

MARTIN BELEN ET AL., PLAINTIFFS AND APPELLANTS, VS. ALEJO BELEN, DEFENDANT AND APPELLEE.*G.R. No. 5002. March 18, 1909*

Ponente: TORRES, J.

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On October 4, 1907, Martin Belen and Honoria Belen, the latter assisted by her husband Segundo Capuno, filed an amended complaint against Alejo Belen stating: That the plaintiffs were both under age, wherefore they requested the court to appoint a guardian ad litem, who might be Gerardo Belen, to represent them at this trial; that, several years prior to 1888, Getulio Belen, during his marriage with Juliana Fanoy, both residents of San Pablo, had two children named Marciana and Feliciano Belen, the said spouses having acquired a great portion of the property hereinafter described with money belonging to the conjugal partnership; that Getulio Belen had inherited only a small portion of the property from his father, which property consists of a tract of land planted with 600 cocoanut trees, situated in the barrio of Santa Maria Magdalena in the municipality of San Pablo, and is bounded on the north by land of Cornelio Belen; on the east and south, by land of Venancio Alimon, and on the north (west) by the lands of Venancio Alimon, Geronimo Sahagun, and Faustina Belen; another parcel of land also planted with 600 cocoanut trees, situated in the said barrio, is bounded on the north by the cocoanut groves of Lucas Baldovino and Alejo Belen, on the east by the latter's land, on the south by lands belonging to the said Alejo Belen and Maria Belen, and on the west by those belonging to Pedro and Francisco Pandifio; that on October 19 of that year, Getulio Belen died intestate, and on September 17, 1890, Juliana Fanoy contracted another marriage with Gerardo Belen, from which marriage the plaintiffs Honoria Belen and Martin Belen were born on November 20, 1890, and November 10, 1892 respectively; that on July 15, 1895, Juliana Fanoy died intestate, leaving as her heirs her four children born from two marriages, Marciana, Feliciano, Honoria, and Martin, all of the surname Belen; that Marciana Belen died on August 23, 1900, as did Feliciano Belen on May 2, 1902, without any succession, their two half-brothers, the plaintiffs, surviving them, and as the said Marciana and Feliciano died without any debt or obligation pending; leaving only the above-described lands, the plaintiffs did not petition for a letter of administration on the death of the latter, Feliciano Belen, but in 1902, in which year he died, the defendant Alejo Belen took possession of the two said lands without any title or right thereto, and since that time he has retained and refused to return or to deliver them to the plaintiffs in spite of the repeated demands made by the latter; furthermore, that he has failed to give them any portion of the fruits and profits of the said lands, the value of which has amounted to P4,000 from that year up to the date of the complaint, and has applied them to his own benefit; wherefore they prayed; that the court, after the corresponding proceedings and trial, declare the plaintiffs to be the exclusive owners of the said lands, and sentence the defendant to return the same and to pay the plaintiffs the sum of P4,000 and the costs of the trial.

The demurrer filed by the defendant was overruled, and Gerardo Belen having been appointed guardian ad litem for the plaintiffs, the defendant in his answer denied each and all of the facts alleged in the complaint in each and every one of its paragraphs, and alleged as a special defense: That he was the owner of two parcels of land situated in the sitio of Santa Maria Magdalena, of the pueblo of San Pablo, La Laguna, and that he did not know

whether they were the same as those described in the complaint; that in case they were the same as those claimed by the plaintiffs, then he alleged that said lands were his exclusive property, the first having been acquired by him by inheritance from his mother Valeria Alcantara, who in her turn had acquired it by purchase from Ramon Biglete in 1885, and the second by inheritance from his father Facundo Belen, as the share of the estate falling to him upon the division of the property of his father among his sons and legitimate descendants; and that the plaintiffs had no right of action to claim any right or interest over the above-mentioned lands, and therefore he asked the court to render judgment in his favor absolving him from the complaint with the costs against the plaintiffs.

After hearing the evidence adduced by both parties, and the exhibits introduced at the trial having been made of record, the lower court, on March 10, 1908, entered judgment absolving the defendant from the complaint with the costs against the plaintiffs, whose counsel, upon being notified of the decision, duly excepted thereto and moved for a new trial on the ground that the judgment was contrary to the weight of the evidence and that the evidence did not support the judgment; his motion was overruled, the plaintiffs excepted and the corresponding bill of exceptions having been presented was duly approved and forwarded to this court.

By a well-settled rule of the courts, a person who brings an action to recover possession, like the one at bar, is under the obligation fully to prove, not only his ownership, but also the identity of the thing claimed.

As counsel for the plaintiffs has failed to comply with these requisites, they are not entitled to a final judgment in their favor, declaring them to be the exclusive owners of the two parcels of land claimed in the complaint, and against the defendant by sentencing him to return them said land together with its products or the value thereof.

They not only failed to prove that they were in possession of said parcels of land under title of ownership prior to 1902, but also the fact that they actually lost their possession in the unlikely and incredible manner they claim, in other words, that Gerardo Belen, upon the request of the defendants agreed to deliver to the latter the aforesaid parcels of land for the purpose of building thereon a camarin (warehouse) for the manufacture of oil, though later Alejo Belen, in spite of his repeated demands refused to return the said lands to him. This was a cession as peculiar as inexplicable, which prompts the inference that at least a part of the cocoanut trees was destroyed, without any benefit to the persons claiming to be the owners.

The mere possession of a thing is sufficient to insure respect to the possessor while no other person appears to show and prove better right, according to the doctrine of the courts. (Art. 440, Civil Code.) The defendant has proved that he has been for many years in possession of the lands in question under title of ownership, and therefore, whether the proof of his right of ownership be or be not sufficient, so long as no other person appears with a better right, he is entitled thereto. Article 448 of the same code provides:

"The possessor by virtue of ownership has in his favor the legal presumption that he holds possession by reason of a sufficient title and he can not be forced to show it."

In case No. 3819, entitled Sanchez Mellado vs. The Municipality of Tacloban (9 Phil. Rep., 92), this court held that-

"In an action to recover possession of real estate under an alleged titled of ownership, the plaintiff must rely upon the strength of his own title and not upon the weakness of that of the defendant, and he must establish his allegations by a preponderance of evidence."

Counsel for the plaintiffs did not satisfactorily prove his allegations, so that the judge, after considering the evidence adduced by both parties, found that the preponderance of the same was in favor of the defendant, and this clearly appears from the case.

It is an old and well-settled rule of the courts that the burden of proving the action is upon the plaintiff, and that if he fails satisfactorily to show the facts upon which he bases his claim, the defendant is under no obligation to prove his exceptions. This rule is in harmony with the provisions of section 297 of the Code of Civil Procedure holding that each party must prove his own affirmative allegations, etc.

In view of the foregoing considerations and accepting those contained in the judgment appealed from, with the rectification, however, that it shall be understood that the first parcel of land was sold by Roman Rigleto to Valeria Alcantara widow of Facundo Belen, instead of to Juliana Fanoy, which is a material error noted in the first paragraph at page 10 of the bill of exceptions, we are of opinion, and so hold, that said judgment should be and is hereby affirmed, with the costs against the appellants.

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

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