

**FABIANA ARRIOLA Y CABRERA, AS ADMINISTRATRIX OF THE
ESTATE OF SIMONA CABRERA, PLAINTIFF AND APPELLANT, VS.
CAROLINA GOMEZ DE LA SERNA, DEFENDANT AND APPELLEE.**

G.R. No. 5397. December 17, 1909

Ponente: MORELAND, J.

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MORELAND, J.:

This is an action of ejectment brought for the recovery of a parcel of land situated in the city of Manila, at the corner of Calles San Luis and Nueva. The plaintiff sues as administratrix of the estate of her mother, Simona Cabrera, who died some years ago. She has no documentary title whatever and relies upon the testimony of witnesses to the effect that her mother was in possession of the land until about 1882, when she was ousted by an order of the court and possession of the premises was taken by Jose M. Perez Rubio. The defendant shows title in herself and her minor children by inheritance from her deceased husband, Jose M. Perez Rubio, under a contract of distribution among his heirs. It appears also upon the defendant's showing that said Jose M. Perez Rubio acquired title by a conveyance executed by the Court of Quiapo on the 21st day of December, 1881, and that, immediately upon said conveyance, he entered into possession of the property and he and his heirs have continued in possession thereof under claim of ownership, publicly, peacefully, and without interruption, down to the time of the commencement of this action.

The plaintiff contends that the possession of Jose M. Perez Rubio of the land in question was not in good faith, as required by law, and assigns as a reason for that contention that, subsequent to the conveyance mentioned, the opponent of Rubio made an application to the court in the action in which said conveyance was obtained asking that the cause be reheard and that the order of said court which was the basis of said conveyance be suspended until the cause could be retried; that, pursuant to such application, said cause was reopened and said order and its operation were suspended; that nothing further was done in said action by either party, and that, therefore, the effect of the order of conveyance having been annulled by a suspension of the same and the reopening of the case for a rehearing, Rubio had no proper title or color thereof when he took possession of said land, and he, therefore, continued in possession knowing the defect in his title; and that said Rubio, being himself a lawyer, can not be heard to plead ignorance to protect his possession from the taint of bad faith.

We find, however, that it is not necessary to discuss or decide that question because the defendant in this action claims ownership of said land not only by virtue of the possession and rights therein of her husband, Rubio, but also by virtue of her own personal occupancy and possession of the same for more than 10 years, in good faith and just title, basing the same upon inheritance from her husband and a contract of distribution among his heirs under which she was awarded the land in question.

Article 1957 of the Civil Code provides that ownership and other property rights in real property shall prescribe by possession for ten years as to persons present, and for twenty years with regard to those absent, with good faith and with proper title. Article 1950 of the same code provides that good faith of the possessor consists in his belief

that the person from whom he received the thing was the owner of the same and could convey his title. Article 433 provides that any person who is not aware that there is in his title or in the manner of acquiring it any flaw invalidating the same shall be considered a possessor in good faith. Article 434 provides that good faith is always presumed and any person alleging bad faith on the part of the possessor is obliged to prove it. That defendant has been possessing since 1896 under a proper title, as defined by law, is undoubted. It is equally unquestioned that the defendant has been occupying and possessing in good faith unless the alleged bad faith on the part of her husband can be imputed to her. Article 442 of the Civil Code provides that a person inheriting by hereditary title shall not suffer the consequences of faulty possession of the testator unless it is proved that he had knowledge of the defects affecting it. There being no proof in the record that the defendant had knowledge of the defects, if any, in the title of her husband, the question of good faith upon his part in possessing such land is of no consequence in the decision of this case. The defendant, having taken possession of the land in dispute on the 15th day of February, 1896, in good faith and with a proper title, and having publicly, peacefully and uninterruptedly possessed the same down to the date on which this action was commenced, viz., October 17, 1908, it is evident that the defendant is the owner of said land by virtue of prescription.

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

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

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