

LEON AGCAOILI, PLAINTIFF AND APPELLANT, VS. BENITO ACASIO, DEFENDANT AND APPELLEE.

G.R. No. 4710. January 26, 1909

Ponente: WILLARD, J.

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WILLARD, J.:

The plaintiff brought this action in the Court of First Instance of the Province of Ilocos Norte to recover the possession of three tracts of land admitted to be in the possession of the defendant. Judgment was entered in the court below in favor of the defendant and the plaintiff has appealed.

On the 16th day of January, 1884, Maria Acasio, the aunt of the defendant, was the owner of the property in question. On that day she executed and delivered a document to the plaintiff in which she said that she delivered the land to the plaintiff in order that he might work it and take the rents and profits thereof until she paid him 20 pesos which she owed him. It does not appear that Maria Acasio ever paid this debt, and on the first day of April, 1891, the land still being in the possession of the plaintiff, he delivered it to the defendant and wrote upon the document above-mentioned the following note:

"NOTE.-This document was delivered to Benito Acasio on account of his having paid the amount above, set forth. In witness whereof I subscribe my name this 1st day of April, 1891.

(Signed) "LEON AGCAOILI."

He testified at the trial, however, that the agreement between him and the defendant was to the effect that he, the plaintiff, should have a right to redeem the land from the defendant by returning to the defendant the 20 pesos. He further testified that on the 2d day of May, 1901, he did return to the defendant the 20 pesos and that the defendant then delivered to him the possession of the land; that from that time he remained in possession and cultivated the land until 1906, and that he paid the taxes thereon. In 1906 the defendant again entered upon the land and is now in possession thereof.,

There is no evidence to contradict the testimony of the plaintiff to the effect that the land was delivered to him in 1901 by the defendant and that he remained in possession thereof until 1906. His testimony as to the nature of the contract made between himself and the defendant in 1891 is corroborated by the testimony of three witnesses who state that in 1905 they were present when the defendant executed and delivered to the plaintiff a document called a counter-receipt, wherein it was stated that the plaintiff had delivered the money to the defendant and had asked for the return of the document and that the defendant had stated that he could not return it because it had been burned and for that reason he made this additional document. There was nothing to contradict the testimony of these three witnesses except the bare statement of the defendant that he did not go in 1905 to the house where the three witnesses testified that the document was executed. A continuance was granted to enable the plaintiff to produce this counter-receipt, which he did on the day to which the case was thus continued. It purports to be signed by the defendant and the three witnesses who testified that they had so signed it and its contents are in exact conformity with what was testified to by these witnesses. It is suggested by the defendant that the document

was not exhibited to the witnesses and they did not identify their signatures. This is true. But we think the contract evidenced by this receipt was sufficiently proven.

With these facts appearing, the judgment for the defendant can not be sustained. It is not important to determine exactly the nature of the interest which the plaintiff had in the land in 1891 when he turned it over to the defendant, because it is established to our satisfaction that whatever interest the defendant ever acquired in the land he acquired by the contract then made between himself and the plaintiff and that this interest, thus acquired, the defendant, after the lapse of ten years, and in 1901, transferred again to the plaintiff, thereby divesting himself of all right or claim to the property. It is said by the defendant in his brief that the transaction between the plaintiff and the defendant in 1891 constituted a sale with the right to repurchase; that no time having been fixed for the repurchase it must, according to the law then in force, have been made within four years, and that period having elapsed without any repurchase, the title became vested absolutely in the defendant. Even if this claim were true, it would in no way benefit the defendant, for although he were the absolute owner of the property in 1901, he had a perfect right to deal with it as he saw fit. He had a right to resell the land to the plaintiff on such terms as the two might agree upon. That the parties did agree upon a resale, and that such resale was in fact made, we think is fully established by the evidence.

The judgment of the court below is reversed and judgment is entered for the plaintiff as prayed for in his complaint, with the costs of the first instance. No costs will be allowed to either party in this court.

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

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