

JOSE ANTILLON, PLAINTIFF AND APPELLEE, VS. LEONCIO BARCELON, ADMINISTRATOR OF THE ESTATE OF ANTONIO BUENO, DECEASED, DEFENDANT AND APPELLANT.

G.R. No. 12483. November 16, 1917

Ponente: JOHNSON, J.

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JOHNSON, J.:

The present action relates to the possession and ownership of a certain piece or parcel of land which is particularly described in paragraph 2 of the complaint.

The action was commenced in the Court of First Instance of the Province of Laguna on the 28th day of August, 1913. The plaintiff alleged that he was the owner of said parcel of land; that the defendant was illegally interfering with his possession of the same; that prior to the commencement of the present action the defendant had presented a petition in the Court of Land Registration (Cause No. 8350) for the registration of said parcel of land in his name as administrator of the estate of Antonio Bueno, deceased; that the present plaintiff opposed the registration of said parcel of land, alleging that he was the owner of the same; that said cause was brought on for hearing in the Court of Land Registration and was finally decided; that the Court of Land Registration, after hearing the evidence, reached the conclusion that the petitioner (the defendant herein) was not entitled to have said parcel of land registered; that said parcel of land belonged to the oppositor (the petitioner herein); that notwithstanding said decision of the Court of Land Registration the defendant herein continued molesting the plaintiff and interfering with his possession of said parcel of land.

The defendant answered said petition by a general denial.

Upon the issue thus presented, and after hearing the evidence, the Honorable Pedro Concepcion, judge, reached the conclusion that the plaintiff was the owner of said parcel of land; that he had purchased the same from Albino Villegas (Exhibit F); that Albino Villegas had acquired the title to said land by purchase from Petra Dionido (Exhibit E), and rendered a judgment in favor of the plaintiff and against the defendant in accordance with that conclusion, together with a judgment for damages in favor of the plaintiff and against the defendant for the sum of P54, and costs.

From that decision the defendant appealed to this court and made several assignments of error.

In his first assignment of error he alleges that the lower court erred in admitting Exhibits E and F of the plaintiff. In support of said assignment of error the appellant alleges that said documents had not been properly identified and that their due execution and delivery had not been proved.

An examination of the evidence with reference to said Exhibits E and F shows that, at the time said exhibits were offered as proof, the defendant objected to their admissibility upon the ground that they were impertinent, immaterial and irrelevant; that the two exhibits were no more than ordinary papers. In reply to that objection the attorney for the plaintiff pointed out that said exhibits were public documents duly acknowledged before a notary

public. The attorney for the defendant then made a further objection that they had not been properly identified. The court admitted said documents, and the attorney for the defendant duly excepted.

Said objection and exception present the questions: How may a document duly acknowledged under the hand and seal of a notary public be proved? Must the parties to said document be called as witnesses to prove its genuineness and authenticity? Must the witnesses to said document be called to show its execution and delivery? Must the notary public be summoned as a witness to prove the due acknowledgment of such document? Does not the certificate duly made under the hand and seal of the notary public make such document admissible in evidence without further proof of its execution and delivery? Is not a document acknowledged before a notary public under his hand and seal admissible in evidence as proof of its execution and delivery without additional proof of its identity and authenticity? Must the execution and delivery of documents acknowledged before a notary public under his hand and seal be proved the same as ordinary documents not so executed and delivered? If so, then, what is the advantage of having the execution and delivery of documents acknowledged before a notary public under his hand and seal?

No question was presented during the trial of the cause as to the verity of the acknowledgment under the hand and seal of the notary public to said Exhibits E and F.

The rule is well established that before private documents may be admitted in evidence as proof, their due execution and delivery must be proved. (Sec. 321, Act No. 190.) Their due execution and delivery may be proved (a) by any one who saw the document executed, or (b) by evidence of the genuineness of the handwriting of the maker, or (c) by a subscribing witness. (Sec. 324, Act No. 190.) There are certain statutory exceptions to the foregoing rule in this jurisdiction. (Sec. 326, Act No. 190.)

To the foregoing rules with reference to the method of proving private documents an exception is made with reference to the method of proving public documents executed before and certified to, under the hand and seal of certain public officials. The courts and legislatures have recognized the valid reason for such an exception. The litigation is unlimited in which testimony by officials is daily needed; the occasions in which the officials would be summoned from his ordinary duties to declare as a witness are numberless. The public officers are few in whose daily work something is not done in which testimony is not needed from official sources. Were there no exception for official statements, hosts of officials would be found devoting the greater part of their time to attending as witnesses in court or delivering their depositions before an officer. The work of administration of government and the interest of the public having business with officials would alike suffer in consequence. For these reasons, and for many others, a certain verity is accorded such documents, which is not extended to private documents. (3 Wigmore on Evidence, sec. 1631.)

The law reposes a particular confidence in public officers that it presumes they will discharge their several trusts with accuracy and fidelity; and, therefore, whatever acts they do in discharge of their public duty may be given in evidence and shall be taken to be true under such a degree of caution as the nature and circumstances of each case may appear to require.

A notary public is sometimes spoken of as a public officer. (Ley del Notariado de 15 de febrero de 1889; Ley del Notariado para las Islas Filipinas). He is an officer known to the Law of Nations; hence his official acts receive credence, not only in his own country, but in all others in which they are used as instruments of evidence. (Kirksey vs. Bates, 7 Porter (Ala.), 529; 31 Am. Dec, 722; Governor vs. Gordon, 15 Ala., 72; Pierce vs. Indseth, 106 U. S., 546, 549; Greenleaf on Evidence, sec. 5; Townsley vs. Sumrail, 2 Peters (U. S.), 170.)

The functions of a notary public as a public or as a quasi-public officer has been recognized by the common law, the civil law as well as by the law of nations. He is recognized as a necessary official in nearly all the civilized

countries. (Governor vs. Gordon, supra; Pierce vs. Indseth, supra; John's American Notaries, sec. 1.)

The notary public is recognized by the law merchant, and his official acts are received as evidence, not only in his own, but in all countries. His duties are, often, of great variety and importance, consisting for the most part, in protesting inland and foreign bills of exchange, promissory notes, etc. Also the authentication of transfer to property, administering the oath as to the correctness of accounts or statements of important documents, which are often necessary for transmission to points where the parties directly in interest are unable to appear in person. The taking of depositions for actions pending in foreign or distant courts. The taking of the affidavits of mariners and masters of ships, their protests, etc., requiring care and judgment. In all such cases the notary's certificate or jurat, when accompanied with his official seal of office and proper certificates of his official character if the act is to be used beyond his own county or State, is received as prima fade evidence. (John's American Notaries, sec. 1.)

All documents acknowledged by a notary public and certified to by him are considered public documents in this jurisdiction. (Art. 1216, Civil Code; Gochuico vs. Ocampo, 7 Phil. Rep., 15.)

The principal function of a notary public is to authenticate documents. When a notary public certifies the due execution and delivery of a document under his hand and seal he thereby gives such a document the force of evidence. (29 Cyc, 1076; Bradley vs. Northern Bank, 60 Ala., 252.)

Section 331 of Act No. 190 provides that, "every instrument conveying or affecting real property situated in the Philippine Islands, acknowledged or proved and certified as provided by law prevailing in the Philippine Islands, may, together with the certificate of the acknowledgment or proof, be read in evidence in an action or proceeding without further proof."

Indeed, one of the very purposes of requiring documents to be acknowledged before a notary public, in addition to the solemnity which should surround the execution and delivery of documents, is to authorize such documents to be given in evidence without further proof of their execution and delivery. (John's American Notaries, section 168; Bowman vs. Wettig, 39 111., 416; Harrington vs. Fish, 10 Mich., 415.)

Our conclusions is, therefore, with reference to the first assignment of error, that a document duly acknowledged before a notary public under his hand and seal, with his certificate thereto attached, is admissible in evidence without further proof of its due execution and delivery, unless and until some question is raised as to the verity of said acknowledgment and certificate.

What has been said with reference to the first assignment of error, we believe, also answers the contention of the appellant in his second assignment of error.

The appellant contends that the lower court committed an error in admitting Exhibit G (G-1). Said exhibit is the record of the Court of Land Registration in an action in which the present defendant was the petitioner and the present plaintiff was the oppositor. While the appellant does not say so, the inference is that his objection is based upon the ground that said exhibit had not been identified by the custodian of said document. By section 18 of Act No. 2347, the clerks of the courts of the respective provinces or districts are ex officio deputies of the Chief of the General Land Registration Office, and, as such, may identify records made up in the Courts of First Instance relating to the registration of land under the Torrens system. By virtue of said Act, the clerk of the Court of First Instance, being ex officio deputy of the Chief of the General Land Registration Office, was fully authorized to identify said record, being the custodian thereof.

With reference to the other assignments of error, we find nothing in the record which would justify a modification of the decision of the lower court based thereon.

A careful examination of the record shows that the plaintiff is the owner and entitled to the peaceable and quiet possession of the land in question. Therefore, the judgment of the lower court is hereby affirmed, with costs. So ordered.

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

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