

MARIANO PERFECTO, PLAINTIFF AND APPELLANT, VS. THE MUNICIPALITY OF GUINOBATAN, DEFENDANT AND APPELLEE.

G.R. No. 3683. March 23, 1909

Ponente: JOHNSON, J.

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JOHNSON, J.:

From the record the following facts seem to be clearly established;

First. That in the year 1871, Jose Garcia Suarez, a Spaniard, died in the municipality of Guinobatan, leaving a considerable amount of property.

Second. That soon thereafter (the exact date does not appear), one Candido Dominguez was duly appointed (supposedly by el Juzgado de bienes de difuntos) as judicial administrator of said estate.

Third. That in the year 1873 (the exact date not appearing), the said Candido Dominguez died.

Fourth. That soon thereafter (the exact date not appearing of record), one Mateo Roco was duly appointed (supposedly por el Juzgado de bienes de difuntos) as administrator of said estate.

Fifth. That the said Mateo Roco continued in possession of said estate, administering it until at least the year 1884 (the exact date not appearing in the record).

Sixth. That after the said Mateo Roco ceased to actually administer the said estate it appears that Juliana Olinio (the wife of the said Candido Dominguez) and her second husband, Tomas Gallegos, entered upon the administration of said estate (the record does not show by what authority) and continued administering the said estate, including the property mentioned in paragraphs a, b, c, d, e, and f of the complaint filed in the present cause, until the year 1901 or 1902.

Seventh. That in the latter part of 1901, or in the first part of 1902, by an order of the provincial governor of the Province of Albay, the defendant municipality took possession of the property mentioned in said paragraphs a, b, c, d, e, and f, and has continued in the possession of said property ever since.

Eighth. That upon the 28th day of March, 1904, the plaintiff herein, at the petition of one Andrea Suarez, who pretended to be an heir of the said Jose Garcia Suarez, was appointed as administrator of the said estate.

The plaintiff, in an effort to settle the estate of the said Jose Garcia Suarez, and believing¹ that the property described in said paragraphs a, b, c, d, e, and f, belonged to said estate, made a demand upon the defendant municipality for the possession of the same, which demand was refused, whereupon on the fourth day of January, 1906, the plaintiff brought the present action. The plaintiff alleged that the property mentioned in said paragraphs belonged to the estate of the deceased and that he, as administrator of said estate, was entitled to the possession of the same for the purposes of administering said estate.

To the petition of the plaintiff the defendant filed a general and a special denial. The special denial was simply the

defense of prescription. The lower court, after hearing the evidence in said cause, found that the statutes of prescription had defeated the right of the plaintiff to recover, and also that the plaintiff had no interest whatever in the recovery of the possession of the property in question.

This was not an action brought for the purpose of declaring whether or not the said Jose Garcia Suarez had left any heirs. Neither is there any question raised with reference to the appointment of the plaintiff as administrator of said estate. And in view of the fact, which is clearly proven, that the said. Suarez died leaving a large estate in said province, and in view of the fact that said property was judicially administered from the time of his death up to and including the time when the defendant took possession of said property, it is difficult to see by what right or upon what basis-the defendant can claim the right to retain the possession of the property upon the theory of prescription. The record contains no proof whatever justifying the defendant in having taken possession of the property and certainly there is no proof to justify the defendant in continuing in the possession of the property to the exclusion of the plaintiff as administrator of said estate.

During the trial of the cause in the lower court a letter was introduced as evidence, written by the said Mateo Roco on the 4th day of January, 1899. From this letter the court drew the conclusion that the estate of the said Jose Garcia Suarez had been settled and that the property had been sold and disposed of. There is a statement in the said letter (Exhibit No. 2) from which this inference might be drawn, but the letter contains further statements which fully refute this idea and fully show that all of the property of said estate had not been sold. In said letter Mateo Roco said, after a statement of what had been done in the settlement of the estate:

"This property rather belongs to me by prescription of ten years in my favor. I have been in lawful possession thereof as depositary for over 25 years, and, counting from the death of Suarez, more than 28 years, without interruption, profiting thereby quietly, peacefully, and without molestation."

The above-quoted statement shows clearly that all of the property of said estate had not been sold and that the administration of the estate had not been fully concluded.

From a record of the Juzgado de bienes de difuntos, which may be found in the archives of the Court of First Instance of the city of Manila, the fact appears that the estate of Jose Garcia Suarez was being administered under the direction of the said court from a time soon after the death of the said Suarez, and we respectfully call the attention of the plaintiff, the present administrator of the said estate, to this record in order that he may fully know just to what extent said estate had been administered by said court.

From all of the foregoing facts we are of the opinion, and so hold, that the plaintiff is entitled to the possession of the property mentioned in said paragraphs a, b, c, d, e, and f, for the purpose of administering the same, and without any special finding as to costs, it is so ordered.

Arellano, C. J., Torres, Mapa, Carson, and Willard, JJ., concur.

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