

MARTA QUEROL AND SEGUNDO FLORES, PLAINTIFFS AND APPELLANTS, VS. FRANCISCO QUEROL, DEFENDANT AND APPELLEE.

G.R. No. 23586. September 30, 1925

Ponente: VILLAMOR, J.

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VILLAMOR, J.:

This action is for the recovery of certain lands described in the complaint and damages in the sum of P74,900, plus P3,720, as damages from the filing of the original complaint until the delivery of the said properties to the plaintiff, Marta Querol, with the costs.

The defendant denies all the allegations of the complaint, and as counterclaim alleges that the registration in the registry of property of Albay, of the realties in litigation under the name of the plaintiff Marta Querol is void and of no effect, for the reason that it is illegal, and for the further reason that the same was done under the name of a fictitious person. And as special defense, the defendant alleges that the action brought by the plaintiffs has already prescribed. Wherefore he prays that he be absolved from the complaint; that the plaintiffs' claim to the realties in litigation be denied; that the registration of the property in question in the registry of property of Albay be declared void and of no effect; and that judgment be rendered against the plaintiffs for costs.

Each party introduced evidence, and the Honorable Pedro Tuason, who tried the case, entered a well reasoned decision, deciding the questions of fact and law that were submitted by the parties. The decision appealed from is as follows:

"This action is instituted to recover four parcels of land and to compel the defendant to make an accounting of their products. Six parcels are described in the complaint, but two of them having been sold by the plaintiffs to a man by the name of Ceferino Guanzon in 1915 or 1916 are mentioned in the complaint only for the purpose of the accounting asked.

"It has been fairly if not conclusively established by the evidence, that the plaintiffs are husband and wife. Marta Querol, the wife, is the alleged real owner of the property for the recovering of which this action has been brought, the inclusion in the complaint of her husband as plaintiff being formal.

"The plaintiff Marta Querol is an illegitimate daughter of the defendant Francisco Querol by a woman named Agapita Rolda who was washerwoman for the defendant's father and who died before Marta Querol was baptized. Marta Querol was born in the house of Seminiano Querol, father of the defendant, and in which the said defendant was living at the time. She was born on the 23d of February, 1870, and baptized on the 2d of the following month, having been given the name of Marta Rolda. (See Exhibit 1.) Marta later bore the surname of her father and is now known as, and called even by her father, Marta Querol. (See Exhibits E, F and G.) At the time Marta Querol was born, Francisco Querol, the defendant, was married to Laurearia Sanchez Imperial. Francisco Querol, the defendant, is and was the only child and heir of Seminiano Querol.

"Marta Querol was reared and taken care of in the house of Seminiano Querol. She was put by Seminiano Querol in a college in Naga, Camarines Sur, where she studied as boarder from 1880 until 1890. On June 26, 1892, the two plaintiffs were married, and have had children who have been taken care of by the defendant.

One of them studied in Manila where he finished the first or the second year course in law in 1917 at the expense of the defendant.

"On March 14, 1892, Marta Querol applied to the justice of the peace of Ligao, Albay, for a possessory title to all the six parcels of land in question. On March 24, 1892, the justice of the peace approved that application and ordered the delivery of the original of the record to the applicant in order that she might apply, as she in fact applied, for its registration. However, because certain necessary information had not been received from the Anotaduria de Manila definite inscription was not then made, but in lieu thereof the registrar made an anotacion preventiva which on March 29, 1895, was converted into a definite inscription.

"All the six parcels covered by the possessory information had been purchased by Seminiano Querol, father of the defendant, some as early as 1854; the deeds of sale by which Seminiano Querol acquired these parcels were executed in his name, and at the dates of the trial were in the possession of the defendant. The names of some of the persons from whom Marta Querol alleged in her application for the registration of her alleged possession, to have acquired these parcels, and the descriptions of some of these parcels coincide with those on some of the deeds drawn in favor of Seminiano Querol.

"In the possessory information proceedings Seminiano Querol was not cited and does not appear to have had any knowledge of the filing of the application by Marta Querol, much less consented to the inscription of the possession in her name. At the time the petition was filed by Marta Querol and the same was approved by the justice of the peace, Marta Querol was living in the house of Seminiano Querol, she then being still single and her wedding, which took place about two months later, having been celebrated in that house.

"In or about 1900, on account of political disturbances in Albay, the plaintiffs went to Sorsogon where they stayed until 1906, when they returned to Albay. The plaintiffs have not been in possession of any of the lands in question at least since they left for Sorsogon. The defendant has been in possession of these lands since at least 1903, except the two parcels having an aggregate area of between two and three hectares, which, as above stated, were sold to Ceferino Guanzon in 1915 or 1916 by the plaintiffs and of which Ceferino Guanzon have taken possession.

"That the six parcels of land in question were the property of Seminiano Querol is a fact not only established by the private documents presented by the defendant but also admitted by the plaintiff Marta Querol. Marta Querol insinuates however that these lands were donated to her by Seminiano Querol. She testifies that while she was still in college, Seminiano Querol told her that the lands (propiedades) which he had bought for her were ready, and that when she left school she made the application for a possessory information title. She admits that the first time she saw these lands was in 1891, although in her petition she stated she had acquired them long before, some as early as 1854, (she was born in 1870). She also testifies that from 1891 she was in actual possession of these lands until the revolution broke out when she and her husband, as already stated, moved to Sorsogon; that in 1903 the other plaintiff, Segundo Flores, came to Albay and asked the defendant to take charge of the lands; that after she and her husband returned to Albay in 1906, they repeatedly requested the defendant to give them the said lands but that Francisco Querol refused to do so, stating that Segundo Flores was a spendthrift, and that said properties could be later given to plaintiffs' children by the defendant.

"But Francisco Querol, the defendant, denies that Marta has ever been in possession of any of the properties involved in this suit. He also denies that the plaintiffs ever requested him to take care of any of said properties while they were in Sorsogon, or that they, or any of them, required him to give or return said properties to them. He asserts that he had been in possession of the lands as owner since his father died. He introduced in evidence as Exhibit 18d a title deed (composicion con el Estado) covering twelve parcels; but this title does not seem to include any of the lands herein involved; there is a great variance in the descriptions.

"The alleged possession of the parcels in question by the plaintiffs at the time and after Marta Querol filed an application for a possessory title has not been established. On the contrary, the preponderance of the evidence negatives the presumption of right raised by the possessory information. Marta Querol stopped studying,

according to her own testimony, in 1892, although she changed that testimony, saying that she left school in 1890, instead of 1892. If these lands had been donated to her, as she insinuates, by Seminiano Querol, the most natural thing would have been for the donor to give her all the papers pertaining thereto, if not also to execute a deed of donation.

"There are other circumstances which bear out the testimony of the defendant, that he has been in possession of these lands as owner. In the first place, in 1908 the defendant had his lands surveyed (see Exhibit 19) and the survey, seems to have included at least some of the parcels in controversy, judging from the names of the places where the lands surveyed are located. In the second place, all the six parcels have always been assessed for the purpose of taxation, by and in the name of the defendant, and he has always paid the taxes and appropriated the products to the exclusion of the plaintiff for nearly twenty years, at least. The apparent indifference shown by the defendant regarding the sale of two of the smallest parcels by the plaintiff has been explained by him, stating that he had put the matter in the hands of his attorney. This attitude of the defendant, at all events, is not strange if the relationship between him and the plaintiffs and the relatively small area of the parcels sold are taken into consideration.

"The alleged donation is not evidenced by any written instrument. Indeed, mention or rather intimation of the lands having been donated to Marta Querol was made by her only in answer to interrogatories by the court. Evidently, the plaintiffs did not rely upon any donation made by Seminiano Querol to establish title to the properties, but only and exclusively on the value of the possessory information. The question then is, under the circumstances what was the effect of the inscription of the possessory information upon the true owner of the lands. In *Merchant vs. Lafuente* (5 Phil., 638), the Supreme Court in effect lays down the rule that a person not the owner of the land who procures an inscription of it in his name as owner under the provision of article 20 of the Mortgage Law does not acquire title thereto, as against the true owner, unless an innocent purchaser, relying upon such inscription, has acquired it. The possessory information proceedings instituted by Marta Querol were approved and inscribed with the proviso 'without prejudice to third persons with a better right.' Title secured by possessory information proceedings does not constitute an unquestionable title of ownership or of possession. (*Modesto vs. Leyva*, 6 Phil., 186.)

"This case is very similar to *Roman Catholic Bishop of Nueva Segovia vs. Municipality of Bantay* (28 Phil., 347), only the party having a possessory information in the case cited, had a stronger case than the plaintiffs herein, in that the former's the Roman Catholic Church's title recites that the possessor had been in possession of the lands for thirty years before the application was filed, whereas Marta Querol, according to her own showing, saw the parcels she claims for the first time, in 1891, one year before she instituted the possessory proceedings. In the case cited the Supreme Court, through Mr. Justice Carson, says:

" 'It is manifest that plaintiff's allegations of title and of right to possession, as set forth in the record in this case, must stand or fall in accordance with the effect which should be given to the registered "informacion posesoria" (possessory information) prepared in the month of March, 1895, and registered on the 18th of April of that year. Indeed, counsel for plaintiff rest their contentions in this court wholly and exclusively on the probative value which they insist should be accorded that instrument.

" ' "Possessory informations" of the nature of the one under consideration herein were ex parte proceedings had before a judge of first instance or a justice of the peace, wherein one in possession of real estate, claiming the right to possession, was permitted after notice to the adjoining landowners to set forth the fact that he was in actual possession of such real estate and the nature of the title under which he claimed the right of possession, and to call such witnesses and to produce such evidence in support of his claim as he thought necessary and proper. If the evidence thus submitted appeared to be satisfactory, and the applicants claims were not successfully rebutted by some interested person the proceedings were approved by the judge before whom they were had, who at the same time ordered that they be registered "Without prejudice to third persons having a better right in the premises." From a consideration of the very nature of such ex parte proceedings it is clear that in themselves they could in no event have the effect of prejudicing a third person who has a better right to

the ownership than the claimant in the possessory proceedings. When executed in due form, they furnish, at most, prima facie evidence of the fact that at the time of their execution, the claimant was in possession, claiming the right to possession as set forth in his application. Accordingly we find in article 394 of the Mortgage Law the following:

" ' "The period of possession which appears to have elapsed at the time said entries are made shall be computed for the prescription which does not require a just title unless a person prejudiced thereby denies it, in which case said period of possession must be proven in accordance with the common law.

" ' "Entries of possession shall prejudice or favor third persons from the date of their record, but only with regard to the effects which the laws attribute to mere possession.

" ' "The entry of possession shall not prejudice the person who has a better right to the ownership of the realty, although his title has not been recorded, unless the prescription has confirmed and secured the claim recorded. Between the parties the possession shall be effectual from the date prescribed by the common law."

" 'It is true that provision is made whereby the possession evidenced by a registered possessory information may ripen and be converted into a record of ownership after twenty years of uninterrupted possession have elapsed from the date of entry (art. 393, Mortgage Law), but the title thus secured is no more than a statutory title by prescription, and, as we have seen, until the full period of twenty years has elapsed, a registered possessory information cannot prejudice a third person with a better right in the premises. It is true also that under the provisions of the Maura Law, persons holding under a registered possessory information secured during the very short period during which it was in force, were given a title—as against the Government—to public lands claimed by them; but the provisions of this law in no wise affected the rights of claimants other than the Government itself. It is very clear, therefore, that the possessory information submitted by plaintiff in the case at bar cannot prevail against the authentic and undisputed proof of title to the lands in question in the defendant municipality.'

"But have the plaintiffs acquired title to the parcels in question by prescription?

"Article 393 of the Mortgage Law referred to in the decision quoted contains the following provision:

" 'Entries of possession shall be converted into records of ownership when they have the following requisites:

" '1. That twenty years have elapsed since the date of entry.

" '2. That the conversion of the entry of possession be announced by means of a proclamation in the proper Official Bulletin, so that persons interested, who consider themselves prejudiced thereby, may object by bringing the proper action within the period of thirty days; and

" '3. That after the periods mentioned in the preceding paragraphs having elapsed, no entry or note exists in the registry indicating that the prescription has been interrupted.'

"Twenty years had elapsed from the date of the inscription to the date of the commencement of this action, but the plaintiffs had not been in possession of any of the lands, for twenty years. At most they were in possession from 1892 till 1900, less than ten years, the period of prescription necessary when the possessor had just title and possessed the property in good faith. Nor has it been shown that conditions Nos. 2 and 3 have been fulfilled.

"For the foregoing reasons, the defendant is absolved with the costs against the plaintiffs.

"It is so ordered."

We have quoted verbatim the decision of the lower court, for, in our opinion, it contains a correct statement of the facts, as well as a logical discussion of the laws applicable to the case.

We have studied the record before us in connection with the errors assigned by the appellants, and are of the opinion, and so hold, that the findings of fact and law made by the trial judge are in accordance with the merits of the case. And there appearing from the record nothing justifying the alteration or reversal of the judgment appealed from, the same must be, as is hereby, affirmed, with cost, against the appellants. So ordered.

Avanceña, C. J., Street, Malcolm, Ostrand, Johns, Romualdez, and Villa-Real, JJ., concur.

[1] Original decision in English.

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