

LEON CABALLERO, PLAINTIFF AND APPELLEE, VS. ESTEFANIA ABELLANA ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 4654. March 21, 1910

Ponente: MAPA, J.

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MAPA, J.:

This suit involves the possession of a piece of land and the issuance of an injunction. The lower court decided the case in favor of the plaintiff and the defendants appealed from the judgment to this court.

The text of the judgment appealed from, in the part thereof necessary to quote, is as follows:

"The court finds that along in the year 1899 the plaintiff, Leon Caballero, obtained possession of the said land and continued possessing it until the year 1904. Since then, by mutual agreement between him and the defendants, he utilized the services of the latter for the cultivation of the said land, in the character of tenants on shares, the products obtained therefrom to be divided by halves.

"From the year 1899 the defendants, in their capacity above expressed, cultivated the land in question and sowed it to rice and, until the year 1904, shared its products with the plaintiff in the manner covenanted by them.

"The court finds that since the crop of the year 1905, the defendants, notwithstanding their continuing to cultivate the aforesaid land as tenants on shares of the plaintiff, refused until 1906 to give him the part of the crop that corresponded to him and, taking advantage of the fact that they held the land under their control as employees of the plaintiff, took possession of it, without the latter's consent and against his will, and refused not only to deliver to him the part of the products that corresponded to him during the said two years, but also to deliver to the plaintiff the possession of the land.

* * * * *

"The court finds that the crops mentioned (those of 1905 and 1906) were regularly produced, and that the plaintiff having received as his share of the last crop, that is, in the year 1904, some 60 cavanese of unhulled rice, the share that should correspond to him of the crops appropriated by the defendants in the two years mentioned ought to be adjusted according to the amount of the last annual crop. The price of unhulled rice in the municipality of Minglanilla during the said two years was 3 pesos a cavan. The most approximate calculation shows that Estefania Abellana obtained a crop of 60 cavanese the last year that she gave a share of it to the plaintiff, the half of which amount, or 30 cavanese, corresponded to the latter. During the same period, Serapio Mabunay ought to have delivered to the plaintiff about 12 cavanese, Gervasio Pakada 10 cavanese, and each one of the last two defendants 4 cavanese; and in this proportion they should have delivered to the plaintiff annually his proper share of the last two crops.

"The defendants allege in their answer that they hold exclusive possession of the land in question. The court finds that they had such possession only in their capacity of laborers or tenants on shares of the plaintiff.

"The plaintiff, Leon Caballero, in view of the facts set forth, is the possessor of the land in litigation; and the defendants having taken such possession from him illegally and without any right, he should be reinstated in

the possession and exclusive usufruct of the said land.

* * * * *

"And as the defendants are impeding the plaintiff from cultivating the said land and from exercising over it all the possessory acts to which he is entitled, it is proper that this court issue in his favor a permanent injunction against the defendants.

"By reason of all the foregoing, and in accordance with the findings of fact and law above given, the court orders that judgment be entered against the defendants, sentencing them to restore to the plaintiff the land at issue, as described in the complaint, and to deliver to the plaintiff 120 cavanos of unhulled rice in the following proportion: Estefania Abellana must deliver 60 cavanos; Serapio Mabunay, 24 cavanos; Gervasio Pakada, 20 cavanos; and each one of the last two defendants, 8 cavanos; and in the event of default, they shall pay to the plaintiff the equivalent price therefor at the rate of 3 pesos a cavdn, in the proportion indicated. The costs of this action shall be paid by the defendants severally and in solidum, and it is further ordered that an injunction shall issue against the said defendants prohibiting them from this date from hindering the plaintiff in his work on the land in question and his exercise over the same of any possessory acts whatsoever to which he has a right."

Having carefully examined the evidence, we find that the weight thereof is not against the findings of facts recorded in the judgment appealed from, although the defendants also presented evidence to support their allegations. The judgment therefore must be affirmed, since the findings therein contained are merely the legal conclusions based upon the facts deemed to have been established.

The appellants, however, allege the following:

"According to the judgment appealed from, the acts negatory of the possessory right claimed by the plaintiff commenced, on the part of the defendants, in the year 1905, and as the action was instituted in January, 1907, this case undoubtedly falls under No. 4 of article 460 of the Civil Code, according to which the possessor may lose his possession by the possession of another, if the new possession has lasted for more than one year."

The true meaning of this legal provision has been already extensively discussed and stated in the case of *The Bishop of Cebu vs. Mangaron* (6 Phil. Rep., 286). In short, it was said therein that the provision mentioned refers to the possession de facto and not possession de jure, wherefore it is not applicable to the present case which involves the last-mentioned kind of possession.

The judgment appealed from is 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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