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