

CIRILO DADIVAS ET AL., PLAINTIFFS AND APPELLANTS, VS. RUPINA BUNAYON, DEFENDANT AND APPELLEE.

G. R. No. 31977. March 22, 1930

Ponente: VILLAMOR, J.

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VILLAMOR, 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 plaintiffs seek to recover from the defendant the land described in the complaint, to wit:

"A parcel of land situated in the barrio of Aranguel, municipality of Pilar, Province of Capiz, P. I., about thirty (30) hectares in area, more or less; bounded on the north by Marita Creek; on the east by the same Marita Creek and the properties of Narciso Beltran and that of Palmo Dadivas now in possession of Juan Alcantara; on the south by that of Palmo Dadivas and that of Jose Torres, formerly, and the Tinundan Creek; and on the west by that of Natalio Ortencio and swamp (mangles)."

The plaintiffs allege that they are the real owners of the land in question; that in or about 1919 the defendant succeeded in entering upon said land through trickery and deceit, and still continues to occupy it, in spite of repeated demands for its return, and that by reason of said illegal possession the plaintiffs have been damaged in the amount of P8,000.

The defendant answered with a general and specific denial, and in a special defense alleges that she is the absolute owner and tenant of the land which in her answer is described as follows:

"A parcel of land situated at Marita, in the barrio of Aranguel, municipality of Pilar, Province of Capiz, P. I., about thirty hectares in area, more or less; bounded on the north by the Marita Brook, and property belonging to Natalio Ortencio; on the east, by property belonging to Damaso Bunayon and to Nazario Beltran; on the south, by the Tinundan Brook, the estate of the heirs of Benusa; and on the west, by Cabugcbug River." That said defendant has been in possession of the land thus described openly, peacefully, adversely, and as owner thereof for over thirty years, without any interruption; that the plaintiffs have no legal personality to bring this action; and that the facts set forth in the complaint do not constitute a cause of action.

The case being duly tried, the court absolved the defendant Rufina Bunayon, from the complaint, declaring her to be the owner of the parcel of land, which, in accordance with the evidence, is thus described:

"A parcel of land situated in the barrio of Aranguel, municipality of Pilar, Province of Capiz, P. I., about thirty (30) hectares in area, more or less; bounded on the north by Marita Creek; on the east by the same Marita Creek, and the properties of Narciso Beltran and that of Palmo Dadivas, now in possession of Juan Alcantara; on the south by that of Palmo Dadivas and that of Jose Torres, formerly, and the Tinundan Creek; and on the west by that of Natalio Ortencio and swamp (mangles)." The court likewise ordered the depositary to make

immediate delivery of the land to the defendant, with costs against the plaintiffs.

The plaintiffs appealed from this judgment. Of the ten assignments of error, the eighth refers to the identity of the land in question. The appellants contend that the trial court erred in holding that the land in litigation is that described in the defendant's answer, and not that described in the complaint. This requires some explanation. Comparing the descriptions of the parcel of land contained in the complaint and in the answer, we find some disparity in the names of the abutting landholders, although the natural boundaries appear to be identical. The plaintiffs went into court claiming the land held by the defendant, and we share the opinion with the court below, that the land in question is that described in the answer, that is, the land held by the defendant. If the plaintiffs claimed any other land, they would not have brought the action against the defendant. Besides, the witnesses presented by both parties referred to the land held by said defendant. We are therefore of opinion that the judgment of the court below, in so far as it refers to the land described in the answer, is supported by the allegations and by the evidence.

Five of the errors assigned by the appellants refer to the efficacy of their documental evidence, designated Exhibit A, alleged to be a possessory information initiated in 1894. As to this, the trial court made the following analysis in its decision: "The plaintiffs base their alleged ownership of the land described in Exhibit A which they claim to be a possessory information, but a mere glance will show that Exhibit A is not recorded in the registry of deeds of the province; that it contains many interpolations, erasures, questionable alterations, scratches, and the signature of a single person written in several hands and with different inks, and that the provisos are written in an ink different from that used in the body of the document. The first pages of Exhibit A consist of sheets stamped with high numbers, from N, 5, 356,181 upward, and the rest or continuation is on paper with lower numbers, from N, 2, 286, 045 upward. This shows that Exhibit A was not yet finished, and if it was, some pages have been torn from it, the contents of which might be injurious to the plaintiffs' contention; that they therefore sought stamped paper as used by the Spanish government, which they doubtless found, and taking from Exhibit A what was objectionable, they substituted therefor what they needed, making use, to be sure, of other stamped sheets, which may still be had in some places in the Philippines—(and the undersigned, as provincial fiscal, has had to prosecute certain individuals who, in cadastral proceedings, had the temerity to present in evidence possessory informations which proved to be forgeries made upon said stamped paper).

"The limits or boundaries of the land in said Exhibit A do not tally with those of the parcel of land described in the complaint. Exhibit A thus describes it:

"Bounded on the north, by the Marita Brook; on the east, by the Estate of D. Alvaro Alcantara and that of D. Lucio Dogala, as well as said Marita Brook; on the south, by mangrove land and the Estate of D. Alvaro Alcantara; and on the west, by said Marita Brook, and the Estate of Fructuoso Ortencio, that of Esteban Botigon, and by mangrove land.'

"The plaintiffs have failed to give a satisfactory explanation of this evident and material disparity."

We have examined the record, bearing in mind the errors assigned dealing with said document Exhibit A, and have found the court's criticism fully justified.

With regard to the payment of the land tax, suffice it to say that the judgment was not based on this fact, which is only mentioned in explanation of the defendant's possession. The judgment appealed from reads: "Although the payment of the land tax is not conclusive proof of ownership, it may, nevertheless, be taken into account in this particular case in favor of the defendant, that the plaintiffs have never paid said tax, while the defendant has faithfully done so ever since 1913, Why have they not paid? The plaintiffs have failed to explain, even remotely."

As to whether the appellants inherited the land from their grandmother Isidora Bermejo, it appears from Exhibits 1, 2, and 3, of the defendant, that the land in question was not included in the inventory of the intestate estate of

said Isidora Bermejo.

Inasmuch as it has been proved that the defendant had been in possession of the land for over forty years when the instant action was instituted, without anybody having alleged a right thereto until the filing of this complaint in 1924, we are of opinion and so hold that the assignments of error relative to the ownership of the land are without merit, and that the court below rightly held the defendant to be the owner of the land in question. And the judgment appealed from being in accordance with law, it must be, as it is hereby, affirmed, with costs against the appellants. So ordered.

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

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