

RAFAEL SANTOS, PLAINTIFF AND APPELLANT, VS. PEDRO DE LA VIÑA, DEFENDANT AND APPELLEE. ROSARIO AMANCIO ET AL., INTERVENORS.*G.R. No. 26095. March 02, 1927*

Ponente: STREET, J.

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This action was instituted in the Court of First Instance of Capiz by Rafael Santos against Pedro de la Viña, for the purpose of (a) obtaining a judicial declaration to the effect that the plaintiff is the sole and absolute owner of the three parcels of land described in paragraph 3 of the complaint; (b) to compel the defendant to surrender the possession of the said lands to the plaintiff, and (c) to pay to the latter the sum of P10,000 as damages for the usurpation of the property by the defendant. The defendant, in his answer, denied generally and specifically all of the allegations of the complaint. Upon hearing the cause the trial court absolved the defendant from the complaint, and the plaintiff appealed. An incident of the litigation which no longer concerns us arose out of a third party claim interposed by numerous intervenors for the most part bearing the surname of Amancio; but this claim was dismissed at the hearing as lacking in merit, and the intervenors have not appealed.

The proof submitted in behalf of the plaintiff-appellant tends to show that in the year 1894, and for many years prior thereto, Roman Benigla, Policarpio Benliro, Lucendo Buendia, Lazaro Catalan, Feliciano Billones, and Jorge Vergara, separately owned and possessed small portions of land in the sitios of Tigpaca and Tinigban, barrio of Dulangan, municipality of Pilar, Province of Capiz, respectively designated as portions A, B, C, D, E, F, and H in the sketch or plan Exhibit A, measuring approximately 60 hectares and 75 ares. These seven portions together constitute lot No. 1 of Exhibit A, and correspond to parcel (a) described in the complaint. On or about the same period, Placida Baldia and Anacleto Buendia were likewise the respective owners of two parcels of land, containing about 5 hectares, situated in the sitio of Buayahon, of the same barrio and municipality, making up lot No. 2 of the sketch Exhibit A and corresponding to parcel (b) of the complaint. In like manner, and about the year 1895, Rosa, Martina, and Tomasa Berlin also owned and possessed a parcel of land located in the sitio of Balogo, in the same barrio of Dulangan, municipality of Pilar, Province of Capiz, with an area of approximately 6 hectares, comprising; lot No. 3 of the plan Exhibit A and corresponding to parcel (c) of the complaint.

In the years mentioned, the persons above named sold their respective parcels to Alvaro Alcantara de Santos, deceased father of Alvaro Alcantara Ardeña and Juan Alcantara. These sales appear in public and private documents, more than 30 years old, bearing the signatures of the persons above named, the original owners and vendors thereof, in favor of Alvaro Alcantara de Santos and his son Alvaro Alcantara Ardeña, the latter having purchased some of the parcels in his own name, but at the instance and with the money of his father. Possessory information titles relating to the greater portion of these lands were issued in the name of Alvaro Alcantara de Santos, and two of the then vendors Feliciano Billones and Jorge Vergara, all of which have been inscribed in the property registry of Capiz, and properly introduced in evidence.

The lands thus acquired by Alvaro Alcantara de Santos and his son were consolidated, or merged, by the purchasers with other land, thus forming the hacienda "Manuel" or "Dulangan," and the whole was occupied and in great part cultivated by Alvaro Alcantara de Santos till the time of his death, which occurred in the year 1898, when the property passed into the hands of his widow (now deceased) and his two sons Alvaro and Juan. On July 2, 1904, these two brothers transferred and conveyed all their rights and interests in this property to one Tomas Amancio. Not long after the property was acquired by Amancio, his wife, Honorata Lozada, died, leaving several children. Honorata Lozada left a will, subsequently probated, by which two-thirds of the testatrix's interest in the community property was given to her grand-daughter, Olvido Alcantara, and the other third to the testatrix's daughter, Romana. As a consequence of these changes of ownership, the title became vested, to different extents, in three persons. On September 1, 1910, Tomas Amancio and Romana Amancio conveyed their share in the hacienda, consisting of an undivided half and an undivided sixth, respectively, to; Mariano Malapaya; and on May 2, 1912, Malapaya sold the interest thus acquired by him to the two Alcantara brothers and Mauricio Gonzalez. Finally, on March 21, 1924, Alcantara brothers, Gonzalez and Olvido Alcantara united in conveying the hacienda to the plaintiff, Rafael Santos,—an act which completed the documentary history of the property so far as relates to the plaintiff. An examination of the descriptions contained in this chain of title, in connection with the oral testimony adduced by the plaintiff and especially the testimony of the witness Alvaro Alcantara Ardeña, leaves no doubt in our mind that the land now in question is included in said descriptions.

The defendant exhibits no document whatever of a date anterior to December 15, 1919, when one Placido Baldia appears to have sold to Agapito Perez a part of lot No. 2 (parcel B of the complaint). This land was afterwards sold by Perez to Florencio Arcan, by whom it was afterwards transferred to the defendant De la Viña by deed of March 31, 1924. Other documents of later date show that different parts of the land now in controversy, after having belonged to different persons, passed to the defendant by various deeds, executed in the early months of 1924, largely through Ramon Hontiveros, as intermediary. In this connection it appears that between the years 1920 and 1922 Hontiveros was lessee of the hacienda "Dulangan" under the Alcantaras as lessors; and both he and his manager, Jacinto Vidal, testified that he was never able to get possession of the western end of the hacienda, consisting of the land now in controversy, for the reason that the land was then in the adverse possession of different persons. The question is raised by the plaintiff-appellant as to the admissibility of Hontiveros as a witness upon the point of his failure to get possession under the lease. We think that his testimony was admissible, since it related only to the fact of the extent of the possession acquired by him under the lease from Alcantara. It is true that a tenant is estopped from denying his landlord's title, but in order for this rule to be applicable, there must be an actual relation of landlord and tenant and not such a relation on paper only. A lessor who is unable to give possession to his tenant is not entitled to the benefit of the rule. But even supposing that there could be any question as to the admissibility of Hontiveros' testimony on this point, the fact that he never acquired possession of the controverted land by virtue of Ms lease, is established by the testimony of Vidal and others.

Now, with respect to the adverse possession alleged to have been exercised by the defendant's predecessors, there can be no reasonable doubt that such adverse possession has existed, and that it has existed, at least as to some of the property, for a long period of time. Whether or not it had existed for more than ten years prior to the institution of this suit, is a proposition that requires examination.

In this connection, we find that when the Alcantaras were getting the hacienda back into their hands in 1914, Alvaro Alcantara caused an official survey to be made by one Quintin Mejorada. This survey was made in October, 1914, and though the plan was never made the basis of a land registration proceeding, as was probably at one time contemplated, it has been submitted in evidence as Exhibit 18 of the defendant. This plan, which was procured; to be made by Alcantara, is an important document and it supplies, proof, so far as it goes, with respect

to the adverse claims then being asserted over the property against the Alcantara title.

Upon examining this plan we find the following adverse claims noted therein, to wit: Lot No. 1-c, claimed by Mariano Tongson, in the extreme northern corner of lot 1; lot No. 2-a, claimed by Geronimo Berlin, in the southeastern corner of lot 2; lot No. 2-b, claimed by Sotero Binasajan, in the southwestern corner of lot 2; lot No. 2-c, claimed by Eulogio Buendia, in the central part of lot 2, immediately contiguous on the north to the lots claimed by Berlin and Binasajan; lot No. 1-a, claimed by Mariano Tongson, in the western corner of lot No. 1; lot No. 1-h, claimed by Mariano Tongson, in the southwestern portion of lot 1; lot No. 1-d, claimed by Manuel Bermejo, in the southeastern corner of lot 1; and finally lot No. 1-i, claimed by Placido Baldia, immediately contiguous to the foregoing in the southeastern corner of lot 1.

It will be observed that those adverse claims were made to the surveyor in October, 1914, and if the claimants were then in possession and had previously been exercising adverse possession for a few months, their title by adverse possession, in connection with the subsequent possession of themselves and successors in interest, would have become perfect before the institution of the present action in June, 1924.

A recognition of the fact that various persons were in possession of the property now in question in May, 1924, is found in the Exhibit S itself, which is the deed of sale executed by the Alcantaras and Mauricio Gonzalez in favor of the plaintiff on March 21, 1924; for we find that in paragraphs (b) and (c) of the deed the parties stipulated as follows:

" (b) Que por razon de que existen ciertos sedicentes opositores que reclaman determinados lotes, cuyos nombres y areas de estos lotes reclamados, constan y nguran en el piano Psu-5854 del Agrimensor Quintin Mejorada anexo A a que se hizo mencion en el parrafo anterior los vendedores se conforman y consienten en que el comprador deduzca la cantidad de cinco mil pesos (P5,000) de dicho precio convenido para destinarla a zanjar, arreglar y dar fin a todas las diferencias, reclamaciones y litigios de los sedicentes opositores.

" (c) Que por razon de esta deduction de cinco mil pesos (P5,000) del precio convenido, los vendedores quedan desligados de responder por las reclamaciones que presentaren los sedicentes opositores, cuyos nombres figuran en el plano anexo A, sus herederos y causahabientes, y si solo se comprometen a prestar toda su cooperation para la preparacion de los testigos y demas pruebas que se requieren cuando el comprador Rafael Santos solicitare la inscripcion de estas parcelas de terreno segun la Ley No. 496 para los efectos de la titulacion."

These provisions constitute an admission of the fact that part of the land, which was the subject of the sale, was in the adverse possession of various persons and it was recognized as certain that the vendee would not be able to get possession without satisfying those claimants, or compromising with them at expense to himself. For this reason the sum of P5,000 was deducted from the agreed price and the vendors availed themselves of their legal right to stipulate against their obligation to warrant the title. But it should be observed that these clauses by no means constitute an estoppel against the vendee to prevent him from maintaining his title in a judicial proceeding, if the same shall be found valid.

Coming to the question of the duration of the adverse possession exercised by the defendant and his predecessors in interest with respect to the parcels now in controversy, we are of the opinion that the defendant has shown a good title by adverse possession so far as lots 1-a, 1-c, 1-d, 1-h, 1-i, 2-a, and 2-b, as indicated in Exhibit S-I of the plaintiff and 18 of the defendant. The trial court so held and we think his conclusion is thus far supported by the evidence. The plan itself shows that in October, 1914, the lots above-mentioned were claimed by the persons whose names are noted as claimants to these lots on the plan, and the defendant derails title from these persons. The plan of course does not show that the parcels mentioned were then occupied by the claimants, but this is satisfactorily made out by oral testimony, which also shows that adverse possession as to these parcels extended

back for a period considerably anterior to the date of survey. The trial court thought that this adverse possession as regards some of the parcels mentioned covered a period of thirty years. While entertaining a doubt as to the exact duration of the adverse possession, we nevertheless feel confident that it had existed for a period of more than ten years prior to the institution of the present action.

With respect to that portion of the land which the defendant claims under title derived from Claudio Buendia, it is, in our opinion, equally certain that he is a mere usurper from a date subsequent to October, 1914. When the survey was made no person appeared as claimant with respect to that portion of the now contested land lying to the east of the provincial road to Pilar, as shown on Exhibit 18. This gives rise to a presumption that Claudio Buendia had no interest in it at that time; and this inference is in our opinion fully borne out by the testimony relating to alleged occupation by him.

The oral testimony also shows clearly that Eulogio Buendia was not an actual occupant of lot 2-c at the time the survey was made, although his name appears noted in the plan as claimant of this lot. Besides, the defendant does not derive title, as to this lot, from Eulogio Buendia but from Claudio Buendia.

It results that, while the defendant has maintained his title to the seven parcels enumerated above, he has not shown title to lot 2-c, or to any part of the land as to which title is derived from Claudio Buendia. As to this, the plaintiff has in our opinion shown a good title, unaffected by prescription; and judgment must be entered in his favor for the recovery of the same.

In conclusion, to dispose of the case in the most definite and explicit manner possible, with reference to plan Exhibit 18, the judgment will be affirmed as to lots 1-a, 1-c, 1-d, 1-h, 1-i, 2-a, and 2-b, and will be reversed as to lot 2-c and that part of lot 2 lying north of 2-c, as well as those parts of lot 1 as to which the defendant derives title from Claudio Buendia. And judgment will be entered for the plaintiff to recover of the defendant lot and that part of lot 2 lying north of 2-c, as well as all parts of lot 1 adversely held by the defendant, excluding lots 1-a, 1-c, 1-d, 1-h, and 1-i. So ordered, without costs.

Johnson, Malcolm, Villamor, Ostrand, Romualdez, and Villa-Real, JJ., concur.

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