

JESUS SANCHEZ MELLADO, PLAINTIFF AND APPELLANT, VS. THE MUNICIPALITY OF TACLOBAN, DEFENDANT AND APPELLEE.

G.R. No. 3819. October 19, 1907

Ponente: JOHNSON, J.

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JOHNSON, J.:

This was an action by the plaintiff against the defendant in which the plaintiff prayed that the defendant be required to return to him the possession of the property described in the complaint; that the defendant be required to pay to the plaintiff, the sum of ₱2,000 as damages for the unlawful use and occupation of said land, and for costs.

The defendant interposed a general and special denial and asked that the cause be dismissed with costs to the plaintiff.

After hearing the evidence adduced during the trial of the cause, the judge of the lower court ordered and adjudged that the cause of the plaintiff be dismissed and that the defendant should be relieved of all responsibility with respect thereto, with costs against the plaintiff.

The plaintiff, during the trial of the cause, attempted to prove that he had acquired the title of the land in question from la junta provincial de composicion de terrenos of the Province of Leyte in the year 1896, during the existence of the sovereignty of Spain in the Philippine Islands; that the title to the said land was registered in the office of the register of property in said province; that his title, as well as the registration of the said property, was lost during the baguio (storm) which submerged the pueblo of Tacloban in the year 1897; that the said municipality, in the year 1900, at the close of the war in that province, gave permission to some persons to erect buildings upon said land, and since that time has illegally had possession of said land and that the damages occasioned by the unlawful detention and possession of said land equaled the sum of P2,000.

The defendant admitted having taken possession of the land in question and having given permission to certain persons to erect buildings thereon, under contract to pay rent for the use and occupation of the same. The evidence on the part of the defendant shows clearly that the defendant had been in possession of the land for a number of years; that said land was originally a marsh or swamp and formed the mouth of a river or an arm of the sea, and that the same had been redeemed by the defendant.

The plaintiff claims to be the owner of said land. In order to recover the possession of the same as owner, he must rely upon the strength of his own title and not upon the weakness of the title of the defendant, and he must establish his allegations of title by a preponderance of proof. We are of the opinion, after a consideration of all the proof adduced during the trial of the cause, that the plaintiff has failed to show, by a preponderance of proof, that he was the owner and entitled to possession of said land. The proof is not sufficient to show that he had ever obtained a title to the land in question from the provincial government. We are of the opinion, therefore, and so hold, that the judgment of the lower court should be affirmed, with costs against the plaintiff. So ordered.

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

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