

FRANCISCO ALDAMIS, PLAINTIFF AND APPELLEE, VS. FAUSTINO LEUTERIO, DEFENDANT AND APPELLANT.*G.R. No. 3587. October 02, 1907*

Ponente: WILLARD, J.

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The plaintiff brought this action in the Court of First Instance of the Province of Mindoro to recover of the defendant 50,400 pesos damages suffered by the plaintiff, by reason of the fact that the defendant had unlawfully taken possession of the hemp estate of the plaintiff, situated in the town of Pola in said province, and had worked the same for nearly one year. Judgment was entered in the court below in favor of the plaintiff for the sum of 10,000 pesos, and from that judgment the defendant has appealed.

That the defendant took possession of and worked the hemp estate of the plaintiff without his consent for some time during the year 1898 is admitted. The questions that are disputed are, During what time was the defendant in possession? and What amount of hemp did he take from the estate?

Upon the first question the plaintiff testified that the defendant was in possession from November to April. His two witnesses testified that they worked for the defendant upon the estate for six months, but upon cross-examination they admitted that they commenced to work about the first of November and could not tell when they finished. We are satisfied from all the evidence in the case that the claim of the defendant is correct, and that he was in possession of the estate for about two months and a quarter, or from the latter part of October, 1898, until the first of January, 1899.

As to the second question, concerning the amount of hemp which the estate produced at that time, there is a marked conflict in the evidence. The defendant offered in evidence, and there was received at the trial, a document which he claimed was an account kept by him at the time, which account contained the names of all the workmen who had been employed upon the estate, the days when each of these men worked, and the amount of hemp which they produced each day.

According to this account, the entire amount produced while the defendant was in possession was less than 40 piculs. We can not accept this paper as a correct statement of the amount produced. By agreement between the parties the testimony of seventeen witnesses was received to the effect that each one of them had worked for the defendant upon the estate for the length of time testified by the two witnesses whose names have been hereinbefore mentioned. Of these seventeen, seven apparently do not appear at all in the defendant's list. According to this list, the witness Gerardo Lambon worked only eleven days during the three months. This statement is entirely inconsistent with his testimony at the trial. Apart from this statement of the defendant, the only other evidence in the case relating to the amount produced is that of the plaintiff. He testified positively that his estate produced on an average of more than 200 piculs a month and that during the last year in which he was in possession it produced more than that amount per month. The appellant in his brief claims that if this testimony of the plaintiff is true, his estate must have produced, in 1897, 151,828,800 kilograms of hemp, and he says that

this was more than was produced in the whole Archipelago during that year. The appellant, however, in his mathematical computation has made the mistake of considering that there is in each picul 63,262 kilograms instead of 63 kilograms and a fraction. The defendant on cross-examination stated that he had a hemp estate of his own which he had worked for sixteen years. When asked what the average monthly production of his own estate was he testified that he could not remember. Neither could he remember how much was produced during the last year.

The preponderance of the evidence is to the effect that the estate produced, or ought to have produced, during the months of October, November, and December, 1898, 200 piculs a month. The amount for which the defendant is answerable is correctly stated in the last part of page 24 of his brief—that is, that the value of the product during these months was 6,600 pesos. It was proved that two-thirds of this amount was delivered to the workmen and that the owner received only one-third, which would be 2,200 pesos. It is admitted that the defendant delivered to the plaintiff 10 piculs, which were worth 130 pesos. This deducted from 2,200 pesos leaves 2,070 pesos for which the plaintiff is entitled to recover in this action.

The plaintiff also claims to recover damages caused by the deterioration of the estate while in possession of the defendant. His claim in this respect can not be sustained for two reasons. In the first place, the evidence is insufficient to show the amount of such damages. The plaintiff when asked what the damages were said he could not state, but afterwards said that they were between three and four thousand pesos. In the second place, whatever damage was thus suffered was caused between the time the plaintiff lost possession in May, 1898, and the time when he recovered it in July, 1899. During this time the defendant was in possession for less than three months. For the damage caused by other persons he is not responsible and no attempt was made to show how much damage was caused to the estate while he, the defendant, was in possession thereof.

The defendant relies upon the following facts to relieve him entirely from liability in this action. The property of the plaintiff was seized in the first instance by revolutionary forces who entered the town in May, 1898, for the purpose of exciting an insurrection against the Spanish Government. Later a provincial governor was appointed by the so-called government of Malolos. Under this so-called government municipal elections were held in the town of Pola and the defendant was elected to and accepted office under such municipal government. The provincial governor ordered the municipal authorities of the town to take possession of this estate, which was already in their possession. Under this order the defendant claims that he took possession and worked the estate, acting in his capacity as a municipal officer of the de facto government.

These facts constitute no defense to this action. It will be observed that at the time these transactions took place the United States Government had acquired no rights over the Province of Mindoro. The insurrection there was against the Government of Spain. It is not necessary for us to decide, and we do not decide, whether Spain had conceded to the insurgents belligerent rights, for, assuming that such rights had been conceded, that fact would in no way protect the defendant in this case.

The case of *Williams vs. Bruffy* (96 U. S., 176) was a case in which the plaintiff, a resident of Pennsylvania, sought to recover from the defendant, a resident of Virginia, a debt due the plaintiff from the defendant for goods sold to the latter by the former prior to the civil war in the United States. The defendant's answer was that this debt had been confiscated by an act of the Confederate Government, that a legal proceeding had been commenced against him by that Government, and that he paid the amount due to the plaintiff to the Confederate Government. It was held by the Supreme Court of the United States that these facts constituted no defense, and that he was bound to pay the debt over again. The court said, among other things:

"No case has been cited in argument, and we think none can be found, in which the acts of a portion of a State unsuccessfully attempting to establish a separate revolutionary government have been sustained as a matter of

legal right. As justly observed by the late Chief Justice in *Shortridge & Co. vs. Macon*, decided at the circuit, and, in all material respects, like the one at bar, "Those who engage in rebellion must consider the consequences. If they succeed, rebellion becomes revolution, and the new government will justify its founders. If they fail, all their acts hostile to the rightful government are violations of law, and originate no rights which can be recognized by the courts of the nation whose authority and existence have been alike assailed."

And speaking of the concession of belligerent rights, the court further says:

"The concession made to the Confederate Government in its military character was shown in the treatment of captives as prisoners of war, * * * the release of officers on parole, and other arrangements having a tendency to mitigate the evils of the contest. The concession placed its soldiers and military officers in its service on the footing of those engaged in lawful war, and exempted them from liability for acts of legitimate warfare. But it conferred no further immunity or any other rights. It in no respect condoned acts against the Government not committed by armed force in the military service of the rebellious organization; it sanctioned no hostile legislation; it gave validity to no contracts for military stores; and it impaired in no respect the rights of loyal citizens as they had existed at the commencement of hostilities."

The court further said:

"It would be a strange thing if the nation, after succeeding in suppressing the rebellion and reestablishing its authority over the insurrectionary district, should, by any of its tribunals, recognize as valid the attempt of the rebellious organization to confiscate a debt due to a loyal citizen as a penalty for his loyalty. Such a thing would be unprecedented in the history of unsuccessful rebellions, and would rest upon no just principle."

This case is fully applicable to the case at bar and decisive of it. See also *Stevens vs. Griffith* (111 U. S., 48); *Baldy vs. Hunter* (171 U. S., 388).

The judgment of the court below is reversed, without costs to either party in this court, and judgment is entered in favor of the plaintiff, and against the defendant for the sum of 2,070 pesos, and interest thereon at the rate of 6 per cent per annum from the 20th day of August, 1904, and the costs of the first instance.

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

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