

SEVERINA CASAÑAS, AS ADMINISTRATRIX OF THE ESTATE OF MARIA QUINTERO, DECEASED, PLAINTIFF AND APPELLANT, VS. TELESFORA ROSELLO, AS ADMINISTRATRIX OF THE ESTATE OF CORNELIO BELARM...*G.R. No. 26495. March 10, 1927*

Ponente: JOHNSON, J.

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It appears from the record that Maria Quintero, who died in 1897 (or 1898), was, during her lifetime, a tenant of lots Nos. 11, 438, 737, and 1249 which belonged to the Hacienda de los Frailes; that there was located upon said lot No. 11 a house and a camarin which belonged to Maria Quintero; that Maria Quintero left a will which had been executed in 1892, by virtue of the terms of which the said house and a part of the said camarin was left to her heirs Matias Belarmino, Cornelio Belarmino, and Petrona Belarmino, and a part of said camarin was left to Severina Casañas, who was the daughter of Petrona Belarmino. Immediately after the death of Maria Quintero, her heir Matias entered upon the administration of the property which she left. Matias Belarmino died in 1898 or soon after he had entered upon the administration of the property left by Maria Quintero. Immediately after the death of Matias Belarmino, Cornelio Belarmino entered upon the administration of said property. Later, the exact date not appearing of record, the said Petrona Belarmino renounced all of her right and interest in and to the property left by Maria Quintero. Cornelio Belarmino continued in the possession of said lots, said house, and a part of said camarin.

After the adoption of Act No. 1120, and after said Hacienda de los Frailes had been purchased by the Government, Cornelio Belarmino purchased all of said lots from the Government and thereby became the owner and continued in the possession of the same up to the time of his death in 1921, and his wife Telesfora Rosello continued in possession and was in possession of all of said property except a part of the camarin, which Cornelio Belarmino had ceded to Ceferina Casañas in 1906 and except lot No. 438 which he had sold in 1916 to Pio Elesegui.

The purpose of this action is to recover of Telesfora Rosello, the wife of Cornelio Belarmino, lots Nos. 11, 737, and 1249 together with said house and camarin, together with damages. The defendant, in addition to her allegation that she was the owner of said property, alleged that she had been in the lawful possession of the same since the year 1898 and had, together with her husband, become the owner of all of said property, except a part of the camarin, by virtue of a purchase from the Government.

The lower court, through Judge Isidro Paredes, denied the claim of the plaintiff upon the theory that the action had prescribed, and rendered a judgment absolving the defendant from all liability under the complaint, with costs against the plaintiff. From that judgment the plaintiff appealed, and has made several assignments of error.

The contention of the appellant that the doctrine of prescription upon which the defendant relies cannot be invoked between coheirs, is generally true. (*Aliasas vs. Alcantara*, 16 Phil., 489; *Cabello vs. Cabello*, 37 Phil.,

328; *Bargayo vs. Camumot*, 40 Phil., 857.) However, when one heir openly and adversely occupies property against his coheirs for a long period of time, he is permitted under the law to set up the defense of prescription. (*De Castro vs. Echarri*, 20 Phil, 23; *Cortes vs. Oliva*, 33 Phil., 480; *Dimagiba vs. Dimagiba*, 34 Phil., 357; *De los Santos vs. Santa Teresa*, 44 Phil, 811; *Ramos vs. Ramos*, 45 Phil., 362.)

In the present case, however, Maria Quintero was not the owner of the property in question at the time of her death in 1897 or 1898, except the house and camarin located on lot No. 11. She was a mere tenant of said lots. Her heirs in order to continue her right in said lots, a new arrangement was necessary to be made by them with the Hacienda de los Frailes. The record shows no effort on their part to maintain or continue her right in said parcels of land.

Later, and under a contract of purchase, Cornelio Belarmino became the absolute owner of said parcels of land without the intervention of any of his coheirs. The defense of ownership would therefore have been sufficient to defeat the claim of the plaintiff. Cornelio Belarmino never recognized any claim whatever to said parcels of land on the part of his coheirs. He held the same openly and adversely to the claims of any person or persons whatever. He not only held the parcels of land for a period sufficient to have acquired the same by prescription, but the proof shows that he became the absolute owner of said lots by purchase from the Government of the Philippine Islands. The will executed by Maria Quintero in 1892 and the agreement of the parties made during the trial of the cause sufficiently dispose of the claim of the plaintiff with reference to the house and a part of the eamarin.

We believe that the foregoing not only answers the first but all of the other assignments of error presented by the appellant.

A careful examination of the entire record, in relation with the assignments of error, discloses no justifiable reason for changing or modifying the judgment appealed from. The same is therefore hereby affirmed, with costs. So ordered.

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

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