

**AQUILINA TACAS ET AL., PLAINTIFFS AND APPELLEES, VS.
EVARISTO TOBON, DEFENDANT AND APPELLANT.***G.R. No. 30240. August 23, 1929*

Ponente: VILLAMOR, J.

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This is an action to recover from the defendant the ownership and possession of three parcels of land described in the sketch attached to the complaint, together with the fruits collected by him during the time he was in possession of said land that is, since January, 1912, it being alleged that the defendant unlawfully took said parcels upon the death of Francisco Dumadag, predecessor in interest of the plaintiffs; and that he remained in possession, enjoying the fruits to the value of P700 annually.

In his answer the defendant alleges that he is the owner of said lands, having-purchased them from one Exequiel or Gil Tacas, deceased, about fifteen years before the amended answer dated December 5, 1924.

At the trial the parties adduced their respective evidence, and thereafter the trial court declared it sufficiently proven by a preponderance of the evidence that the three parcels of land under discussion, were parts of an estate belonging to Francisco Dumadag, whose title is a possessory information recorded in the registry of deeds of Ilocos Sur, having inherited them from his parents (Exhibit H) ; that during his lifetime, said Francisco Dumadag was in possession of the land as owner for many years, until his death on November 17, 1911, enjoying its fruits, consisting in rice, corn, tobacco, and vegetables; that said Francisco Dumadag had filed a declaration for tax purposes in his own name; that the land tax had been paid by Francisco Dumadag during the years 1908 and 1911, and in his name in the years from 1912 to 1914 (Exhibits I to P); that in January, 1912, during the season for planting tobacco immediately following the death of Francisco Dumadag, Evaristo Tobon took possession of the three parcels of land in question planting them with tobacco; that from 1912 up to the present, the defendant Evaristo Tobon has been collecting the fruits therefrom, consisting of 300 sheaves of rice and 300 manos of first, second, and third-class tobacco each year, at the approximate rate of P0.30 for each sheaf of rice, and P3 for each mano of first-class tobacco, P2.50 for second-class tobacco, and P2 for third-class tobacco. There is no evidence of record regarding the amount and price of the corn collected by the defendant. And by virtue thereof, the trial court declared the plaintiffs to be the absolute owners of the three parcels of land in litigation, and ordered the defendant Evaristo Tobon to deliver said parcels of land to the plaintiffs, together with the fruits collected each year since 1912 until the complete termination of this case, and in default thereof, to pay to said plaintiffs the sum of P1,040, which is the total value of the rice and tobacco from 1912 to 1927, at P0.30 per sheaf of rice, and P2 per mano of tobacco. From this judgment, the defendant duly appealed in time, prosecuting his appeal to this court by the proper bill of exceptions.

The appellant has made several assignments of error. In the first place, he contends that the identity of the pieces of land in litigation has not been established. We find no merit in this contention. It appears from the allegations of the complaint and the answer, that the case refers to the lands held by defendant and alleged by the latter to have been purchased from one Exequiel or Gil Tacas, brother to the plaintiff Aquilina Tacas.

With regard to the probatory value of the documents presented by the parties, to wit, Exhibit H of the plaintiffs, and Exhibits 1 and 2 of the defendant, it is well to note that Exhibit H is a possessory information record duly approved on March 22, 1895 and inscribed in the registry of deeds of Ilocos Sur on November 4, 1917 in favor of Francisco Dumadag, covering some land situated in the sitio of Sisin, municipality of Magsingal, Ilocos Sur.

On the other hand, Exhibit 1 of the defendant is an instrument executed on January 17, 1905 whereby one Exequiel or Gil Tacas sold three parcels of farm land in the place called Sisin to Evaristo Tobon for P300 conan. And Exhibit 2 of the same defendant is another instrument executed on May 15, 1909 from which it appears that Francisco Dumadag and his brother-in-law, Gil Tacas, agreed that the three parcels of land belonging to the latter, together with the two parcels of the former in Anteng, barrio of Carisquis, would be put in Dumadag's name in the possessory proceedings.

The court below made a detailed analysis of the signature of Ramon G. Tolentino who, as justice of the peace, signed the ratification of the document Exhibit 1, comparing it with the unquestioned signatures of the same person, appearing in Exhibit 2, and concludes that the instrument Exhibit 1 is false.

It is unnecessary to descend to the discussion of the characteristics of Ramon G. Tolentino's signature, he being the justice of the peace who ratified the document Exhibit 1, for, even granting that said instrument is genuine, it appears that Gil or Exequiel Tacas could not validly convey the lands in question to the defendant Evaristo Tobon, inasmuch as according to the possessory information, said lands belong to and were in possession of Francisco Dumadag even before 1895, until his death, which took place in November, 1911.

The document Exhibit 2 argues nothing against our conclusion, for it is a contradiction to hold that in 1909 Francisco Dumadag agreed with his brother-in-law, Exequiel Tacas, that the three parcels of land belonging to the latter should be included in the former's possessory proceeding, considering that the latter had already been approved by the order of March 22, 1895. In the ordinary course of events, if such an agreement had really been entered into, it should have been at the time of the institution of the possessory proceeding. Dumadag did not know how to sign his name, and besides, no one has identified said document, Exhibit 2.

There is another reason why Exhibit 1 cannot prevail over Exhibit H, namely, that supposing that a sale was made in favor of the defendant in 1905, it was only in 1909 that Exhibit 2 was drawn in order to legalize the alleged transfer. Besides, despite the transfer of the lands in favor of the defendant having taking place in 1905, according to Exhibit 1, the defendant did not enter upon the possession of said lands until after the death of the original owner Francisco Dumadag, which occurred in November, 1911.

Another error alleged by the appellant is that the trial court ordered him to deliver to the plaintiffs the fruits of the land from 1912 to 1927, or to pay their value, P11,040.

The complaint in this case was filed on February 1, 1918. The bill of exceptions does not show when the defendant was summoned but it does show that the latter docketed his answer to the complaint on April 11, 1918.

Evidence being lacking to show that when he entered upon the possession of the lands in question, he was aware of any flaw in his title or mode of acquiring it, he is deemed a possessor in good faith (article 433, Civil Code), and in accordance with article 451 of the Civil Code, the fruits of said lands were his, until he was summoned upon the complaint, or until he filed his answer thereto. (Saul vs. Hawkins, 1 Phil., 275; Javier vs. Javier, 6 Phil., 493; Cleto vs. Salvador, 11 Phil., 416; Valencia vs. Jimenez and Fuster, 11 Phil., 492; Araujo vs. Celis, 16 Phil., 329; Alcala and Alviedo S. Hernandez and Pacleb, 32 Phil., 628; Tolentino vs. Vitug, 39 Phil., 126; Aquino vs. Tafiedo, 39 Phil., 517; Rivera vs. Roman Catholic Archbishop of Manila, 40 Phil., 717; and Velazquez vs. Teodoro, 46 Phil., 757.)

Article 451 of the same Code provides:

"ART. 451. Fruits received by one in possession in good faith before possession is legally interrupted become his own.

"Natural and industrial fruits are deemed to have been received as soon as they are gathered or harvested.

"Civil fruits are deemed to accrue from day to day, and belong to the possessor in good faith in this proportion."

In his comments upon this article of the Civil Code, Manresa, among other things, says:

"But to every possessor in good faith there comes a time when he is considered a possessor in bad faith. When the owner or possessor with a better right comes along, when he becomes aware that what he had taken for granted is at least doubtful, and when he learns the grounds in support of the adverse contention, good faith ceases. The possessor may still believe that his right is more secure, because we resign ourselves with difficulty to the sight of our vanishing hopes; but when the final judgment of the court deprives him of the possession, all illusion necessarily disappears. Although he may not have been convinced of it before, the possessor becomes aware that his possession is unlawful from the time he learns of the complaint, from the time he is summoned to the trial. It is at this time that his possession is interrupted, according to article 1945, and that he ceases to receive the fruits, according to the first paragraph of article 451. The ruling of the court retro acts to that time; but shall good faith be deemed to cease then? Although there is a great difference between requiring the possessor in good faith to return the fruits he received from the time when his possession was legally interrupted, and considering him a possessor in bad faith for all legal purposes from that time, the law had to establish a definite rule in the matter, which is none other than that deducible from a combination of articles 452, 1945, and 435. Whether or not the defendant be a possessor in good faith, for there is no doubt that he can be, and the law makes no attempt to deny it, from the service of judicial summons, there exists an act that this possessor knows that his right is not secure, that someone disputes it, and that he may yet lose it; and if the court holds that restitution be made, that time determines all the legal consequences of the interruption, the time when the possession in good faith ceased to be so before the law,

"The decisions of April 27, 1877, April 22, May 10, and June 13, 1878, February 11, and October 5, 1885, March 17, 1891, March 4, and May 17, 1893, held that good faith ceased when the answer to the complaint was filed, taking this doctrine from the Partidos. By analogy, the service of the summons, doubtless more certain and more difficult to evade, is now admitted, according to articles 451 and 1945 of the Code, and it is in this sense that the decisions of the Supreme Court of January 28, 1896, December 7, 1899, November 23, 1900, and July 11, 1903, must be understood, all of them holding that even the possessor in good faith must return the fruits received from the time the answer to the complaint was filed, that is, from the time he became aware that he was in undue possession" (Manresa, Commentaries on the Spanish Civil Code, vol. 4, pp. 270, 271.)

By virtue of the foregoing, the judgment appealed from must be, as it is hereby, affirmed in so far as it holds that the plaintiffs are the owners of the lands in question, and that the defendant is bound to return them to the former.

And with regard to the award of damages, said judgment is hereby modified so that the defendant is only bound to return to the plaintiffs the fruits received from April, 1918 to 1927, that is, 300 sheaves of rice and 300 manos of tobacco, with the right to deduct the expenses of planting and harvesting (art. 365 of the Civil Code), which shall be determined by the trial court, after hearing both parties.

The appellant shall pay the costs of this trial. So ordered.

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

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