

GREGORIO DE LEON, PLAINTIFF AND APPELLEE, VS. PADRE SATURNINO TRINIDAD, DEFENDANT AND APPELLANT.

G.R. No. 4926. December 17, 1908

Ponente: WILLARD, J.

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WILLARD, J.:

As the appellant says, there is a conflict in the evidence presented by the parties to the action relating to the question as to which one of them has been in possession of the land for the last twenty years. The court below found in favor of the plaintiff on this point and we can not say that the evidence preponderates against that finding. It must, therefore, be sustained.

The court below also found that the plaintiff was the person who had been in possession for this length of time. The appellant claims that the person in possession was the father of the plaintiff until 1903, and after his death his five children. It is true that the plaintiff testified that his father left property to the five children and something was said by him about the division of the property among these children. But, notwithstanding these statements, the plaintiff testified positively that this particular piece of land was his; that he had been in possession of it for thirty years, and that none of the brothers or sisters had any interest therein. We think that the evidence is sufficient to support the finding that the plaintiff is the only one of the family who has an interest in this tract of land.

This action was commenced in 1908 in the Court of First Instance. In 1907 the defendant commenced a proceeding of forcible entry and detainer in the court of a justice of the peace and obtained a judgment against the present plaintiff and was put in possession of the property. It is claimed by the appellant in this case that that judgment is conclusive as to the rights of the parties and is a bar to this action. Section 87, of the Code of Civil Procedure provides, however, to the contrary. That section is as follows:

"A judgment rendered in a suit of unlawful entry and detainer, either for the plaintiff or defendant, shall not bar an action in the Court of First Instance between the same parties respecting title to the land or building; nor shall any judgment given therein be held conclusive of the facts found in another action between the same parties."

The judgment of the court below is affirmed, with the costs of this instance against the appellant. So ordered.

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

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