

DAVID CLETO, PLAINTIFF AND APPELLANT, VS. JULIANA SALVADOR ET AL., DEFENDANTS AND APPELLEES.*G.R. No. 4309. October 09, 1908*

Ponente: TORRES, J.

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On the 24th of January, 1907, David Cleto filed a written complaint with the Court of First Instance of Ilocos Norte alleging that he was the owner and possessor of three parcels of land situated in Bagbag, municipality of Dingras, Solsona, in the said province, the respective locations, area, and boundaries of which were stated in the said complaint; that he had acquired them by purchase from Norberto Santos y Clemente; that in the month of July, 1906, the defendant, Julianio Salvador I, in bad faith sold the said lands to the other defendant, Prospero Gerardo, who, since the said month of July, has unlawfully taken possession of the said three parcels; for which reason the plaintiff asked that judgment be entered in his favor declaring that the sale of the three aforementioned parcels of land made by the defendant, Juliana Salvador, be held to be null and void, and that both she and the other defendant, Gerardo, be required to make immediate delivery of the same to the plaintiff, and to pay for the fruits unduly collected, with costs,

The defendants in their answer presented on the 14th of February, 1907, made a general denial of each and every one of the allegations contained in the complaint, alleging as a defense that the two parcels of land situated in Bagbag, municipality of Dingras, Solsona, the location, area, and boundaries of which are stated in the writing, had been sold by Juliana Salvador to the other defendant, Prospero Gerardo, and are apparently other than those claimed by the plaintiff, but that, in case they are the same, they denied that David Cleto was the owner thereof, or that he could have any title thereto; that Juliana Salvador was in lawful possession of said lands and held them in good faith by virtue of a final judgment rendered in a civil suit brought by her against Bonifacio Laureto and the plaintiff herein, David Cleto, in the matter of the enforcement of a contract; that by a judgment entered on the 8th of July, 1905, by the Court of First Instance of Ilocos Norte in a civil suit between the said Laureto and another as defendants, and Norberto Santos, the plaintiff's so-called vendor, as plaintiff, contesting the judicial possession given the said Laureto, the latter was sustained in her possession; and that, by virtue of what has been set forth, the sale of the said two parcels of land by the defendant, Juliana Salvador, to the other defendant, Prospero Gerardo, could not be more legal, for which reason they asked that judgment be entered in their favor, and that the complaint be dismissed with costs against the plaintiff and that the latter be perpetually enjoined from further interference.

The case was tried and evidence was adduced, both parties to the suit presenting documents in proof of their allegations, which documents were attached to the record. During the trial the attorneys for both parties agreed to consider the lands described in the complaint as the same lands that were the subject of the action brought by Juliana Salvador against Norberto Santos in 1895, in the court of the justice of the peace of Solsona, for their redemption; that the said lands were the subject of the action between Norberto Santos as plaintiff and Bonifacia Laureto as defendant in the aforesaid year 1895; that the same lands were the subject of the complaint filed by

Juliana Salvador with the justice of the peace court in Laoag against Bonifacia Laureto and David Cleto, in 1903, for the delivery of said lands; and finally, that all the documents presented by both parties in this action refer to the said lands.

Judgment was rendered by the court below on the 15th of July, 1907, dismissing the complaint, without special ruling as to costs; the plaintiff excepted to said judgment and moved for a new trial for the reasons stated in his motion, to which he attached three documents in support of his allegations. This motion was overruled, the plaintiff excepted, and thereupon the corresponding bill of exceptions was approved.

The action brought in this case by the plaintiff is for the purpose of obtaining a declaration of nullity of the sale of three parcels of land made by Juliana Salvador I to Prospero Gerardo, the recovery of the estate together with the fruits thereof, and its return to the plaintiff, David Cleto.

If, under the provisions of article 348 of the Civil Code, the owner has a right of action against the holder and possessor of the thing to recover the same, upon proof that the plaintiff is the owner of the parcels of land claimed, the action brought herein is, of course, in accordance with law, as would be also a favorable decision as prayed for in the complaint, taking into consideration the fact that, by an agreement entered into between the parties to the suit, the land in controversy is identified.

From the record it clearly appears that the plaintiff, David Cleto, acquired the ownership of the three parcels of land in question from the former owner thereof, Norberto Santos, by a notarial instrument containing the contract of purchase and sale of the said estates, drawn up by them on the 21st of April, 1906, ratified before a notary public on the same date, and entered in the registry of property on the 14th of May of the same year. Consequently the rights now shown and possessed by the plaintiff, David Cleto, are the same as those of his predecessor and vendor of the said estates, Norberto Santos.

The latter acquired the aforesaid lands by inheritance from his now deceased father, Juan Santos, who in turn had obtained them by purchase from the previous joint owners thereof, the defendant Juliana Salvador I, Juliana Salvador II, and their aunts Permina and Joaquina Salvador, as related in a judgment rendered by the justice of the peace of Solsona, Ilocos Norte, on the 14th of March, 1895, in the civil suit brought by the said Juliana Salvador I against Norberto Santos for the redemption of said lands. For this reason the court considered that the defendant, as heir to his father, was the owner of the said property, the latter having legitimately acquired it from the original owners. The complaint against Norberto Santos was dismissed and the plaintiff, Juliana Salvador I, was sentenced to pay the costs and charges in the action. This judgment, by reason of its not having been appealed from, became final.

Prior to the 27th of April, 1895, Simon Raymundo and his wife, Bonifacia Laureto, obtained from the justice of the peace of Solsona a writ of possession for four parcels of land situated in Bagbag; the title or decision by which the said possession was conceded to them does not appear, for which reason Norberto Santos, on the date named brought suit before the justice of the peace of Solsona, praying that the said judicial possession be set aside, and alleging that he was the owner of the lands. At the trial the justice of the peace considered that the action brought by the plaintiff was for the recovery of possession, and in view of the fact that no document whatever was attached to the complaint in proof of the plaintiff's title, and no indication was made therein that he intended to prove it by means of such evidence, and considering that the defendants were in possession of the property claimed, he dismissed the complaint and sustained Raymundo and Laureto in the possession that they enjoyed; the plaintiff was perpetually enjoined from further interference and sentenced to pay the costs, as appears in detail in the copy of the said judgment submitted by the plaintiff. Norberto Santos appealed from the said judgment to the Court of First Instance, and, upon the hearing, the Court of First Instance of Ilocos Norte, on June 8, 1895,

partially confirming the judgment appealed from in some respects, and in others, reversing it, ordered that the defendants Simon Raymundo and Bonifacia Laureto be sustained in the possession of the four parcels of land in question, with the costs against the appellant, Norberto Santos, reserving to the latter his right of ownership thereto that he might exercise it in such manner as might be proper.

The record shows also that, by virtue of a writ issued by the justice of the peace of Laoag on the 29th of March, 1906, the deputy sheriff placed Juliana Salvador in possession of two parcels of land situated in Bagbag, a proceeding which was effected notwithstanding the fact that Bonifacia Laureto had been dead for over a year; it further appeared that in 1903, the said Bonifacia Laureto ceded to Norberto Santos two parcels of the land in question for the sum of 10 pesos and one uyon of paddy.

So that the plaintiff, David Cleto, who acquired the aforesaid lands from their former owner, Norberto Santos, is the only proprietor who could have disposed of them and have brought an action to recover possession from the holder or detainer thereof, since the right reserved to Norberto Santos by the judgment of the court of Ilocos Norte in the matter of the ownership of the estates was, in fact, lawfully transmitted to the plaintiff herein, David Cleto, when he acquired the said property.

The judicial possession of the lands obtained by Juliana Salvador I, and that enjoyed at the present time by Prospero Gerardo, the purchaser of the same, does not prevent the successful prosecution of the action to recover the possession, inasmuch as the plaintiff has fully proven his title thereto, and he has therefore an unquestionable right to bring the possessory action against the present holder of the property.

The defendant Gerardo, now in possession, has not shown that he has a better right and title than the plaintiff. Plaintiff's title is one conveying ownership, and is entered in the registry of property the predecessor of the said possessor, Juliana Salvador, only shows a right of possession, which must be respected until another person having better right shall come forward and establish it. This is the position of David Cleto, the plaintiff herein, and judicial possession is generally granted without prejudice to a third party who proves a better title.

As Juliana Salvador was not the owner of the lands nor did she ever show that she held a title thereto beyond that of mere possession, she could not dispose of them nor sell them to the other defendant, Gerardo, because she had no right to alienate property that did not belong to her, and Prospero Gerardo has not acquired any lawful right of ownership from the seller, Salvador. For this reason the instrument of sale executed by the latter in favor of the purchaser before a notary on the 26th of June, 1906, is null and void, although, owing to lack of proof that the purchaser acted in bad faith, it must be assumed that he took possession of the lands in the belief that he had legally acquired them, for which reason, as a possessor in good faith, he has received, as his own, the fruits collected from the estates until the time this complaint was presented. (Art. 451, Civil Code.)

Therefore, it is our opinion that the judgment appealed from should be reversed, and that it should be held, as we hereby hold, that David Cleto is the lawful owner of the lands claimed in the complaint, and that the sale thereof made by Juliana Salvador, including the conveyance executed by her in favor of Prospero Gerardo, is null and void; and the latter is hereby ordered to return and deliver to the plaintiff, as owner, the lands claimed by him; no special ruling is made as to the costs in either instance. So ordered.

Arellano, C. J., Mapa, Carson, Willard, and Tracey, concur.

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