

**EDUARDO RIVERA, ANACLETO AGUINALDO, RUFINO SALAW,
JACINTO SISON, ELEUTERIO DE LA CRUZ, QUITERIO VICTORINO
AND AGUEDA DE LA CRUZ, PLAINTIFFS AND APPELLANTS, VS. THE
ROMAN CATHOLI...**

G.R. No. 14594. January 29, 1920

Ponente: TORRES, J.

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TORRES, J.:

This case was originally instituted in the Court of First Instance of Rizal upon a complaint dated on February 2, 1916, in which the plaintiffs alleged that they have been in possession, in good faith, of certain parcels of land of the estate called "Hacienda de Sta. Clara," situated in the barrio of Dampalit of the municipality of Malabon, Rizal; and that they have been in possession and enjoyment of several fish ponds constructed by them on said land up to the time they were defeated in said possession by the defendant entity "The Roman Catholic Archbishop of Manila" which was declared the absolute owner of the aforesaid "Hacienda de Sta. Clara" in the decision of this High Court on August 5, 1915, in the case (R. G. No. 8719)[1] brought by said entity for the registration of the "Hacienda de Sta. Clara" in its name. Plaintiffs pray that said entity be ordered to pay them the value of the fish ponds aforesaid and that their right of retaining said portions of the land occupied by them be declared subsisting until they have been fully paid therefor.

To the foregoing complaint the defendant entity interposed a demurrer which was overruled. Defendant excepted to this ruling and afterwards filed an answer denying generally all the material averments of the complaint; but later asked the court to order the plaintiffs to file a bill of particulars of the facts alleged in their complaint. This petition having been granted by the court and the bill of particulars aforesaid having been filed by the plaintiffs, the defendant filed an amended answer denying generally all the material averments of the complaint and alleging as special defense that the subject-matter of this case is *res judicata*; that the plaintiffs' possession of the land mentioned in the complaint was never in good faith; and that if plaintiffs had made any improvements on said land they never did them in good faith. Defendant alleged as counterclaim that before the filing of the complaint in question, the plaintiffs had been occupying and enjoying for many years the land belonging to the defendant entity and described in the complaint; that said plaintiffs profited of the fruits and improvements on said land to the damage of the defendant without having ever paid any rent or canon therefor notwithstanding the demands made upon them for said purpose; and that during all the time plaintiffs were in possession and enjoyment of the land and fruits thereon, said canon or rent amounts to seventy-five thousand pesos (P75,000). Wherefore, defendant prayed that plaintiffs' prayer in their complaint be denied and that judgment be rendered condemning them to pay the defendant, jointly and severally, the sum of seventy-five thousand pesos (P75,000) and to pay the costs.

Upon plaintiffs' request the defendant filed a bill of particulars of the facts alleged in the counterclaim.

After hearing the case and the evidence submitted by both parties, the court rendered judgment absolving the

defendant entity from plaintiffs' complaint and the latter from the formers counterclaim, without any findings as to the costs.

To this judgment counsel for the plaintiffs excepted, at the same time asking for a new trial which was denied with his exception.

He then interposed his appeal to this court by filing the corresponding bill of exceptions which, after having been approved by the lower court, was forwarded to the clerk of this court together with all the evidence taken upon the trial.

From the foregoing allegations of the parties, from the agreed statement of facts (rec., pp. 1-2), and from the statements made at the hearing by counsel for the plaintiffs (rec., pp. 4-8), it appears that there is no question about the fact that prior to the year 1915, the plaintiffs constructed fish ponds in the "Hacienda de Sta. Clara" the registration of which in the name of the defendant entity was decreed by this court in the decision rendered in the Registration Case No. 8719, notwithstanding plaintiffs' opposition; that ever since the construction of the fish ponds aforesaid, the plaintiffs have been in possession and enjoyment thereof up to the present time (the date of this decision); and that said plaintiffs had never entered into any contract of lease with the defendant, the absolute owner of the land aforementioned, nor paid the latter for the use, occupation, and enjoyment of the land upon which said fish ponds were constructed.

The controversy involved is whether by appropriating the fish ponds in question, which had been constructed upon its land, the defendant is obliged to indemnify the plaintiffs for their value or price, or whether the plaintiffs have the right to compel the defendant, in case the latter does not want to take the fish ponds, to sell to them said land at W.04 per square meter as fixed by them in their brief (pages 29-30, plaintiffs' brief).

The parties admitting that the defendant entity is the owner of the land upon which the fish ponds in question have been constructed, articles 361 to 364 and 451 to 457 of the Civil Code are perfectly applicable to the instant case. Said articles define the rights of the owner of a piece of land upon which anything has been built, sown, or planted by another according as whether both acted in good or bad faith and whether what has been built, sown, or planted were necessary, useful or purely for ostentation or mere pleasure. Therefore, in order to decide the controversy, the first thing that will have to be determined is the nature of the fish ponds in question.

From the testimony of Ceferino Cacnio, plaintiffs' witness, it appears that fish ponds are built by digging into the land and putting in rows the earth that has been dug out in order to form with it dikes or embankment for holding the water in which the fish will be kept (rec., p. 5). There is nothing in the record expressly showing that the fish ponds in question have been built in this manner, but this witness Ceferino Cacnio having been the one who made the sketch of said ponds appearing in the record, and who appraised their costs or value by referring to the manner of construction aforesaid (rec., p. 5, Exhibit B, rec., p. 44), it is evident that the fish ponds in question belong to the class mentioned by said witness. Such being the case, the conclusion must be that the expenditures for their construction should be classified as useful, expenditures mentioned in the second paragraph of article 453 of the Civil Code, because since all of the expenditures of man are either useful (utiles) or useless or unnecessary (inutiles), and since it is obvious that the fish ponds in question are neither useless nor purely for ostentation or mere pleasure, then said expenditures are useful.

In dealing with the foregoing point the litigants in their respective briefs talked about improvements, their permanent and temporary character, the accretion of the soil through the work of man, the greater or less usefulness of the land for one purpose or another, and the increase or decrease in its value, and cited several decisions. But it does not appear that they ever tried to inquire and investigate, with the aid of the science of logic and hermeneutic the true meaning of article 453 of the Civil Code, the only article decisive upon the foregoing

controverted point.

The foregoing article 453 speaks of necessary and useful expenditures and not of improvements, nor the increase in value, nor the accretion of something new, nor any thing of those mentioned in the briefs of the parties. A thing may be an improvement or an accretion of something new upon the land; may increase the value of said land; and still it may not be comprised under any of the phrases "necessary expenditures" and "useful expenditure" employed in article 453 of the Civil Code, because it is not impossible that said thing may be constructed purely for ostentation or mere pleasure since constructions of this nature as well as those which are necessary and useful can be considered as improvements and can increase the value of the land.

In trying to adjust the rights of the owner and the possessor in good faith of a piece of land, the learned Spanish legislator knew very, well that, in order to administer complete justice to both of them in such a way as neither the one nor the other may enrich himself of that which does not belong to him, nor remain prejudiced by the vagueness and casuistry of the rules he was going to enact, it was necessary to use the right epithets which, in a clear and unmistakable manner, would describe and define the different characters regulating their respective rights. Hence, in writing articles 453 and 454 of the Civil Code, the legislator correctly employed the expressions "necessary expenditures" ("gastos necesarios") "useful expenditures" ("gastos utiles") and "expenditures purely for ostentation and mere pleasure" ("gastos de puro lujo o mero recreo").

If the owner of land has any interest therein, it is undoubtedly because said land produces for him some benefit or fruit which may be great or small according as the expenses incurred by the possessor thereof may have been the cause of the land producing all kinds of fruits of great importance: natural, industrial and civil, or only one or two of these kinds which are of little importance; and, consequently, the indemnity to be refunded the possessor in good faith will also be great or small according as the expenses incurred by him may have resulted in the production of all said kinds of fruits or only part of them. Hence, the Civil Code gives the possessor in good faith greater indemnity in case he has incurred necessary expenditures than in case said expenditures are only useful or purely for ostentation and mere pleasure, and also greater indemnity in case said expenditures are useful than in case they are purely for ostentation and mere pleasure. Why? Because necessary expenditures, inasmuch as they redound to the preservation of the realty, render said realty capable of continually producing the natural, industrial and civil fruits it ordinarily produces—fruits which the owner would not be able to gather if the land would be rendered unproductive. Useful expenditures also give rise to all these kinds of fruits, but the law considers them rather inferior than necessary expenditures for the reason that the latter preserve the realty and are therefore the source of the producing agency and its fruits, while the former (useful expenditures) are only the source of the fruits.

Expenditures purely for ostentation and mere pleasure are considered by the Civil Code of little importance for the reason that they do not have nor will have to do with the production of all the three kinds of fruits we have been speaking about, but only of the civil fruits. That such is the fundamental reason of article 454 of the Civil Code not the least doubt can be entertained, for the words "purely for ostentation and mere pleasure" ("de puro lujo o mero recreo") employed by the code are so clear and unmistakable that they absolutely negative the capacity to produce industrial and natural fruits. Thus, in laying down a rule to distinguish useful expenditures from those purely for ostentation and mere pleasure, the great commentator Manresa has truly said that "expenditures purely for ostentation and mere pleasure either cannot influence the production of natural and industrial fruits or do diminish them; they can, however, influence the production of the civil fruits." (Manresa's Com. of Civil Code, vol. 4, p. 262.)

Applying the foregoing considerations to the instant case, it clearly appears that the land in this case on which the fish ponds in question are built, gives its owner benefits called industrial fruits which it would not give without

the fish ponds aforesaid. True it is that without the fish ponds the owner of the land could have utilized it for agricultural purposes. But then the owner would have to incur some and costly expenditures, while with the fish ponds already built he would not have to do anything more than to reap its fruits without having incurred any expenditures. And it is this which the law considers unjust, to wit, that the owner of the land would enrich himself with the industrial fruits thereof, produced by the useful expenditures disbursed by the possessor in good faith.

Having shown that the fish ponds presuppose the disbursement of useful expenditures payable to the possessor in good faith, we pass on to elucidate the question whether or not the plaintiffs have been possessors in good faith.

Plaintiffs have presented in evidence Exhibit A (rec., p. 20), which is the decision rendered by this Court in the registration case No. 8719 of August 5, 1915, declaring the defendant entity owner of the lands on which the fish ponds in question were built. But from this exhibit it appears that the plaintiffs have never been in possession of these lands in good faith in order that they can claim the right of indemnity for the expenditures incurred in the construction of these fish ponds.

In fact, the defendant entity herein was the petitioner in said registration proceeding and the plaintiffs herein were the oppositors then. These plaintiffs in that registration case alleged having been in possession of the fish ponds now in question under all the conditions required by law for the prescription of title (p. 29, Exhibit A). But this Court said that said allegation had not been duly proven (pp. 29-30, 36, 41 and 43, Exhibit A) and consequently dismissed their opposition.

Moreover, in the same decision it was held that the defendant entity has been in possession of the lands of "La Hacienda de Sta. Clara" publicly and under claim of ownership from time immemorial (pp. 31-32, Exhibit A) without having ever been interrupted thereon except once, whereby it had to institute in 1905 the corresponding action of revindication against the persons unlawfully withholding its possession, three of whom were the plaintiff herein, Eduardo Rivera, Rufino Salaw, and Anacleto Aguinaldo, and that said defendant entity has always exercised over said lands acts of ownership, (p. 35, Exhibit A).

It follows, therefore, that the same decision presented by the plaintiffs proves that the defendant has been in possession of the lands on which the fish ponds in question are built, publicly and under claim of ownership, and that the plaintiffs, if they have once possessed certain parcels of these lands, did not do so under claim of ownerships. In truth, if the plaintiffs had been in possession of these lands under claim of ownership, this Court would not have decreed their registration in the name of the defendant entity.

Now then, if the plaintiffs did not possess the lands on which the fish ponds are built under claim of ownership, it is evident that at most they did possess them as mere usufructuaries, and inasmuch as in the present case counsel for the plaintiffs admit that neither these plaintiffs nor their constituents entered into a contract of lease with, nor paid rent to, the defendant, it follows that the plaintiffs took possession of these lands only to profit thereby without the consent of their true owner—an act evidently illegal, which constitutes a real bad faith.

Moreover, according to article 445 of the Civil Code, "possession de facto cannot be recognized in favor of two different persons." Hence, if this Court recognized the defendant's possession and not plaintiffs' possession, it was because the latter, if it really existed, was illegal, i. e., was a possession in bad faith.

What remains for us to determine is whether the defendant entity also acted in bad faith by knowingly permitting the construction of the fish ponds in question (article 364 of the Civil Code).

Regarding this point (defendant's bad faith) the record does not show any proof. The appellants pretend to infer it from the fact that the fish ponds have been in existence for many years, and argue that the defendant could not have ignored their existence during that long period of time.

But the foregoing argument is unfruitful. If the appellants want to deduce the foregoing conclusion (defendant's bad faith) from the fact that it would have been impossible for the defendant to ignore the existence of the fish ponds, then said inference is not supported by law; because according to article 364 of the Civil Code, bad faith on the part of the owners is deemed to exist not in permitting or tolerating the existence of a construction on his land—this is merely an act of kindness for which the possessor should be thankful—but in permitting the possessor to commence or begin and to carry out said construction. If the latter is what the appellants mean, then they do not have any support upon evidence; because it has not been shown that at the moment the construction of the fish ponds were commenced, the defendant had knowledge thereof and, knowing it, did not oppose said construction. This fact cannot be deduced from the circumstances surrounding the case, inasmuch as the construction of said fish ponds could have been commenced and finished during the time the defendant entity could not have notice thereof, and it has not been shown that there are facts pointing out to the contrary. The plaintiffs did not even try to prove the year and month when said fish ponds were built or indicate some circumstances which might have accompanied in the construction thereof, suggestive of the idea that the defendant entity knew or must have known that the fish ponds were being built.

In any way, it is therefore evident that the instant action is absolutely devoid of any foundation, and is so devoid that from the plaintiffs' own evidence, specially Exhibit A upon which they have relied and do rely so much, it appears that their contention is untenable. We have examined with great care plaintiffs' Exhibit A with their brief before us, looking in said Exhibit A for any phrase, word, or sign indicative, at least indirectly, of the good faith plaintiffs allege to have been established in the aforesaid decision, but we have not found any thing favorable to but all against the plaintiffs;

For the foregoing consideration whereby all the as signments of errors, alleged to have been committed in the judgment appealed from, have been refuted, we arrive at the conclusion that plaintiffs' contentions have not been fully established; and that the defendant not having insisted upon its counterclaim, the judgment appealed from is affirmed, as we do hereby affirm it, with the costs of this instance 'against the plaintiffs-appellants. So ordered.

Arellano, C. J., Johnson, Araullo, Street, Malcolm, and Avanceña, JJ., concur.

[1] Not published.

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