

TOMAS INOCENCIO, PETITIONER AND APPELLANT, VS. MIGUEL GAT-PANDAN ET AL., RESPONDENTS AND APPELLEES.*G.R. No. 5432. November 20, 1909*

Ponente: TORRES, J.

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On the 17th of July, 1908, Tomas Inocencio filed a petition with the Court of Land Registration for the registration in accordance with law of certain property of which he was the absolute owner, and which consisted of a parcel of land situated in Calle Alonso Velasquez, formerly Quesada, in the district of Tondo, city of Manila. The said land is bounded on the north by the lot owned by Martiniano Ponce; on the south by that of Emigdio Urrutia; on the east by Calle Alonso Velasquez; and on the west by the Bay of Manila. The north and south sides each measure 26 meters and 82 centimeters, and the east and west boundaries 12 meters and 75 centimeters each, the whole area containing 341.955 square meters. At the last assessment, the said parcel of land was valued for the purposes of taxation at \$275.50, United States currency, and was purchased by the petitioner from Mariano Inocencio. No incumbrance of any sort exists on the property, nor does any other person claim title or interest therein. Said land is occupied by Maria Consolacion de la Torre. Together with the petition for registration, there were presented a plan and technical description of the property, a certified copy of the instrument of sale made by Isaias de los Santos y Reyes to Mariano Inocencio y Norvera on the 12th of November, 1900, another instrument of sale with pacto de retro executed by Mariano Inocencio in favor of Leon Reyes on the 14th of January, 1907, another instrument of sale on reversion executed by the said Leon Reyes in favor of Mariano Inocencio on the 15th of January, 1908, and the bill of sale executed by Mariano Inocencio in favor of the applicant Tomas Inocencio and his wife Efigenia Ampil on the 14th of July, 1908.

From the report of the registrar of deeds, it appears that the land or lot described in the foregoing petition was segregated from a larger parcel situated on said Calle Quesada, and that the vendor, Isaias de los Santos y Reyes, inherited it from his late father, and that he was in possession when he commenced the possessory information proceedings in the Court of First Instance of the district of Tondo, approved on the 28th of August, 1900, and his right of possession without prejudice to a third party was recorded on the 13th of September of the same year.

After the foregoing petition was amended with respect to the names and post-office addresses of the tenants who now occupy the property in question, and after notices were served and published as provided by law, Miguel Gat-Pandan appeared on the 7th of October, 1908, on his own behalf and as attorney in fact for his sister Quiteria, and objected to the said application for registration made by Tomas Inocencio y Alejo for the land or lot above referred to, on the ground that said property was owned by him and his aforementioned sister, they having inherited it from their deceased grandfather, Pedro Bernardino.

Evidence was adduced by both parties and their exhibits made of record; at the trial the objector amended his opposition and stated that the land in question was inherited by them from their late mother, Maria Bernardino, who, in turn, had acquired it from her brother Pedro Bernardino.

After hearing the evidence adduced, judgment was entered by the court below on the 12th of November, 1908, holding that the evidence did not establish either the ownership of the petitioner nor that of the objectors of the land in question, and the opposition was overruled and the application dismissed.

The petitioner moved for a new trial on the ground that the decision of the court was contrary to the evidence. His motion was overruled, whereupon he excepted thereto and to the judgments, and against all the decisions rendered against him in the case, and gave notice of his intention to present a bill of exceptions. This latter, after being approved has been submitted to this court for review.

Later, on the 26th of December of the same year, the trial judge in an addition to his decision set forth further reasons for not considering the claims of the petitioner to be justified.

The title presented by Tomas Inocencio in applying to the Court of Land Registration for the registration of the lot is the one that was transferred to him by the vendor, Mariano Inocencio, who obtained it from Isaias de los Santos who in turn inherited it from his father Jose de los Santos. The latter is presumed to have been the original owner or possessor under title of ownership, of the lot in question.

"The rights to the succession of a person are transmitted from the moment of his death." (Art. 657, Civil Code.)

"Heirs succeed the deceased in all his rights and obligations by the mere fact of his death." (Art. 661, Civil Code.)

According to article 807 of said code, heirs by force of law are, in the first place, the legitimate children and descendants, with regard to their legitimate parents and ascendants.

The record in the case shows that the said Jose de los Santos left four children, three boys and one girl, one of whom is Isaias de los Santos. If the said lot was actually the property of the aforesaid Jose de los Santos, upon his death these four children, who are his heirs by force of law should have succeeded him, they being, after his death, the sole owners of the lot in question. One of the heirs, Isaias de los Santos, could not lawfully dispose of it without the consent of his other coheirs and coowners. (Art. 348, Civil Code.)

Under section 19 of Act No. 496, application for registration of title may be made, among others, by the following persons: "1. The person or persons claiming, singly or collectively, to own the legal estate in fee simple."

The applicant, Tomas Inocencio, claims to be the sole owner of the lot in question, having acquired it by purchase from Mariano Inocencio, who in turn acquired it from Isaias de los Santos; and as, according to the record, the latter was not the sole owner of the said lot, it not appearing that in order to lawfully dispose of the property he had previously obtained the consent of his coowners, or that the latter had transferred to him their rights thereto, there can be no question as to the fact that the applicant Tomas Inocencio can not call himself the absolute owner of the lot, or claim as such the registration of his title, inasmuch as Isaias de los Santos could not have transferred to Mariano Inocencio other rights than those which he himself possessed therein; nor could the latter have transferred to the said applicant any rights further than those transmitted to him by Isaias as coheir, with his three other brothers, of the late Jose de los Santos, as principal.

Hence, even on the hypothesis that the late Jose de los Santos was actually the original owner of the lot in question, the petitioner, Tomas Inocencio, as the last purchaser who acquired the same, does not hold title as owner in fee simple; therefore his title can not be registered under the provisions of the above-cited law.

As to the rest, we believe that the finding in the judgment appealed from, to the effect that the evidence in the case does not establish the ownership of the applicant, for the reason that the record does not show that Jose de los Santos was the owner of the land in question, or that he possessed it as owner during the time fixed by law, is in

accordance with the law and the weight of the evidence, since it appears in the proceedings that the said lot was erroneously included in the possessory information proceedings instituted by Isaias de los Santos in connection with another and larger parcel of land; and that prior to the year 1896, Maria Bernardino possessed the said lot, which she in turn inherited from her brother Pedro, the former holder thereof. In spite of the fact that the trial court held that the ownership of the opponents who did not appeal from the decision had not been proven, yet the judgment appealed from must be sustained, and the petition for registration denied.

In view of the foregoing it is our opinion that the judgment appealed from should be affirmed as we do hereby affirm it with the costs against the appellant. So ordered.

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

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