

CIEILO PURUGANAN, PLAINTIFF AND APPELLEE, VS. TEODORO MARTIN ET AL., DEFENDANTS AND APPELLANTS.*G.R. No. 3616. September 10, 1907*

Ponente: TORRES, J.

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Under date of the 1st of November, 1905, Cirilo Puruganan filed a complaint against Martin, Barruga, Ventura, and Miguel, praying that judgment be entered sentencing the defendants to make immediate restitution to him of the land detained by them, together with the fruits which they had improperly retained amounting to 36 uyones of palay, or in default thereof to pay the value of the same and the costs and expenses of the proceedings. It was alleged by the plaintiff that the four defendants had for several years past cultivated, as tenants, six parcels of land belonging to him, four of which were situated in Corcuera and two in Gambeng, within the limits of Solsona, Ilocos Norte, the respective areas and boundaries of which were stated, under obligation to pay the rent agreed, consisting of 8 uyones of palay for the land in Corcuera and 8 uyones more for the land in Gambeng; that the defendants had complied with their obligation, but during the years 1903 and 1904 they only paid 3 uyones as rent for each crop, and in 1905 they utterly refused to pay the said rent and to recognize the right of ownership of the plaintiff; all to the prejudice of the lawful rights of the defendant, for which reason an action for the recovery of the property in question was brought.

The demurrer presented by counsel for the defense having been overruled, the latter in response asked that the complaint be dismissed with costs against the plaintiff, declaring that no such lands existed, and to this end they denied all and each of the grounds of the complaint, Nos. 2 to 7; further, that the said lands described in the complaint did not exist nor were the defendants cultivating them, because those of which they were in possession were different from the ones mentioned in the said Complaint; that at no time had the defendants paid any rent for said property nor was any debt in palay due by them to the plaintiff; that the lands of which they were in possession had been cultivated and held from time immemorial by their ancestors, from whom they inherited the same; that dominion may also be acquired by prescription (art. 1931, Civil Code) and that a person succeeding by an hereditary title shall not suffer the consequences of a faulty possession of the testator (art. 442, Civil Code); and that an action had been instituted in said court for the cancellation of the tenancy, and, because no proof was offered as to the existence of such a contract, the defendants were acquitted and that no action for recovery can arise from said proceedings nor could the points already discussed and decided by the court be the subject of further controversy.

Upon the production of evidence by both parties, and the documents offered by the plaintiff having been made of record, counsel for the defense offered to present a certified copy of the testimony of witnesses in the said action already decided with respect to the cancellation of the tenancy. The judge, in view thereof, under date of the 6th of June, 1906, held that the plaintiff was the owner of the lands in question, and sentenced the defendants Teodoro Martin, Eamon Barruga, Julian Ventura, and Miguel Agustin to surrender them to the plaintiff, without any ruling as to costs.

The attorney for the defendants on being informed of the foregoing decision moved that the same be vacated and a new trial held under paragraph 1 of section 145 [of Act No. 190], in view of the fact that he had not been able to defend himself, the proof on which his defense was based and allowed by the court had not been taken, and because he had not been able to present a written brief after the evidence was submitted, accident or surprise which ordinary prudence could not have guarded against having occurred, for which reason the right of the respondent had been prejudiced. Some days later the same counsel for the defense gave notice of his intention to file a bill of exceptions against the judgment, but the plaintiff objected to the granting of a new trial because the accident or surprise alleged by the defendants was not substantiated. The defendants failed to present their evidence in proper time, and as the motion for a new trial was not accompanied by affidavits, the motion was dismissed by the court and the bill of exceptions was then approved and submitted to this court. The plaintiff also excepted to the judgment, inasmuch as it contained no reference regarding the products of the land and for the reason that no special ruling was made as to costs.

In view of the terms of the request contained in the complaint, it is evident that the plaintiff, Cirilo Puruganan, claims, as owner, to recover the six parcels of land detained by the defendants, because an action of recovery is a right appertaining to the owner, the ownership being duly proven, and the action lies against any person in possession who, without title, unlawfully detains the property of the plaintiff. (Art. 348, Civil Code.)

One of the essential requisites in an action of recovery is to fix the identity of the thing that the party desires to recover, a fact which has unquestionably been accomplished by Puruganan by the proof submitted by him, the four defendants not having duly shown that the area and boundaries of the land detained by them were different from those stated in the complaint.

It is fully proven, and is not contradicted by the defendants, that the plaintiff obtained by composition with the State the corresponding title of ownership issued on the 14th of June, 1895, by the civil governor of the Province of Ilocos Norte, by authority of the director-general of civil administration, to seventeen parcels of land, among which are the six parcels in controversy; that this title was registered in the registry of property on the 9th of July following, and that from 1902 to 1905, when the complaint was filed, the plaintiff has been paying the land tax on said property, which fact shows beyond doubt the dominion which the plaintiff had over the same, and, as he declares, that the defendants had occupied the land as tenants until 1905, when they absolutely refused to pay rent, ignoring the right of ownership of the plaintiff, demonstrated by documents and by the testimony of two witnesses who corroborate and confirm the character of the tenancy under which they formerly occupied the six parcels of land, and their present detention thereof.

If in order to be respected in the possession of a thing mere possession is sufficient unless a better right is established by another person, yet from the time when it is shown that such possession is unlawful and to the prejudice of the real owner who has justified his claim to dominion by means of a lawful title, the property usurped must, in justice, be forthwith restored to the true owner.

The defendants have not even attempted to show that they possessed the land in question by virtue of ownership; they simply limited themselves to offering in evidence a certified copy of some testimony given by witnesses in a suit for the rescission of a tenancy, but they took no steps to comply with their offer nor to see that the said copy was made of record, notwithstanding the fact that two months and twenty-one days had elapsed when judgment was rendered. Knowing, as they did, that the plaintiff had presented in support of his action irrefutable evidence, both oral and documentary, if no proofs were offered in time on their part, no one but themselves are to blame. Therefore the judge when rendering his decision, in view of the proceedings in the case, did not err and his action was in accordance with the law.

As to the exception stated by the plaintiff's attorney at the time when he was notified of the decision, with respect to payment of the fruits of the six parcels of land detained by the defendants, and the payment of the costs, considering that the excepting party has not filed in proper time the corresponding bill of exceptions, which should have been first allowed and then submitted to this court and proceeded with in accordance with the law, the exception can not now be considered, notwithstanding the fact that such issues are contained in the brief filed in this second instance.. (Sees. 141, 142, and 143, Code of Civil Procedure.)

In view of the foregoing considerations, the judgment appealed from should be affirmed, with the costs of this instance against the appellants, and it is so ordered.

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

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