

JUAN SISON, PLAINTIFF AND APPELLANT, VS. FAUSTINO RAMOS, DEFENDANT AND APPELLEE.*G.R. No. 4868. February 24, 1909*

Ponente: TORRES, J.

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On the 24th of August, 1906, counsel for the plaintiff, Juan Sison, presented a written complaint against Faustino Ramos, alleging that plaintiff owned in the sitio of Tabao, barrio of Magallanes, town of Sagay, Occidental Negros, a tract of land, 94 hectares, 39 ares, and 25 centares in extent, the boundaries of which are described in the complaint; the said land formerly, belonged to Pedro Catalbas, as shown by a title issued by the Government and recorded in the registry of property although later by a judicial decision it became the property of Mariano Devesa, from whom it was ultimately bought by the plaintiff; that the defendant Faustino Ramos, a resident of Sagay and brother-in-law of Pedro Catalbas, occupied, and by mere tolerance was allowed to live on a parcel of the said tract of land of about 5 hectares, more or less, which forms an integral portion of the property described in the complaint, wherein are described the boundaries of the 5 hectares usurped; that in May, 1905, on the defendant being requested by the plaintiff to vacate the parcel occupied by him, he refused to do so, alleging right of ownership over the same, and ever since he has continued to unlawfully occupy it and to receive the benefits and fruits therefrom, inasmuch as the said parcel is planted with cocoanut palms and bamboo, which at the present time yield P200 profits in cocoanuts, P90 in tuba, and P60 in bamboo—that is to say, a total of P350—and through the illegal retention of the said parcel, the plaintiff has been subjected to loss and damages to the extent of P500; therefore, he prayed that judgment be entered against the defendant, ordering the restoration of the said parcel of land to the plaintiff, and sentencing him to pay the sum of P850 for loss and damages, and also the costs of the proceedings.

Counsel for Faustino Ramos, the defendant, answered the complaint on October 1, 1908, and denied each and every one of the allegations thereof, and in defense alleged that the parcel in question did not measure 5 hectares, but that it had approximately an area of 3 cavanes, and that the said land as well as the cocoanut palms, bamboo, and other useful trees planted thereon are of the exclusive and absolute ownership of the defendant who has been in the possession thereof since the year 1884, the date of the purchase thereof from the original owners, and that up to the present day he has been in the quiet, peaceful, and uninterrupted possession thereof; the defendant therefore prayed that he be absolved of the complaint and that costs be adjudged in his favor, without prejudice to any further remedy that might be just and equitable.

By a writing dated February 25, 1907, the plaintiff Sison prayed the court below to issue an injunction to restrain the defendant from cutting down any useful plants or trees on the land in question, and that the latter be finally sentenced as prayed for in the complaint.

At the trial, evidence was adduced by both parties to the suit, and the documents exhibited by them were made of record; on February 29, 1908, the trial judge rendered judgment, holding that the parcel of land claimed in paragraph 3 of the complaint was the property of the defendant, Faustino Ramos. The writ of prohibition issued

against him was thereupon annulled and he was absolved of the complaint with the costs in his favor.

On being notified of the above decision, the plaintiff, by a petition dated March 3, 1908, moved for a new trial on the ground that the judgment was not in consonance with the facts and the principles of law indicated, and that, therefore, said decision was unlawful; his motion was overruled to which the plaintiff excepted three days later, and in due course presented the corresponding bill of exceptions.

In order that an action for recovery, which is that which the plaintiff, Juan Sison, has brought, may prosper, it is indispensable, according to the constant jurisprudence of the courts, that whoever brings it must fully prove, not only his dominion over the thing claimed, but also the identity of the same.

The plaintiff endeavors to procure from the defendant, Faustino Ramos, the delivery or restoration of a parcel of land 5 hectares in extent, or, according to the latter, of 3 cavanases, which, the plaintiff says, forms an integral portion of his Hacienda Antipolo, which consists of more than 94 hectares of land. He has not, however, satisfactorily substantiated his claim, as it appears from the evidence submitted that the parcel of land described in the complaint is owned by the defendant Ramos, who has possessed it as owner since 1884, in which year he acquired one portion of the land from Constantina Gereos and the other portion from Raymundo Lobaton, as appears from the documents A and B, the authenticity of which has been proven by the testimony of proper witnesses, who also testified to the possession of the defendant as owner of the property in question.

Hence, it is an unquestionable fact, admitted by the plaintiff and his witnesses, that the defendant possessed the above-mentioned parcel of land, although it was alleged that the latter, as brother-in-law of the original owner, Pedro Catalbas, was occupying it by mere sufferance of the latter; he was requested by the administrator of said hacienda, Pedro Arellano, to vacate the parcel of land, but Ramos, refused to do so, alleging that it belonged to him.

Against the assertion, which has not, however, been proven, that the possession of the parcel of land in question on the part of the defendant was a precarious one, the case furnishes conclusive evidence that the said defendant Ramos had acquired the said parcel of land in two portions by means of proper conveyances from the original owners thereof since 1884, and that ever since that time he has exercised over the property real acts of ownership, and that as such owner he has been in peaceful and public possession, without any interruption whatever, for more than twenty-one years. (Art. 348, Civil Code.)

The fact that the said parcel of land was included in the title which Pedro Catalbas obtained by composition from the Government for the large tract of land which afterwards formed the Hacienda Antipolo, does not prejudice or interfere with the rights of the defendant Ramos, because, apart from the fact that such inclusion is rationally explained by the relationship existing between Catalbas and Ramos, who are brothers-in-law, and of the natural desire of the latter to avoid heavy expense in securing title deeds for such a small parcel of land, the son of the former, Quintin Catalbas, as attorney-in-fact for his father, and in his own name, acknowledged to Ramos, as he had promised to do, that the parcel in question, which was included in the title of his father, Pedro Catalbas, was the exclusive property of his uncle, Faustino Ramos, as proven by the document marked Exhibit C, drawn up by the said attorney-in-fact, and which is literally as follows:

"The undersigned, as attorney-in-fact of Sr. Pedro Catalbas, declares that Sr. Faustino Ramos, residing in the town of Sagay, owns one parcel of land included in the royal title of the said Sr. Catalbas, measuring three hectares more or less, planted with bamboo; the said parcel is bounded on the north by the beach; on the south by lands of Sr. Catalbas and the road leading to Tabao; on the west by lands of Sra. Leoncia Catalbas and Sr. Mariano de la Paz; and on the east by lands of the said Sr. Catalbas.

"In witness whereof, as such attorney-in-fact I issue the present in Sagay on the 10th of August, 1902.-pp.

Pedro Catalbas."-An unintelligible signature follows.-(The words one year, corrected.)

Quintin Catalbas having before him the document lettered C, said that the signatures which appeared at the foot of the same appeared to be his own, and although he said that he did not recollect having signed such a document, he added that he remembered signing many documents in favor of the defendant, and that he was actually attorney-in-fact for his father by virtue of a power of attorney executed by the latter in 1898, a date long prior to that of the said document.

The case does not present any rational or legal reason opposed to the action of the lower court in adjudging that the signatures of Quintin Catalbas, as affixed to the said document marked C are genuine and authentic, in view of those written by him in the presence of the court, with which they were compared; and on his part, the defendant affirmed under oath that he had received the said document from Quintin Catalbas signed by him. The witnesses Mariano Paz and Joaquin Galicia recognized the signatures as those of Quintin Catalbas, and the witness first named furthermore avers that he was present when Quintin signed the aforesaid document.

Therefore, the dominion of the defendant over the land in question has also been duly recognized by Pedro Catalbas through his attorney-in-fact, and for this reason, when the ownership of the Hacienda Antipolo was transferred to Mariano Devesa, and subsequently to Juan Sison, the parcel of land of said defendant was not included; indeed, according to the affidavit filed by the original owner, Pedro Catalbas, and certain proceedings for the attachment of said property, certified copies of which were produced at the trial, this land is cited as one of the adjoining properties to the said hacienda.

Moreover, the ownership alleged by the defendant appears corroborated, without any sort of contradiction, by the contents of the certified copies of the proceedings that were offered in evidence at the trial as Exhibit F, from which it appears, that, as the said parcel of land was attached as the property of Juan Sison, bondsman of Enrique Catalbas, and principal insolvent debtor, the defendant Faustino Ramos, as owner of the land, and third party whose prejudice was at issue, objected to the levy and on the 20th of February, 1906, moved for the release of the attachment; the sheriff was obliged to accede to the claim and admit the right of the intervening party; in view thereof the municipal president, on the motion of the sheriff, ordered by means of a commissioner the return and delivery of the property to Ramos, the intervener.

In view of the allegations of the defendant in defense of his rights, that as such owner he has been in the quiet, peaceful and uninterrupted possession of the said parcel of land from 1884, in which year he purchased it from the original owners, up to the present day, the court below rightly considered, that even supposing that Catalbas and his successors were the owners of the land claimed (and it has been seen that the contrary is the case), Ramos has acquired the ownership by prescription through possession for more than twenty years with good faith and by virtue of a just title; which is the nature of the legal means for the acquisition of real estate as contained in the documents marked A and B. The fact that the latter are merely private documents is not a bar to the consideration of the contracts contained in them as a just title.

In the decision rendered in case No. 4274, *Alano vs. Babasa* (10 Phil. Rep., 511), the following rule was laid down:

"Essential elements of a contract-A contract in which the three requisites imposed by article 1261 of the Civil Code are present is valid, perfect, and efficient, and, notwithstanding the fact that it was drawn up in the form of a private document, it is, however, binding as provided by article 1278 of said code.

"Contract: public or private document; registration.-The legalization by a public writing and the recording of the same in the registry are not essential requisites of a contract entered into, as between the parties, but mere conditions of form or solemnities which the law imposes in order that such contract may be valid as against

third persons, and to insure that a publicly executed and recorded agreement shall be respected by the latter."

In its decision of July 12, 1904, the supreme court of Spain, in applying certain articles of the Civil Code in force in these Islands which relate to this case laid down the following rule:

"That, as it has been repeatedly held by the supreme court, it is not within the scope of article 1280 to require, in order to prove the dominion, that a contract shall appear in a public instrument, inasmuch as according to article 1278, all contracts which contain the conditions of validity to which article 1261 refers, produce full effect as between the contracting parties, without prejudice to their right to demand and obtain that they be set out in a public instrument as provided by article 1279; the absence of said requisite can not be availed by either of such parties, and much less by a third person, to deny the existence and reality of the contract when it is supported by elements of proof admissible in law."

Even supposing that the plaintiff Sison, who succeeded Devesa and Catalbas in the dominion of the Hacienda Antipolo, was the lawful owner of the parcel of land sued for-an unfounded supposition, as has already been demonstrated-the provisions of article 1949 of the Civil Code and article 35 of the Mortgage Law do not include or affect the lawful owner of the realty or right that is the object of the prescription, nor those who derive their rights from him; by the said article of the special law the lawful owner of the property is not considered as a third person, as held by the supreme court in its decision of January 11, 1888, because the precept of the code is only efficacious with respect to third persons so qualified in accordance with the provisions of the Mortgage Law; and it does not nor can it in any manner govern with respect to the owner of the property that is the subject of prescription, or his successors, by universal or separate title; by the common law the time for prescription to the prejudice of the same shall be counted as provided for by the fourth and last paragraph of article 35 of said law, which is an exception to the rule contained in article 27, that is to say, from the commencement of the possession under title of ownership, although the title by virtue of which it prescribed may not have been registered.

It should also be noticed that the title by composition of Pedro Catalbas is the only one which appears to have been temporarily recorded in the registry, while those of the later acquisition by Mariano Devesa and Juan Sison do not seem to have been so recorded; for this reason the latter, as plaintiff, can not be considered as a third person, as described in the Mortgage Law, in view of the fact that his title was not recorded; but even if it had been recorded, the plaintiff, as the pretended owner of the land in question is not comprehended in the said articles of the code and Mortgage Law, as such third person, and prescription to his prejudice is in accordance with the law even by virtue of titles not recorded in the registry of property, as those contained in the said documents A and B of the defendant.

With the foregoing, it has been demonstrated, in our opinion, how unfounded are the errors attributed to the judgment appealed from, and it should be noted that though the ownership of the property unduly claimed by the plaintiff was satisfactorily proven, nevertheless, this decision has dwelt on the questions set up by said plaintiff relative to the prescription and to matter of third persons whose rights might be affected by such prescription, for the reason that it is so required by the nature and the conditions of a decision rendered on appeal to the second instance, as in this case.

In view of the foregoing considerations and of those contained in the judgment of the court below, it is our opinion that the same should be and hereby is affirmed with costs.

Arellano, C. J., Mapa, Johnson, Carson, and Willard, JJ., concur.

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