

JOHN F. REAVIS, APPELLANT, VS. JOSE FIANZA ET AL.

G.R. No. 16. November 01, 1909

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This court has jurisdiction on this appeal to review the facts.

De la Rama vs. De la Rama (201 U. S., 309; 50 L. ed., 767; 26 Sup. Ct. Rep., 485).

In view of the indefinite and uncertain character of the boundaries of plaintiff's claim, whatever might be its validity otherwise, it, like other indefinite and uncertain interests in lands, will be void for uncertainty, and thus wholly insufficient to support an injunction.

United States vs. Castillero (2 Black, 1, 191; 17 L. ed., 360, 387).

Both under our system and that of Spain, mines of precious metal constitutes a species of property especially subject to the control of the government, and can be acquired in private ownership only by compliance with such regulations as the government may prescribe.

See Philippine Mining Laws and Regulations, War Department Translation, July, 1900. See also United States vs. Castillero (2 Black, 1; 17 L. ed., 360, passim.)

Under neither system of law does ownership or possession of the surface confer ownership of the minerals below the the surface or vest the possessor of the surface with mining rights (United States vs. Castillero, 2 Black, 166-168, 17 L. ed., 379, 380). Moreover, it does not appear that plaintiffs ever asserted any claim to the property except for mining purposes.

Plaintiffs have no present rights of ownership whatever in the property, directly enforceable by any court. Whether they may still have a right to apply for and obtain a patent is a wholly different question, not before this court for decision.

The Young Mechanic (2 Curt. C. C., 404, Fed. Cas. No. 18180). See also The. Carlos F. Roces (177 U. S., 655, 666; 44 L. ed., 929, 933; 20 Sup. Ct. Rep., 803).

One basing his right to a patent on the ground that he has held the claim for a period which satisfies the statute of limitations of his state or territory must proceed to obtain his patent the same as if his right vested on location, with the exception of the manner by which he proves his title.

2 Lindley, Mines, sec. 688, p. 1276; Re Smith Bros. 7 Copp's L. O. 4.

The purpose and effect of U. S. Rev. Stat., sec. 2332, U. S. Comp. Stat. 1901, p. 1433, has been held to be to raise a presumption of regularity of the original location from the fact of long and unquestioned possession, and to enable proof of such possession to be accepted by the Land Office in lieu of proof of compliance with all the detailed statutory requirements of a valid location.

Buffalo Zinc & Copper Co. vs. Crump, 70 Ark., 525; 91 Am. St. Rep., 87; 69 S. W., 572; Cleary vs. Skiffich, 28 Colo., 362; 89 Am. St. Rep., 207; 69 Pac, 59; McCowan vs. Maclay, 16 Mont, 234; 40 Pac, 602.

It is very significant that there appears to be no case in the books in which a party claiming simply by naked adverse possession, with no attempt at location under the statutes, has been awarded relief, either legal or equitable, against an adverse claimant who has made a statutory location. The general rule is that rights founded on mere possession must yield to rights created by compliance with the statutory requirements.

Horswell vs. Ruiz, 67 Cal., Ill; 7 Pac, 197; Kendall vs. San Juan Silver Min. Co., 144 U. S., 658; 36 L. ed., 583; 12 Sup. Ct. Rep., 779.

As Reavis' adverse entry was expressly found to have been peaceable, it necessarily operated as an ouster which broke the continuity of plaintiffs' holding. (Belk vs. Meagher, 104 U. S., 287; 26 L. ed., 738.)

An injunction should not be granted in support of doubtful and disputed rights, or where there is an adequate remedy at law. Moreover, the plaintiffs must succeed, if at all, on the strength of their own right or title, not on the weakness of their adversary's. (Lawson vs. United States Min. Co., 207 U. S., 1; 52 L. ed., 65; 28 Sup. Ct. Rep., 15; Gwillim vs. Donnellan, 115 U. S., 45; 29 L. ed., 348; 5 Sup. Ct. Rep., 1110.)

It is contrary to the principles of equity to grant an injunction to a complainant for the protection of rights which are disputed and the subject of litigation, when there is no threatened irreparable mischief to be prevented. (Tacoma R. & P. Co. vs. Pacific Traction Co., 155 Fed., 259.

By plaintiffs' own bill, they were out of possession when the suit was brought. This also defeats their claim for an injunction. (Lacassagne vs. Chapuis, 144 U. S., 119, 124; 36 L. ed., 368, 370; 12 Sup. Ct. Rep., 659; 1 High, inj., 2d. ed., sec. 355. See also Whitehead vs. Shattuck, 138 U. S., 146; 34 L. ed., 873; 11 Sup. Ct. Rep., 276.)

Plaintiffs had no legal rights of ownership in the mining property in question, unless they acquired them under the Act of July 1, 1902, and that Act provided a regular and orderly procedure for their assertion and establishment. There is nothing in the record to indicate that such procedure is in any way inadequate to protect whatever rights plaintiffs may have, and to that course they should have been, and should now be, remitted.

"In addition to proceeding directly under that Act, plaintiffs might also have brought an action for forcible entry and detainer, under section 80 of the Philippine Code of Procedure, or an action in the nature of ejectment, to determine the title, under such decisions as Bago vs. Garcia, 5 Philippine, 524; Bishop of Cebu vs. Mangaron, 6 Philippine, 286; Barlin' vs. Ramirez and Municipality of Lagonoy, 7 Philippine, 41.

If plaintiffs had any title, it was inchoate and incomplete, since they had obtained no patent. This court has held that a person having such a claim is not entitled to an injunction against an adverse claimant, where there is an adequate remedy available in an action at law to recover possession. (Black vs. Jackson, 177 U. S., 349; 44 L. ed., 801; 20 Sup. Ct. Rep., 648; Potts vs. Hollen, 177 U. S., 365; 44 L. ed., 808; 20 Sup. Ct. Rep., 654.)

The judgment of the trial court should have been reversed for errors in the exclusion of evidence. (Buckstaff vs. Russell & Co. 151 U. S., 626, 637; 38 L. ed., 292, 296; 14 Sup. Ct. Rep., 448.)

There is a presumption of harm from the exclusion of material evidence, and the absence of harm must be clearly shown by the record to obviate reversal on this ground. (Crawford vs. United States, 212 U. S., 183, 203; 53 L. ed., 465, 473; 29 Sup. Ct. Rep., 260.)

Mr. Henry E. Davis argued the cause and filed a brief for appellees.

If the right of possession does not involve any question under the law, but involves only a mere matter of fact no Federal question is presented. (Shoshone Min. Co. vs Rutter, 177 U. S., 505, 508; 44 L. ed., 864, 865; 20 Sup Ct. Rep., 726.)

On every principle, the Act of July 1, 1902, is to be read, construed, and applied, as was the earlier act (U. S. Rev. Stat., sec. 2332), to the states and territories mentioned.

The object of this section was to permit a party applying for patent to make a prima facie case before the Land Office by proving that the claim upon which the application for patent was made had been in possession of himself and grantors for a period equal to the statute of limitations of the jurisdiction in which the claim was situated, provided no adverse claim was interposed. In other words, proof of possession for the statutory period, in the absence of any adverse claim, was to be taken by the Land Departments as equivalent to an establishment in detail of all the facts necessary to constitute a valid location. (Cleary vs. Skiffich, 28 Colo., 364; 89 Am. St. Rep., 207; 65 Pac, 59.)

The section provides an additional mode of acquisition of mineral land from the government. (Anthony vs. Jillson, 83 Cal., 302; 23 Pac, 419.)

Adverse claim means a claim filed in the United States Land Office, opposing an application for patent to mining premises, made by another person. The claimant applies for patent. The adverse claimant opposes him. The Land Office adverse claim. (McCowan vs. Maclay, 16 Mont., 239; 40 Pac, 602; Altoona Quicksilver Min. Co. vs. Integral Quicksilver Min. Co., 114 Cal., 105; 45 Pac, 1047.)

Where possession has continued for the prescribed period before the adverse right exists, it is equivalent to a location under the laws of Congress. (Altoona Quicksilver Min. Co. vs. Integral Quicksilver Min. Co., supra; 420 Min. Co. vs. Bullion Min. Co., 3 Sawy., 657; Fed. Cas. No. 4989;

Harris vs. Equator Min. & Smelting Co., 3 McCrary, 14; 8 Fed., 863; Belk vs. Meagher, 104 U. S., 279, 287; 26 L. ed., 735, 738; Lavagnino vs. Uhlig, 26 Utah, 25; 99 Am. St. Rep., 808; 71 Pac, 1046.)

Upon completion of a location, and until patent issues, the government holds the title in trust for the locator. (Noyes vs. Mantle, 127 U. S., 348, 351; 32 L. ed., 168, 169; 8 Sup. Ct. Rep., 1132.)

A title so acquired will be quieted on a bill in equity, even against the holder of a correct paper title. (420 Min. Co. vs. Bullion Min. Co., supra.)

In dealing with the Philippines, the United States did not mean to treat its inhabitants as less entitled to the just and beneficent principle adopted towards the inhabitants of our former Mexican territory, but rather intended to put them on an even more favored footing. (Carino vs. Insular Government, 212 U. S., 449; 53 L. ed., 594; 29 Sup. Ct. Rep., 334.)

The defendant, by his action in the premises, in making answer as he did, and filing his petition or cross complaint, asking for affirmative relief, as he did, closed the door upon any question as to the propriety of the proceedings themselves, or the jurisdiction to determine the same of the tribunal in which they were instituted. Moreover, the defendant, equally with the plaintiffs, went through the course of taking testimony, preparing the case for hearing, and submitting it to the court for determination as a case pending in and before a court competent and adequate to adjudge the controversy. (16 Cyc, Law & Proc, pp. 117, 129, 131; Perego vs. Dodge, 163 U. S., 160, 164; 41 L. ed., 113, 115; 16 Sup. Ct. Rep., 971.)

The acts of mining on the part of the plaintiffs have been as continuous as the nature of the business and the customs of the country permitted, and this meets all requirements. (Stephenson vs. Wilson, 37 Wis., 482; 2 Lindley, Mines, sec. 688.)

The strict rule of pleading which formerly required exact accuracy in the description of premises sought to be

recovered has in modern practice been relaxed, and a general description of the property held to be good. The provision of state statutes as to the description of the premises by metes and bounds have been held to be only directory, and a description by name, where the property is well known, is often sufficient. (*Glacier Mountain Silver Min. Co. vs. Willis*, 127 U. S., 471, 480; 32 L. ed., 172, 174; 8 Sup. Ct. Rep., 1217.)

Mr. Justice Holmes delivered the opinion of the court: This is a bill in equity, brought by the appellees to restrain the appellant from setting up title to certain gold mines in the Province of Benguet, or interfering with the same, and to obtain an account of the gold heretofore taken from the mines. The trial court rendered a judgment or decree granting an injunction as prayed. Exceptions were taken on the grounds that the findings of facts were against the weight of evidence, and that the judgment was against the law. The Supreme Court reexamined the evidence, and affirmed the decree below. Then the case was brought here by appeal.

The appellees make a preliminary argument against the jurisdiction of this court, while the appellant asks us to reexamine the evidence, and to reverse the decree on the facts as well as the law. We cannot accede to either of these contentions. We are of opinion that this court has jurisdiction. For, if the affidavits of value should be held to apply to the whole of Reavis's claims, and not to only that part of them that are in controversy here, still, statute of the United States, namely, a section of the organic act (sec. 45, concerning mining titles in the Philippines), is "involved," within the meaning of section 10 of the same act, which determines the jurisdiction of this court. Act of July 1, 1902, chap. 1369. 32 Stat. at L., 691, 695; U. S. Comp. Stat. Supp. 1907, p. 214. The meaning and effect of that section are in question, and our construction even has some bearing upon our opinion that the findings of the two courts below should not be reopened. For, apart from the general rule prevailing in such cases, (*De la Rama vs. De la Rama*, 201 U. S., 303, 309; 50 L. ed., 765; 26 Sup. Ct. Rep., 485) we shall refer to the law for special reasons why those findings should not be disturbed in a case like this.

The appellees are Igorots, and it is found that, for fifty years, and probably for many more, Fianza and his ancestors have held possession of these mines. He now claims title under the Philippine Act of July 1, 1902, chap. 1369, sec. 45; 32 Stat. at L., 691. This section reads as follows:

"That where such person or association, they and their grantors have held and worked their claims for a period equal to the time prescribed by the statute of limitations of the Philippine Islands, evidence of such possession and working of the claims for such period shall be sufficient to establish a right to a patent thereto under this Act, in the absence of any adverse claim; but nothing in this Act shall be deemed to impair any lien which may have attached in any way whatever prior to the issuance of a patent."

It is not disputed that this section applies to possession maintained for a sufficient time before and until the statute went into effect. See *Soper vs. Lawrence Bros. Co.*, 201 U. S., 359; 50 L. ed., 788; 26 Sup. Ct. Rep., 473. The period of prescription at that time was ten years. Code of Procedure in Civil Actions, August 7, 1901, No. 190, sec. 40, 1 Pub. Laws of Philippine Commission, 378, 384. Therefore, as the United States had not had the sovereignty of the Philippines for ten years, the section, notwithstanding its similarity to Rev. Stat., sec. 2332, U. S. Comp. Stat. 1901, p. 1433, must be taken to refer to the conditions as they were before the United States and come into power. Especially must it be supposed to have had in view the natives of the Islands, and to have intended to do liberal justice to them. By section 16, their occupancy of public lands is respected and made to confer rights. In dealing with an Igorot of the Province of Benguet, it would be absurd to expect technical niceties, and the courts below were quite justified in their liberal mode of dealing with the evidence of possession and the possibly rather gradual setting of the precise boundaries of the appellees' claim. See *Carino vs. Insular Government*, 212 U. S., 449; 53 L. ed., 594; 29 Sup. Ct. Rep., 334. At all events, they found that the appellees and their ancestors had held the claim and worked it to the exclusion of all others down to the bringing of this suit, and that the boundaries were as shown in the plan that was filed and seems to have been put in evidence before the

trial came to an end.

It cannot be said that there was no evidence of the facts found, for the plaintiff Fianza testified, in terms, that his grandfather and father had owned the mines in question, and that he and the other appellees owned, them in their turn; that they had all worked the mines, that no one else had claimed them, and that the appellant had interfered with his possession, and, when he put up a sign, had torn it down. No doubt his working of the mines was slight and superficial according to our notions, and the possession may not have been sharply asserted as it would have been with us, whether from Igorot habits or from the absence of legal title under Spanish law. But it sufficiently appears that the appellee's family had held the place in Igorot fashion, and to deny them possession in favor of Western intruders probably would be to say that the natives had no rights under the section that an American was bound to respect. Whatever vagueness there may have been in the boundaries, it is plain that the appellant attempted to locate a claim within them, and Fianza testified that the plan to which we have referred followed the boundaries that his father showed to him. It is said that the claim is larger than is allowed by section 22. But the limitation of that section applies only to claims "located after the passage of this Act."

It is to be assumed, then, that the appellees and their ancestors had held possession and had worked their claims for much more than the period, required by section 45, before the moment when the statute went into effect. It is

to be assumed that the possession and working continued down to within two months of that moment. But the appellant says that he entered and staked his claims before that time and then was in possession of them. On this ground, as well as others that are disposed of by the findings below, he contends that there was an adverse claim within the meaning of the act. But the ground in question was not unoccupied, and therefore he could not make a valid claim under section 28. See also Act of March 2, 1901, chap. 803, 31 Stat. at L., 895, 910; U. S. Comp. Stat. 1901, p. 2799. He refiled a location in October, 1902, but he did not and could not make the required affidavit because of the prior occupation; and, at that date, Fianza was within the act, unless he already had been deprived of its benefits. Moreover, it is found that Fianza's. possession continued down to the bringing of this suit. This is justified by the evidence, and is not contradicted by the bill. The bill, to be sure, alleges that Reavis, in 1900, illegally entered and deprived the appellees of their mines, and that he still continues to maintain his unjust claim. But further on it alleges that, in the spring of 1902, Reavis was directed by the Governor of Benguet not to molest the appellees; that he then waited in Manila, and, after the promulgation of the law, "again entered," set stakes, and filed a notice of location. So that the bill does not mean that he was continuously in possession, or that he was in possession when the law took effect. We are of opinion that there was no adverse claim that would have prevented the appellees from getting a patent under section 45. (See *Belk vs. Meagher*, 104 U. S., 279, 284; 26 L. ed., 735, 737; *Altoona Quicksilver Min. Co. vs. Integral Quicksilver Min. Co.*, 114 Cal., 100, 105; 45 Pac, 1047. See also *McCowan vs. Maclay*, 16 Mont., 234, 239, 240; 40 Pac, 602.)

It is suggested that the possession of Fianza was not under a claim of title, since he could have no title under Spanish law. But, whatever may be the construction of Rev. Stat., sec. 2332, the corresponding sec. 45 of the Philippine Act cannot be taken to adopt from the local law any other requirement as to the possession than the length of time for which it must be maintained. Otherwise, in view of the Spanish and American law before July 1, 1902, no rights could be acquired, and the section would be empty words; whereas, as we have said before, another section of the Act, section 16, still further shows the intention of Congress to respect native occupation of public lands.

Again, it is urged that the section, of itself, confers no right other than to apply for a patent. But a right to an instrument that will confer a title in a thing is a right to have the thing. That is to say, it is a right of the kind that equity specifically enforces. It may or may not be true that, if the objection had been taken at the outset, the plaintiffs would have been turned over to another remedy, and left to apply for a patent; but, after a trial on the

merits, the objection comes too late. (See *Perego vs. Dodge*, 163 U. S., 160, 164; 41 L. ed., 113, 116; 16 Sup. Ct. Eep., 971; *Reynes vs. Dumont*, 130 U. S., 354, 395; 32 L. ed., 934, 945; 9 Sup. Ct. Rep., 486.)

Some objections were taken to the exclusion of the evidence. But, apart from the fact that they do not appear to have been saved in the exceptions taken to the Supreme Court, and irrespective of its admissibility, the evidence offered could not have affected the result. An inquiry of *Fianza*, whether he claimed the mines mentioned in the suit or those measured by the surveyor who made the plan to which we have referred, was met by the allowance of an amendment, claiming according to the plan. A question to another of the plaintiffs, whether she saw any *igorots* working for *Reavis*, would have brought out nothing not admitted by the bill, that *Reavis* did, for a time, intrude upon the mines in suit. Upon the whole case we are of opinion that no sufficient ground is shown for reversing the decree, and it is affirmed.

Decree affirmed.

[1] 215 U. S, 16; 54 L. ed., 72.

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