

LEDESMA HERMANOS, APPLICANT AND APPELLANT, VS. INES CASTRO, CONCEPCION CASTRO AND DOLORES CASTRO, OPPONENTS AND APPELLANTS. RAFAEL SANTOS ET AL., OPPONENTS AND APPELLEES.

G.R. No. 32944. November 04, 1930

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

This is an appeal taken by the applicant entity, Ledesma Brothers, on the one" hand, and by the opponents Ines, Concepcion, and Dolores Castro, on the other, from the decision of the Court of First Instance of Capiz rendered in cadastral case No. 109, G. L. R. O. record No. 29591, the dispositive part of which reads as follows:

"Wherefore, the court, having entered a declaration of general default and disallowed the conditions suggested by the Director of Lands and the three sisters, Ines, Concepcion, and Dolores Castro, does hereby order the confirmation and registration of the title to the two parcels of land described in the application filed by the Ledesma Brothers, and known as parcel No. 1, Exhibit B, and parcel No. 2, Exhibit C, with the improvements thereon, in the name of the partnership Ledesma Brothers, of Iloilo, Iloilo, P. I., excluding lot 1-E, which the court deems to be the property of the spouses Rafael Santos and Albina Lopez; excluding, likewise, lots 1-C, 1-D, and parts 6 and 7 of lot 1-B, which belong to Nicolas Borci, and part 8 of lot 1-B, belonging to Marcos Birco, all of which are within the second parcel, Exhibit C, and with respect to such the application of Ledesma Brothers is dismissed. So ordered."

In support of their appeal, the Ledesma Brothers assign the following alleged errors as committed by the court below in its decision, to wit:

"1. The lower court erred in holding that Dr. Rafael Santos and his wife have shown that lot 1-E was acquired by them from Nicolas, Dionisia, and the Alba Brothers, children of the deceased Clemente Alba, and that they and their predecessors in interest have together been in possession thereof for over thirty-five years, planting sugar cane and rice on the land, collecting the fruits, and paying the land tax.

"2. The lower court erred in finding that, for failure on the part of Ledesma Brothers to object to the application filed by the Santos couple in proceedings No. 114, with reference to the land designated in the instant proceedings (No. 109) as lot 1-E, the decision rendered in the first-named proceedings has become final and enforceable against Ledesma Brothers, and constitutes res adjudicata with respect to the aforesaid lot 1-E.

"3. The lower court erred in holding that the applicant partnership, Ledesma Brothers, filed no objection in proceedings No. 114, notwithstanding the fact that all the legal steps and requirements were observed therein, including the publication, aside from the fact that Ledesma Brothers had previously made the instant application in proceedings No. 109, where it appears in the plan Exhibit C, that lot 1-E is a part of the land applied for in said proceedings No. 114 by the spouses, Rafael Santos and Albina Lopez, so that the Ledesma Brothers were and are debarred from alleging ignorance of the matter.

"4. The lower court erred in sustaining the objection filed by the spouses Rafael Santos and Albina Lopez with

regard to lot 1-E of the second parcel described in the plan Exhibit C.

"5. The lower court erred in excluding lot 1-E from the application, on the ground that it belongs to the spouses, Rafael Santos and Albina Lopez.

"6. The lower court erred in denying the motion for a new trial filed by the applicant Ledesma Brothers.

"7. The lower court erred in rendering judgment in favor of the oppositors, the spouses Rafael Santos and Albina Lopez, and against the applicant on lot 1-E of the second parcel described in plan Exhibit C."

On the other hand, Ines, Concepcion, and Dolores Castro, assigned the following alleged errors as committed by the lower court in its decision, to wit:

"1. The trial court erred in holding that the oppositors Ines, Concepcion and Dolores Castro had already received the value of their shares in the lands in litigation.

"2. The trial court erred in not adjudicating to the oppositors Ines, Concepcion and Dolores Castro three-tenths of the lands now in question.

"3. The trial court erred" in dismissing the opposition of the oppositors Ines, Concepcion and Dolores Castro and in adjudicating the lands in litigation to 'Ledesma Hermanos.' "

The applicant-appellant Ledesma Brothers attempted to prove the following:

That the parcel of land described in plan Exhibit C originally belonged to Alvaro Alcantara who had purchased it in the year 1892, and who planted sugar cane and built a 6-horsepower sugar mill thereon. During the revolution he planted it to rice and corn, setting aside a certain portion as pasture land for his animals, which consisted of one hundred and fifty head. On February 13, 1912, Juan Alcantara, in behalf of his mother Vicenta Ardana and his brother Alvaro Alcantara, who had succeeded their predecessor in interest, Alvaro Alcantara, sold that parcel to Teodoro Sison (Exhibit D), who was in peaceful possession thereof until 1918, when he, in turn, sold it to his brother Ambrosio Sison (Exhibit E), who also remained in possession under title of sole ownership, until the year 1922, when he sold it to the herein applicant-appellant Ledesma Brothers (Exhibit F).

After the latter had filed their application in registration proceedings No. 109, Nicolas, Anatolia, Gliceria, and Dionisia Alba, brother and sisters, who had not been notified of said application, themselves applied for the registration of title to a certain parcel of land including said lot 1-E on said plan Exhibit C, in proceedings No. 114, which were tried and decided by the lower court before the instant proceedings, the Director of Lands being the only opponent who entered an appearance, and in consequence the title to the parcel applied for by the Albas was confirmed and registered in the name of the spouses Rafael Santos and Albina Lopez, who had in the meantime acquired the rights of said applicants (Exhibit 85),

The Director of Lands appealed to this court from that decision and the case was docketed as G. R. No. 31995. Upon petition of the Attorney-General, acting in behalf of said Director of Lands, the appeal was dismissed by a resolution dated April 14, 1930. Subsequent to the dismissal of said appeal, or, on April 8, 1930, the applicant-appellant Ledesma Brothers moved to be allowed to present an objection in said proceedings No. 114, but the motion was denied by this court.

At the hearing of the instant proceeding, Rafael Santos and Albina Lopez, opponents and appellees, who had, as we have stated, acquired the rights of the Albas to lot 1-e on plan Exhibit C, tried to support their opposition to the application for registration by Ledesma Brothers by presenting the decision rendered in registration proceedings No. 114 (Exhibit 85) as documentary proof, and by adducing parol evidence through several witnesses, showing preponderantly that they and their predecessors in interest had indeed been in continuous and public possession,

and under claim of ownership, of the lot in question for over thirty-five years, planting it to rice and sugar cane and gathering the crops therefrom.

The opponents and appellants, Ines, Concepcion, and Dolores Castro, attempted to prove the following facts:

That in registration proceedings No. 49, G. L. R. O. record No. 14092, tried before the Court of First Instance of Capiz, wherein Teodoro Sison sought to have his title to the parcel of land described in the plan Exhibit C confirmed and registered, Anacleto Cortes Vda. de Castro filed an objection on the ground that the parcel, which at that time comprised three lots of land, belonged to her. In view of this objection, Ambrosio Sison, who had acquired the rights of his brother Teodoro Sison, invited the opponent on October 12, 1920, to go with him to the land and point out the portions which she claimed belonged to her. Convinced of her right, not only by what she had told him, but also by the documents she showed him at his request, Ambrosio Sison entered into an agreement with her whereby both she and her sons Francisco and Fernando Castro waived their rights to the land in consideration of the amount of P14,000 which was paid by Ledesma Brothers for Ambrosio Sison's account (Exhibit 66 and Exhibit G). On July 1, 1921, Ambrosio Sison sold his rights to said lots to Ledesma Brothers (Exhibit F).

The opponents-appellants Ines, Concepcion, and Dolores Castro, are sisters of Francisco and Fernando Castro, and children of Anacleto Cortes Vda. de Castro, who, at the time the three last entered into that agreement with Ambrosio Sison in the course of registration proceedings No. 49, G. L. R. O. record No. 14092, were minors under the guardianship of their mother. The three lots conveyed by the agreement, which comprise the parcel of land shown in the plan Exhibit C were conjugal property acquired by Anacleto Cortes Vda. de Castro with her late husband, one-half of which belonged to her and the other half to her five children, namely, Fernando, Francisco, Ines, Concepcion, and Dolores Castro in undivided ownership. When Ambrosio Sison entered into the agreement with Castro's widow and her two sons upon the land with regard to which the latter had objected to the application for registration, he was aware that the present opponents and appellants were minors under the judicial guardianship of their mother and that the latter had no authority from the court to sell their share in said land, which consisted of three-tenths of the whole, or one-tenth for each.

The only questions to be decided with respect to the appeal taken by Ledesma Brothers are: (1) Whether the decision rendered in registration proceedings No. 114, adjudicating lot 1-e as shown in plan Exhibit C, to the spouses Rafael Santos and Albina Lopez is res adjudicata in the present case; and (2) whether said spouses have shown conclusively that they are owners of lot 1-e.

Without deciding whether registration proceedings No. 114 leading up to the adjudication of the lot applied for, which is that designated as 1-e on plan Exhibit C herein, of the said cadastral case No. 109 to the defendants-appellees, Rafael Santos and Albina Lopez, were regular or irregular; and without passing upon the right of the applicant-appellant herein the Ledesma Brothers, to ask for a review of the decree issued in pursuance of said adjudication, a preponderance of the evidence shows that Rafael Santos and Albina Lopez are entitled to the lot in question, not only by virtue of a title but also of possession, accompanied by all the requirements of the law.

With respect to lot 1-e, on plan Exhibit C, the trial court, then, did not incur the error imputed to it.

The only question to be decided with respect to the appeal taken by opponents Ines, Concepcion, and Dolores Castro, is whether they have lost all rights to the three lots which Teodoro Sison, in proceedings No. 49, G. L. R. O. record No. 14092, applied to have registered in his own name, with the objection of Anacleto Cortes Vda. de Castro, in consequence of the agreement signed by the latter and her sons Francisco and Fernando Castro on the one hand, waiving their rights to said land, and by Ambrosio Sison and Ledesma Brothers on the other hand.

The record shows that at the time of the agreement, the opponents and appellants herein, Ines, Concepcion, and Dolores Castro, were minors under the judicial guardianship of their mother Anacleta Cortes Vda. de Castro. Inasmuch as it does not appear that at the time of the agreement entered into with Ambrosio Sison and the Ledesma Brothers with regard to those lots, Anacleta Cortes Vda. de Castro acted in behalf of said minor children, not that she had authority from the court to that end, as required by section 569 of the Code of Civil Procedure, that agreement is null and void in so far as said minors are concerned, and does not affect their rights to those lots. The opponents-appellants Ines, Concepcion, and Dolores Castro, are each of them entitled to one-tenth of those three lots in undivided ownership.

By virtue whereof, the judgment appealed from is reversed in so far as it dismisses the opposition filed by Ines, Concepcion, and Dolores Castro, with regard to three-tenths of the land applied for by Ledesma Brothers in undivided ownership, and said opposition is hereby admitted; in all other respects the judgment is affirmed with costs against the appellant entity.

Inasmuch as the three-tenths with regard to which the Castro sisters objected belong to them in undivided ownership, it is ordered that the case be remanded to the Court of First Instance of Capiz with instructions that it proceed by separate trial to the partition of the three lots sold by Anacleta Cortes Vda. de Castro and her two sons, Francisco and Fernando Castro, to Ambrosio Sison and by the latter, in turn, to the Ledesma Brothers, by virtue of the deed Exhibit 66, and the determination of the three-tenths and its segregation from the proper plan or plans; thereafter and once the plans have been amended, the ownership of the seven-tenths shall be adjudicated to the applicant Ledesma Brothers, and that of the remaining' three-tenths to Ines, Concepcion, and Dolores Castro equally in undivided ownership. So ordered.

Johnson, Street, Malcolm, Villamor, Ostrand, Johns, and Romualdez, JJ., concur.

Judgment modified.

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