

JOSE RABINO, PLAINTIFF AND APPELLEE, VS. TOMAS RAVIDA, DEFENDANT AND APPELLANT.

G.R. No. 4040. January 10, 1910

Ponente: MAPA, J.

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MAPA, J.:

The object of the complaint in this action is the recovery of 14 carabaos. The trial court rendered judgment sentencing the defendant to return them to the plaintiff, and against said judgment the former has interposed an appeal.

In November, 1904, Tomas Ravida, the defendant herein, filed a complaint with the court of the justice of the peace of Cajidiocan, Province of Romblon, against Francisca Rabino in connection with the delivery of thirteen carabaos, and obtained a final judgment in his favor. As no carabaos were found in the possession of the said Francisca, the sentence was executed by seizing fourteen carabaos that were in the possession of Jose Rabino, the father of said Francisca and plaintiff in the present case. The sheriff who executed that sentence testified at the trial that although Ravida only claimed thirteen and a half carabaos, fourteen were delivered to him, because (sic) no such fraction existed.

The plaintiff alleges that the fourteen carabaos delivered to Ravida were of his sole and exclusive ownership, and not of his daughter Francisca, against whom the said Ravida obtained judgment in the court of the justice of the peace of Cajidiocan. The latter on his part, maintains that said carabaos belong to him as one-half of the product of a caraballa (female carabao) which he delivered to Francisca to keep for breeding purposes on condition that they should divide between them such calves or offspring as it might have.

We have not before us the record of the action brought by Tomas Ravida against Francisca Rabino in the court of the justice of the peace of Cajidiocan, nor the proceedings followed in the execution of the sentence entered therein. But Emitterio Riva, the deputy sheriff who executed the said sentence, was presented as witness by the defendant, and it appears from his declaration that when he sought to execute the sentence, Francisca told him that she did not have a single carabao, for which reason the justice of the peace "issued another order of execution [these are his own words] not upon Francisco, Rabino, but upon Jose Rabino, because the latter was the head of the family, and the former was single and lived under the shelter of her father." And the witness adds, "in compliance with the second order of execution, the sentence was executed on said carabaos occupied by Jose Rabino."

The said witness has very clearly stated that the carabaos delivered to Tomas Ravida by virtue of the execution of the sentence against Francisca Rabino were taken, not from the possession of the latter but from that of her father, Jose Rabino, who owned them, or, as asserted by said witness, occupied them; that to this end a second order of execution was issued, nominally addressed to the said Jose Rabino, and that the only reason that the justice of the peace of Cajidiocan had in acting thus, was the fact that said Rabino is the father of Francisca, and because the latter, being a single woman, lived under the shelter of her father's roof.

Such a declaration is of great importance as being that made by the officer who executed the sentence entered against Francisca Rabino, and its terms speak fully in favor of the plaintiff herein inasmuch as it was not lawful or proper to issue an execution against him by virtue of a judgment rendered only and exclusively against the former, and much less to dispossess him without due process of law of his carabaos, as occurred by reason of said order of execution. To thus deprive the plaintiff of the carabaos that he possessed was manifestly illegal, therefore he is entitled to recover them from the defendant, who by such unlawful means acquired the possession thereof. (Art. 464, Civil Code.)

The asseveration of the said witness for the defendant that it was the plaintiff herein, not his daughter Francisca, who possessed the fourteen carabaos in question, is fully corroborated by the testimony of other witnesses who testified in the same sense at the trial. Moreover, said witnesses positively aver that said carabaos are the property of the plaintiff. The appellant states in his brief that said witnesses did not know, nor could they know what they were testifying except from hearsay, but he advances no reason whatever in support of such allegation. The truth is that their declarations appear as made from their own knowledge of the matter and not merely from hearsay.

Apart from the declarations of the witnesses above alluded to in connection with the plaintiff's ownership, it is unquestionable that he is protected by a just and lawful title in that he was in possession of the said carabaos, and it has not been demonstrated that he possessed them with bad faith. It is an express provision of law that the possession of personal property acquired with good faith, is equivalent to a title thereto. (Art. 464, supra.)

The title set up by the defendant against that of the plaintiff is based on the right of accession, because it is said that the carabaos in question were the get of a carabao that 18 years ago he delivered into the care of Francisca Rabino, the daughter of said plaintiff. Such a claim can not prosper except by clear and positive proof that the carabaos above referred to are out of the defendant's caraballa. It does not suffice to say or prove that the latter had a given number of calves, but it must be shown in addition that such calves are precisely the ones herein referred to, and the record does not contain sufficient evidence of such identification. The declarations of the witnesses for the defendant, given in vague and general terms, do not, nor can they lead to such proof. None of them positively and categorically asserts that said carabaos are the get of the caraballa placed by the defendant in the care of said Francisca, and we certainly believe that it would be a difficult matter for them to make such an assertion, taking into account that the oldest carabao was but about four years old, the rest being three, two, and one year old only, as testified by the defendant himself. It seems to us that it would be an extraordinary thing if a caraballa could produce fourteen calves in a period of four years, yet this is what would actually appear from the plain statement, made without any explanation whatever, in the written answer of the defendant, that the carabaos above referred to are the product of his caraballa.

In support of his claim he makes the following statement in paragraph 2 of the complaint:

"That on the 16th of November, 1904, the defendant, Tomas Ravida, presented a complaint in the court of the justice of the peace of Cajidiocan, Romblon, Philippine Islands, against Francisca Rabino in connection with thirteen carabaos, and she was sentenced to deliver said carabaos to the then plaintiff, Tomas Ravida; the sentence was executed by Emeterio Riva, the sheriff of the said town of Cajidiocan."

Indeed it is not easy to understand how this allegation can constitute evidence of any kind in favor of the defendant. It is set out therein that Francisca Rabino, in an action brought against her by the defendant therein, was sentenced to deliver to the latter thirteen carabaos, but that does not say or mean that the carabaos that were taken from the possession of Jose Rabino to be delivered to the defendant in compliance with said judgment were the property of the defendant and not of Jose Rabino, which is the subject of this controversy. Neither can the other assertion in the appellant's brief, to the effect that Francisca had consented to said judgment, mean such a thing, because from the fact that the latter was obliged to deliver thirteen carabaos it does not follow that the

carabaos here in question, which were in the possession of the plaintiff and not of said Francisca, were the property of the defendant, or that they were the identical ones that were the subject of the complaint filed by him against Francisca Rabino. For the rest it is quite unnecessary to say that the judgment entered against the latter should not, nor can it prejudice the plaintiff herein who was not a party to the suit in which the same was rendered. (Par. 2, sec. 306, Code of Civil Procedure.)

The trial judge found that when the delivery of the fourteen carabaos was made to Tomas Ravida, the brands on the same (the property of the plaintiff) were new and most of them recently made, and that they had apparently been branded some three or four days prior to said delivery. This fact is put forward by the appellant as proving that said carabaos did not really belong to the plaintiff Rabino. It seems that he desired to say by this that if the latter were really the owner of the carabaos he would have branded them long before that date; but if this observation were of any value it would necessarily be against the appellant, inasmuch as said animals did not then bear his brand, old or recent, and the brand they bore was owned by the plaintiff, and duly registered by him in September, 1904.

It is literally stated in the appellant's brief that -

"Two witnesses, the defendant Tomas Ravida and Jose Ramiro, declare that in the time of the Spanish Government, that is to say, in the year 1894, when the present plaintiff was a defendant and his property was attached, he declared that the said carabaos all belonged to his daughter Francisca, and that the plaintiff did not in any manner deny such declarations."

He certainly had no need to deny them. If the witnesses refer therein to the carabaos now in question, it is evident that they perverted the truth, inasmuch as the oldest of the animals being but four years old, none of them existed in the year 1894; and if as it seems they speak of other carabaos, their testimony is of no importance since it does not refer to the subject-matter of the present litigation.

In view of the foregoing it can not be said that the statement contained in the judgment appealed from, that the fourteen carabaos mentioned in the complaint are the exclusive property of and belong to the plaintiff, and that the defendant Rabino has not shown a better title or right to the said carabaos than the plaintiff, is contrary to the weight of the evidence in the case. After arriving at this conclusion it appears entirely unnecessary to discuss the doctrine established in the said judgment in connection with the statute of limitations of personal property, prescription which has also been considered by the court below as a title of dominion in favor of the plaintiff. We therefore expressly refrain from considering this particular point of the judgment appealed from. The said judgment is hereby affirmed with the costs of this instance against the appellant. So ordered.

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

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