

SIMEON MANDAC, PETITIONER, VS. THE COURT OF APPEALS AND VICTORINO SALES, QUIRINO SALES AND MARCELO GARVIDA, RESPONDENTS.

G.R. No. 47580. June 17, 1941

Ponente: MORAN, J.

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MORAN, J.:

On October 13, 1937, petitioner Simeon Mandac instituted in the Court of First Instance of Ilocos Norte against respondents Victorino and Quirino Sales and one Marcelo Garvida an action for the recovery of a parcel of land situated in sitio Lanao of the municipality of Bangui, Ilocos Norte. Judgment was there rendered declaring Simeon Mandac owner of the land and ordering Victorino and Quirino Sales to turn over its possession to him and to pay the value of the products taken by them at the rate of P72 for every agricultural year, from 1935-1936 until the return has been made. The case was, however, dismissed as to Marcelo Garvida who alleged noninterest in the suit. The Court of Appeals reversed this judgment and absolved all the defendants of the complaint.

The trial court, accounting for the origin of the ownership of the land in question found:

"Este terreno en cuestion, juntamente con otras nueve parcelas de la propiedad de los herederos de Teodoro Ramiscal, se ha vendido al demandante el año 1923. Aquellos han quedado en los terrenos como aparceros del comprador y qui demandante. Hubo un pleito entre el aqui demandante Mandac y los herederos de Ramiscal, por una parte, y Marcelo Garvida, uno de los aqui demandados, por otra, sobre la posesion y propiedad de los terrenos vendidos, aunque el lote aqui cuestionado no estaba entonces en disputa. En aquella causa, Marcelo Garvida pretendio ser dueño de las nueve parcelas cuestionadas y fue sostenido por este Juzgado; pero la Corte Suprema, en decision promulgada el 10 de diciembre de 1934, en la causa R.G. No. 388833, sostuvo el derecho de propiedad de los Ramiscal en los terrenos en cuestion y su traspaso en venta a favor del demandante Simeon Mandac (Exhibito B)."

The pertinent portion of the decision of this Court referred to in the foregoing finding of the trial court reads:

"* * * the weight of the evidence is clearly to the effect that the children of Teodoro Ramiscal were in possession of these lands under claim of ownership from the death of their father until they sold the lands to Simeon Mandac in 1923 * * *."

The Court of Appeals, on the other hand, found for a basic fact that Teodoro Ramiscal "no era mas que inquilino o colono de Ambrosio Sagucio" who, as claimed by the respondents, conveyed the land in question to Victorino Sales, one of the respondents herein. It is now contended by the petitioner that this finding of the Court of Appeals disregards, in effect, the conclusion of this Court in its final judgment in civil case No. 38833 holding the possession of the children of Teodoro Ramiscal as one under claim of ownership. It should be noted that, as observed by the trial court, the land here in question though forming part of the ten parcels conveyed by the children of Teodoro Ramiscal to Simeon Mandac, was however never disputed in said civil case No. 38833. And, further, the herein respondents, Victorino Sales and Quirino Sales, were not made parties to said civil case. The

judgment, therefore, of this Court on the matter of the possession of the children of Teodoro Ramiscal is of no binding force upon the parcel here in question nor upon the respondents Victorino and Quirino Sales, and the rule of conclusiveness of judgment embodied in section 307 of Act No. 190 (now Rule 39, sec. 45, Rules of Court) does not apply. The Court of Appeals is accordingly free to make its own finding thereon.

The other questions raised by the petitioner refer to matters of fact upon which the conclusions of the Court of Appeals cannot be disturbed.

Judgment is affirmed, with costs against petitioner.

Avanceña, C. J., Diaz, Laurel, and Horrilleno, JJ., concur.

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