

DOMINGO LEDESMA, PLAINTIFF AND APPELLEE, VS. GREGORIO MARCOS, DEFENDANT AND APPELLANT.

G.R. No. 3595. January 17, 1908

Ponente: CARSON, J.

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CARSON, J.:

This is an appeal from a judgment of the Court of First Instance in favor of the plaintiff, in an action to recover the possession of certain real estate described in the complaint. It was alleged in the complaint that the plaintiff acquired title to the land in question by inheritance from his mother in the year 1884, and continued in the quiet and peaceable possession thereof until the year 1903; that in that year the defendant took unlawful possession of the said land, and unlawfully retained possession thereof to the time of the filing of the complaint, on the 27th of January, 1906; and that the plaintiff had suffered damages to the extent of 50 by the said unlawful possession of the defendant.

Appellant makes the following assignment of errors :

"First. The court erred in assuming original jurisdiction in this case.

"Second. The court erred in holding that the allegations made by the plaintiff and appellee constituted a lawful cause of action.

"Third. The court erred in deciding the case in favor of the plaintiff and appellee in open opposition to paragraphs three and four of the complaint.

"Fourth. The court erred in admitting the evidence presented by the plaintiff and appellee.

"Fifth. The court erred in considering the defendant and appellant a trespasser of the right of the plaintiff and appellee.

"Sixth. The court erred in granting the plaintiff and appellee other and greater remedies than those prayed for in the complaint."

In support of his first three assignments of error, appellant appears to rely on the provisions of section 56 of Act No. 136 and sections 80 to 88 of Act No. 190, which confer exclusive jurisdiction on courts of the justice of the peace in the summary remedies for forcible entry and unlawful detainer, where such summary proceedings are instituted within one year from the time when the cause of action arises. Appellant insists that under these provisions the court of the justice of the peace has exclusive original jurisdiction of actions to recover the possession of real estate, and that this action not having been brought within a year after the alleged cause of action arose, the court of the justice of the peace as well as the court of First Instance was without jurisdiction. These provisions of Act No. 136 and the Code of Civil Procedure, however, merely give to the court of the justice of the peace exclusive jurisdiction for one year after the cause of action arises over actions of forcible entry and unlawful detainer, and do not undertake to deprive the Court of First Instance of jurisdiction in any other proper action to recover the possession of real estate.

In this case the action was not instituted until more than a year after the cause of action had arisen. At that time, therefore, the plaintiff was at liberty to institute in the Court of First Instance either an accion publiciana, a plenary action for the recovery of the possession of real estate, upon mere allegation and proof of a better right thereto, and without allegation or proof of title (*Bishop of Cebu vs. Mangaron*, 6 Phil. Rep., 280) ; or an accion reivindicatoria (an action of ejectment wherein the plaintiff sets up title in himself and prays that he be declared the owner, and given the possession thereof). The allegations of the complaint are sufficient to support either an accion publiciana or an accion reivindicatoria, and the Court of First Instance was therefore clearly vested with jurisdiction to hear and try the questions therein submitted for its consideration.

The appellant, in his brief, rests his fourth and fifth assignments of error on the insufficiency and incompetence of the evidence submitted by the plaintiff at the trial. We are of opinion, however, that the findings of fact by the trial court, and the conclusions of law based thereon, are fully sustained by the evidence of record; and that the court properly admitted the oral testimony as to the contents of certain documents, which was objected to by the defendant, it having been proved that the original documents, the best evidence, had been destroyed by fire.

The most superficial examination of the complaint and the judgment of the trial court furnishes a complete answer to the sixth assignment of error, except in so far as the judgment allows "the sum of fourteen pesos as rent" for the unlawful occupation of the real estate in question. The complaint prayed for damages for the use of the property in question, and the court properly estimated these damages as amounting to a sum equal to the rental value of the property during the period of its unlawful occupation. It would appear, however, that this amount was inadvertently, and at all events improperly, allowed as rent instead of as damages. The judgment of the trial court should therefore be modified by striking out from the last line thereof the word rent and substituting the word damages.

Thus modified the judgment should be, and is hereby, affirmed, with costs against the appellant. So ordered.

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

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