

JOSE ATIENZA, PETITIONER AND APPELLEE, VS. DOMINGA MANALOTO ET AL., OPPONENTS AND APPELLANTS.*G.R. No. 28896. October 10, 1928*

Ponente: VILLAMOR, J.

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Jose Atienza applied for the registration of the lands described in plans A and B attached to his application, alleging that he had inherited them from his deceased mother Paula Medina; that he and his predecessors in interest have been in the quiet, peaceful and uninterrupted possession of the lands as owners thereof for more than sixty years to date.

Opposition was entered thereto by the Director of Lands in behalf of the Insular Government with respect to the two parcels of land on plan Psu-31380, Exhibit A; and by Venancio Samson, Dominga Manaloto for her son Tomas Morales, Guadalupe Manaloto, Candelaria Manaloto, and Enriqueta Manaloto for her husband Agustin Basco, with regard to the four parcels of land on plan Psu-31380 and 31551. In the course of the proceeding the Director of Lands, represented by the provincial fiscal, withdrew his opposition, as was done by the private oppositors, with respect to the two parcels on plan Psu-31551, Exhibit B; hence the private opposition has narrowed down to the two parcels on plan Psu-31380, and his opposition was based upon the allegation that the oppositors being descendants of one named Juana Medina, said parcels belong to the applicant and the oppositors in common and pro indiviso.

The evidence adduced by both parties having been examined by the trial court, judgment was rendered dismissing the opposition of the private oppositors as to the two lots on plan Psu-31380, and ordering the adjudication and registration of the four parcels of land sought to be registered in the name of the applicant Jose Atienza, single, and 52 years of age.

The oppositors appealed from the lower court's judgment and in their brief make the following assignments of error: (a) The lower court committed an error in not holding that the two parcels of land described on plan Psu-31380, Exhibit A, the registration of which is opposed, were originally the property of Juana Medina, mother of Paula Medina, alleged predecessor in interest of the applicant, and that upon the death of said Juana Medina they passed to her daughters and heiresses, Paula Medina and Juliana Sumira; (b) the lower court erred in not finding that the two parcels of land in question belonged to the applicant and the oppositors jointly, and that such joint ownership still subsists; (c) the lower court likewise erred in dismissing the appellants' opposition and decreeing the adjudication and registration of the two parcels of land in controversy in the name of the applicant and in denying the motion for a new trial filed by the oppositors.

The questions raised in these assignments of error deal purely ones of fact and refer to the appreciation of the evidence introduced by both parties in this case. The trial court in its judgment says the following: "From the applicant's evidence as a whole, both documentary and oral, it appears that the two parcels of land described on plan Psu31380 were acquired originally and in part by his mother; that the remaining part was also obtained by

said Paula Medina, during her marriage with his father, Agripino Atienza; that at the death of said Paula Medina, when the latter's estate was partitioned, said two parcels were adjudicated to the applicant by his father Agripino Atienza as his legitime and as an advance of his inheritance; that since the time he came into possession thereof, he has exclusively enjoyed the income from these two parcels and from the other two also, as his predecessors in interest had done, without interruption, quietly and peacefully during the period fixed by the law for acquiring the ownership of immovable property through prescription, in any case.

"As to the oppositors' evidence, it appears from the same as a whole, in brief, that they are descendants of Juana Medina, mother of Paula Medina; that Paula Medina had a sister named Juliana Sumira; that the latter is the mother of the oppositors surnamed Manaloto; that said oppositors have been recognized as relatives by the applicant and others; and that on account of the alleged joint ownership of the two parcels on the plan Psu-31380, these oppositors participated in the harvest of the two parcels in question to the extent of some 10 to 20 cavans of unhulled rice from each harvest annually. One of the witnesses of these oppositors, however, stated in his application for the registration of his property that the herein applicant was owner of the adjoining land, said application has since been granted."

And considering chiefly the witnesses' behavior and the preposterousness of an alleged participation only in rice from the harvests of a piece of land so large as that on plan Psu-31380, the trial judge found against the oppositors' claim.

The appellants fail to show in their brief a single important fact which the trial court did not take into account in judging the evidence, and, therefore, the conclusions of fact deduced by the lower court should not be disturbed, following the jurisprudence of this court in many cases, among others (U. S. vs. Pico, 15 Phil., 549; U. S. vs. Benitez and Lipia, 18 Phil., 513; U. S. vs. Melad, 27 Phil., 488).

In view of the evidence of record, we are of opinion that the applicant's possession and ownership of the lands in question have been proven by a great preponderance of the evidence, and the judgment appealed from being in accordance with law, it should be, as it is hereby, affirmed with costs against the appellants. So ordered.

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

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