

DIRECTOR OF LANDS, APPLICANT, VS. FELIX ABELARDO ET AL, CLAIMANTS. MANUEL LIBUNAO ET AL., CLAIMANTS AND APPELLEES. MAGDALENA DIFTO ET AL., CLAIMANTS AND APPELLANTS.

G. R. No. 31354. February 05, 1930

Ponente: ROMUALDEZ, J.

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ROMUALDEZ, J.:

body { font-family: Verdana, Geneva, Arial, helvetica, sans-serif; font-size:80%; background-color:#FFFFFF; margin:0 2% 0 2%; text-align: justify; } h1 { font-family:times; } h2 { background-color:#cccccc; padding:10px 0 10px 0; font-weight: bold; text-align: center; } h3 { font-weight: bold; text-transform: uppercase; text-align: center; } div#footer { font-size:9px; }The litigation as presented in this appeal refers to lots Nos. 773 and 810, of the above entitled case, adjudicated by the Court of First Instance of Bulacan as follows: One-half of lot No. 773 to Manuel Libunao, and the other half to the conjugal partnership of said Libunao and his wife. Lucia Evangelista; two-thirds of lot No. 810, to the conjugal partnership of Teodora Evangelista and Pedro C. Bias, subject to the right of Manuel Libunao and his wife Lucia Evangelista to repurchase the same for P18,892 within the period of five years from May 23, 1928, and the other third to Maria Gabriel.

These adjudications were made in separate decisions, which have now been appealed, the appellants assigning the following alleged errors as committed by the court below:

"1. The trial court erred in holding that a partition of the estate left by the deceased spouses Toribio Dino and Emeteria Ballesteros had already been made.

"2. The trial court erred in holding that the failure of Fulgencia and Jose Dino by themselves or by their predecessors to register any claim or action until they presented their claims in these cadastral proceedings is evident proof that they have no right to the lands in question.

"3. The trial court erred in not holding that the state of dependence of claimants Fulgencia and Jose Dino, who were born deaf-mutes, has prevented the running of any prescriptive period against them.

"4. The trial court erred in dismissing the claims of Fulgencia and Jose Dino to both lots Nos. 773 and 810."

While the appellees contend that the two lots in question, Nos. 773 and 810, belonged to Ciriaco Libunao and Tomasa Dino, from whom they were inherited by their children Manuel, Delfin, and Ines, and that the latter partitioned the inheritance in such a way that Manuel acquired from his brother Delfin the latter's portion of the lots in question, the appellants allege that these lots belonged to Emeteria Ballesteros, wife of Toribio Dino, grandparents of said Manuel, Delfin, and Ines, surnamed Libunao, as well as of the appellants Clemencia or Fulgencia, and Jose,, surnamed Dino, and that the property of said predecessors in interest is still undivided, wherefore, the appellants pray that the two lots here in question be adjudicated to them.

In support of their respective allegations, the parties presented parol evidence. The appellees, in addition,

presented documentary evidence.

It is a proven and undisputed fact that after the death of Emeteria Ballesteros, which took place in 1899, Ciriaco Libunao, the father of the appellee Manuel Libunao, and afterwards, his children, are the ones who possessed those lands until 1910, when Delfin Libunao sold his portion to Manuel Libunao, and the latter, in turn, in 1920, sold part of lot No. 810 to the spouses Pedro Bias and Teodora Evangelists and later, Ines Libunao also sold her portion of said lot No. 810 to Maria Gabriel. After said conveyances, the spouses Pedro Bias and Teodora Evangelista and Maria Gabriel have possessed the portions purchased by each of them. Manuel Libunao has been in possession of the remainder of these lots up to the present time.

The appellees allege, and have introduced evidence to the effect, that lot No. 773 once belonged to Teodora Pineda, great-grandmother of the appellee Manuel Libunao, and that she donated the land to Tomasa Diiio, wife of Ciriaco Libunao, these spouses being the parents of said litigant Manuel Libunao; that lot No. 810 was acquired by his father by purchase from Maximina, Francisca, and Perfecto, surnamed Macapagal through the documents which constitute Exhibit A-4 (pages 24 to 37, of documentary evidence); Manuel Libunao adds that after the death of his mother Tomasa Diiio, and when his father contracted a second marriage with Antonia de Leon, he delivered to him the possession of the lot No. 810, because he, Manuel Libunao, was the eldest child; that these lands were mortgaged to the spouses Gerardo Diaz and Petrona Encarnado, from whom they were redeemed about the year 1906 (Exhibits A-5 and A, pages 38 and 1, respectively, of the documentary evidence) by Ciriaco Libunao and his children, among the latter the herein appellee Manuel Libunao; that in the year 1910, said father and children by his first marriage, perhaps in order to avoid possible difficulties arising from the said Ciriaco Libunao's second marriage, agreed to partition the property left by the deceased Tomasa Dino, wife and mother, respectively, and they executed the deed Exhibit B, pages 5-9 of the documentary evidence; that these lots have been assessed in the name of Manuel Libunao from the year 1906, there having been presented in support thereof, tax declarations Exhibits A-3 and X-I (pages 23 and 40 of the documentary evidence).

These facts are, in our opinion, sufficiently proved, and it appears therefrom that Ciriaco Libunao and his children have possessed and still possess, and are making use of these lands, as the true owners since the time of the Spanish Government.

Celedonia Flores, witness for the appellants, testified that Emeteria Ballesteros was the one who had these lands tilled, and after her death, Esteban Dino, husband of said witness, had them tilled; that after Esteban Dino's death, Ciriaco Libunao, her concunado and father of the appellee Manuel Libunao, proposed to till them himself, as she, the witness, was a woman, and so said Ciriaco Libunao came into possession of the land; that the latter took the documents from her; that the appellants Clemencia and Jose Dino whenever they were in needs always appealed to their cousins Libunao, and if they failed to do anything, they went to Celedonia Flores and her relatives; that the Libunaos sometimes gave said appellants a ganta, sometimes two gantas, and even at times a cavan of un-hulled rice. This testimony, in our opinion, preponderates the evidence presented by the appellees.

Julian Ignacio, another witness for the appellants, asserts that it was Emeteria Ballesteros who started to till the lands and which, upon her death, passed to the possession of Ciriaco Libunao; that the appellants were given support, but not a share in the crops. We italicize these last words because they show that Libunao's possession of the lands in litigation was exclusive.

And we arrive at this conclusion, inasmuch as, even supposing that the evidence of the appellees in regard to the ownership of the lands did not preponderate (we believe it does), there is still the prescription in their favor inasmuch as the continued possession by the appellees of the land in question, which is exclusive as has been seen, not only because it so appears from the evidence of the appellees, but also because the appellants' own

witness, Julian Ignacio, testified to that effect, operates as an extinguishment of any right which the appellants may have had to said lands, unless there is another legal reason to prevent this conclusion.

And this possible reason is merely the alleged incapacity of the appellants, due to their being deaf-mutes. Such a physical condition is no obstacle to the running of the prescriptive period; since it has been proved in this case that it was not accompanied by mental deficiency or any other legal incapacity. Being a deaf-mute is not by itself alone, without the concurrence of any of the incapacities recognized by law, considered included among the exceptions which in matters of prescription, are granted to incapacitated persons, in connection With the running of the prescriptive periods.

"The old doctrine that a deaf-mute was presumed to be an idiot no longer prevails, and such persons are now held capable of entering into contracts if shown to have sufficient mental capacity." (Alexier vs. Matzke, 151 Mich., 36.)

"Where one was born deaf and dumb, but had his intellectual faculties, though these were not improved by the modern system of education for persons of that class: Held, that he was not within the exception of the statute of limitations, which only excepts him, who is non compos mentis." (38 N. C. Ire. Eq., 535. [1])

Finding no merit in the assignment of errors, the judgments appealed from are hereby affirmed, with costs against the appellants. So ordered.

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

[1] Christmas vs. Mitchell.

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