

ROSENDO VIERNES AND FRANCISCO VIERNES, PLAINTIFFS AND APPELLEES, VS. URBANO AGPAOA ET AL., DEFENDANTS AND APPELLANTS.*G. R. No. 15590. December 13, 1920*

Ponente: STREET, J.

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By this action the plaintiffs, Rosendo Viernes and Francisco Viernes, seek to recover of the defendants, Urbano Agpaoa, Platon Alvano, Romualdo Agpaoa, and Atanasio Cumlat, a parcel of land in the sitio of Salpad, in the municipality of Vintar, Province of Ilocos Norte, and further to obtain an adjudication of title to the same in plaintiffs' favor, and to secure a permanent injunction prohibiting the defendants from disturbing the plaintiffs by entering thereon. The plaintiffs also ask that the defendants be required to pay the sum of P1,500 to the plaintiffs as damages, as well as the costs of suit. After the answer of the defendants had been filed, it was agreed between the contending parties that Urbano Agpaoa was the sole defendant who had any interest in the land in question, and the cause was by consent dismissed as to the other defendants. After hearing the cause, the trial court gave judgment in favor of the plaintiffs to recover the land in question, without damages, and without any express award of costs. From this judgment the defendant Urbano Agpaoa appeared.

In the "Agreed Statement of Facts" submitted to the trial court, we find the two following paragraphs:

"(b) That the defendant Urbano Agpaoa agrees that if Rosendo Viernes, Francisco Viernes, Manuel Gapusan and Anastacio de la Cuesta were introduced as witnesses for the plaintiff, they would testify that the plaintiffs are owners and possessors of the land in question.

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"(d) That the plaintiffs admit that if Urbano Agpaoa, Platon Alvano, Clemente Balanay, Santiago Calumpit and Sixto Magana were introduced as witnesses, for the defendant, they would testify that the land in question belonged to the Insular Government of the Philippines and that the latter ceded it to the defendant Urbano Agpaoa as homestead, the latter now being the owner and actual possessor thereof."

It will be noted that these two paragraphs have reference to what certain persons would testify if introduced as witnesses in court; and moreover it is admitted that the two sets of witnesses would testify respectively to two diametrically opposed conclusions, the first declaring that the plaintiffs are owners and possessors, the second declaring that Urbano Agpaoa is the owner and possessor. An agreement of this kind leaves the point of inquiry, namely, the actual state of the title, uncertain and no legitimate conclusion can be properly drawn therefrom by the court to serve as the basis of its judgment. The trial judge appears, therefore, to have been in error in finding, from these two opposed admissions, that the plaintiffs Rosendo Viernes and Francisco Viernes are the owners and possessors of the land in question.

The plaintiffs exhibited in support of their claim certain tax receipts which prove that for many years they paid the real property tax assessed against the property in question. Now, while it is true that the payment of taxes may be

considered as evidence of a claim of ownership, and when taken in connection with possession, it may be valuable in support of one's title by prescription, nevertheless, the mere payment of taxes does not confer title, nor prove it. In the record before us we discover no other proof of title in the plaintiffs than the supposed admission by the defendant contained in paragraph (b) of the Agreed Statement of Facts, above quoted, and the exhibits proving the payment of taxes by the plaintiffs.

On the other hand, it appears that the defendant Urbano Agpaoa took possession of the questioned land in 1911, and notwithstanding the obstructions placed in his way by the plaintiffs, acquired a homestead patent from the Government in the year 1916 (Exhibit 2) after the required occupation of the land for five years.

Our conclusion upon the case is that the plaintiffs have not proved title in themselves and on the contrary the defendant Urbano Agpaoa has acquired the property from the Government by lawful occupation and grant. The result is that the judgment must be reversed and the defendant will be absolved from the complaint.

So ordered, without costs.

Mapa, C. J., Araullo, Malcolm, Avanceña and Villamor, JJ., concur.

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