

VALENTIN LACUESTA ET AL., PLAINTIFFS AND APPELLANTS, VS. PATERNO GUERRERO ET AL., DEFENDANTS AND APPELLEES.

G.R. No. 3571. October 03, 1907

Ponente: WILLARD, J.

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WILLARD, J.:

The plaintiffs brought this action of ejectment in the Court of First Instance of Ilocos Norte on the 14th day of January, 1905, against Paterno Guerrero, Mariano Guerrero 2d, Enrique Inovejas, Doroteo Ines, and Placida Ibañez. Judgment was rendered in that court in favor of the defendants, and the plaintiffs have appealed.

We do not think it necessary to consider what title the great grandfather of the plaintiffs acquired by the document of the 21st of February, 1797, nor whether the lands described in that document are the lands here in controversy, for assuming that they are the same lands, and that the grandfather of the plaintiffs, Hipolito Esteban, was the owner thereof in 1833, we think that the defendants have acquired title thereto by prescription.

As to three of the defendants, Paterno Guerrero, Mariano Guerrero, and Enrique Inovejas, it is undisputed that they and their ancestors have since 1833 been continuously in the actual possession of the tracts of land now occupied by them. That is to say, the lands now occupied by these defendants have not been in the possession of the plaintiffs and their ancestors for more than seventy years.

The plaintiffs allege that these three defendants have not acquired title by prescription because they have been holding the property as tenants of the plaintiffs and of their ancestors.

When Hipolito Esteban, the grandfather of the plaintiffs, commenced an action in 1833 to recover the lands from the ancestors of the defendants, an action which lasted for more than sixty years, he alleged in his complaint that he had rented the lands to the defendants for four years, but he also alleged that when he demanded of the defendants the return of the property to him the defendants then stated that they were the owners thereof.

There is no evidence in the case to prove the allegation in the complaint of Hipolito Esteban to the effect that he had rented the land to the then defendants. The document of the 3d of September, 1827, clearly refers to lands which belonged to Dionisio del Rosario and, moreover, that document makes no reference to the lease of any lands by Hipolito Esteban for the term of four years.

We do not understand that as to these three defendants the plaintiffs claim that the possession was interrupted by the suit which was commenced in 1833 and abandoned either in 1895 or 1899, but even if such a claim were made it could not be sustained. The general rule declared in article 1946 of the Civil Code is to the effect that a suit brought and abandoned, or decided against the plaintiff, is considered as never having been commenced so far as the statute of limitations is concerned.

As to the other two defendants, Doroteo Ines and Placida Ibañez, a different question is presented, which requires a statement of some of the proceedings taken in the action above referred to.

As has been said, the complaint in that action was filed by Hipolito Esteban on the 5th day of October, 1833. On the 1st day of July, 1843, he asked that the proceedings be continued. On the 22d day of April, 1844, he presented a motion in which he stated that the defendants had not answered and asked that he be put into possession of the property. No action was taken, apparently, upon this motion, and nothing further was done in the suit until the 22d day of March, 1876. Hipolito Esteban had then died and his two daughters, Sebastiana and Rufina, on the day last mentioned, presented a motion in which, after relating what had been done in the case, they stated that after the death of their father the defendants had unlawfully taken possession of all the other property owned by their grandfather, and they asked that a summons be issued against the defendants or their heirs. This summons was served on the 30th day of April, 1876, on Felipe Santiago, Fruto Cristobal, Paterno Guerrero, Mariano Guerrero, and Enrique Inovejas. On the 16th of October, 1877, a judgment by default was entered against all of the defendants except Paterno Guerrero, Mariano Guerrero, and Enrique Inovejas. The defendants so defaulted were more than twenty-five. In this same order of the 16th of October, 1877, the judge directed that the plaintiffs be put in possession of the tracts of land occupied by those declared to be in default, and this order in regard to possession was carried out on the 26th of October, 1877, and the then plaintiffs were put in possession of the lands then occupied by the defendants declared to be in default.

The parol evidence tends to show that the then plaintiffs remained in possession of the property so delivered to them about twelve years. On the 12th of January, 1888, an order was made setting aside and declaring void the order of the 16th of October, 1877, and restoring the case to the status of a summons with the term within which to answer the complaint, and declaring prior proceedings null. It was also ordered that the lands should be restored to the possession of the defendants. In 1892, in proceedings taken to put the defendants in possession, it appeared that the lands were then possessed by a receiver appointed by the court. Some question is made by the appellants in their brief as to the result of these proceedings, they claiming that the defendants were not restored to possession by virtue thereof. We consider that immaterial, for it appears by parol and other evidence that the defendants did regain possession of the property long prior to the commencement of this action.

The last step taken in the action by the regularly constituted judicial authorities was on the 25th of September, 1895. Some proceedings were taken in 1899 before so-called judicial authorities of the pretended Filipino government, but the last proceeding taken before them was on the 23d day of November, 1899. That the plaintiffs have abandoned that suit is very clear. In fact we do not find in the brief of the appellants any claim to the contrary.

The question to be decided is, What effect did the possession given to the plaintiffs in 1877, and held by them for ten or twelve years, produce upon the running of the statute of limitations in favor of the defendants? This statute commenced to run in 1833, and if its running was not interrupted by this possession given in 1877 then the two defendants Doroteo Ines and Placida Ibañez stand in the same position as the other defendants. It is apparent that the defendants did not, in 1877, voluntarily abandon the possession of the land, nor did the plaintiffs enter thereon by virtue of their own independent acts. They were given possession of the property by virtue of an order of the court in the then pending suit. That the order was merely provisional appears by the terms thereof. It is said therein:

"Let an order be issued to the gobernadorcillo of the town of Badoc, to put the plaintiffs, immediately and with all the formalities, in possession of the lands now under control of the contumacious parties in Marnay and Nagabuuban, as well as of the dam and irrigation ditch, without prejudice to the result of the suit."

The plaintiffs were by the order made receivers of the property for the time being. As the action itself—it having been abandoned by the plaintiffs—did not interrupt the possession of the defendants, so no proceeding taken therein and as a part thereof could produce such a result. This order was no more than an incident in the suit,

subject to be reversed or vacated by the court which made it. We accordingly hold that it did not have the effect of interrupting the running of the statute of limitations in favor of these two defendants. No action for the recovery of real estate can prevail against an adverse possession held for more than seventy years.

The judgment of the court below is affirmed, with the costs of this instance against the appellants.

Arellano, C. J., Torres, Johnson, and Tracey, JJ., concur.

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