

SABINO LIWAG ET AL., PLAINTIFFS AND APPELLEES, VS. EXEQUIEL YAUCO ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 11094. September 12, 1917

Ponente: JOHNSON, J.

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JOHNSON, J.:

The purpose of the present action was to recover of the defendants two pieces or parcels of land particularly described in paragraph 2 of the complaint[^] together with damages for the illegal use and occupation of the same, and costs.

The theory of the plaintiffs is that the land formerly belonged to Marcelo Liwag; that he had obtained the same by a "composicion con el Estado;" that at the time of his death he was the owner of said parcels of land; that they (said plaintiffs) are his lawful descendants. The record shows that the plaintiffs Sabino Liwag and Petra Liwag are the children of the said Marcelo Liwag; that Paulina Soriano, now mentally incapacitated, is the wife of Marcelo Liwag; that Manuel Liwag and Barbara Liwag are the grandchildren of the said Marcelo Liwag; that said plaintiffs are the only heirs surviving the said Marcelo Liwag.

The theory of the defendants is that during the life-time of the said Marcelo Liwag he sold and transferred the parcels of land in question to Agaton Yauco; that Exequiel Yauco and Pascual Yauco, being the children of Agaton Yauco, inherited the same from him, and later sold a portion of the lands in question to Agueda Magsacay.

The plaintiffs alleged and proved that after the death of Marcelo Liwag (3d day of May, 1886) his wife Paulina Soriano employed the said Agaton Yauco to administer said lands; that Agaton Yauco paid to Paulina Soriano a certain portion of the crops produced on said lands; that after the death of Agaton Yauco (6th day of August, 1892) his wife, Juana Prades, continued the administration of said parcels of land; that during the administration of said lands by said Juana Prades she continued to pay to the heirs of Marcelo Liwag a portion of the crops produced thereon; that after the death of Juana Prades (in the year 1906) the defendants Exequiel Yauco and Pascual Yauco took possession of the lands in question, and later (1908-1910) sold a portion of said lands to their codefendant Agueda Magsacay.

The defendants, as a part of their defense, alleged that the right of action by the plaintiffs is prescribed. Even though it be admitted that the predecessor, Agaton Yauco, had occupied the land adversely since the death of Marcelo Liwag in 1886, his occupancy could not have ripened into a title under the provisions of articles 1941, 1942, and 1959 of the Civil Code; for the reason that, under that assumption, the extraordinary period of thirty years had not elapsed at the time of the commencement of the present action in 1912. Neither can the defendants invoke the prescriptive period of ten years under section 40 of Act No. 190, for the reason that said period had not elapsed after the death of their mother in 1906, before the present action was commenced. The mother of the defendants had recognized the right of the plaintiffs to the land in question by paying to them a portion of the crops produced thereon up to the time of her death.

The proof, by a large preponderance, shows that the plaintiffs herein are the successors in interest to the parcels of land in question, are the owners thereof and entitled to the possession of the same.

Therefore, the judgment of the lower court is hereby affirmed, with costs. So ordered.

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

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