

MANUEL PADIN Y MARCAIDA, PLAINTIFF AND APPELLANT, VS. R.E. HUMPHREYS, ARCADIO FELICIANO, EUSEBIO FERNANDEZ, AND C.J. COOKE, DEFENDANTS AND APPELLEES.*G.R. No. 6044. March 30, 1911*

Ponente: MORELAND, J.

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This is an action of ejectment brought by the plaintiff against the defendants for the recovery of a mineral claim called "The Lookout Claim," located in the barrio of Bolo, municipality of Torrijos, Island of Marinduque, Province of Tayabas, a technical description of which is presented in the complaint. The plaintiff alleges ownership by virtue of having located a mining claim under the provisions of the Act of Congress of July 1, 1902. The defendants, on the other hand, assert that the land upon which said mineral claim is alleged to have been located is land belonging to them and occupied by them at the time the claim referred to was staked. They found their ownership and right to possession upon a purchase of said land from certain Filipinos who had owned said lands and been occupying the same for more than thirty years prior to said purchase. They further assert that being in quiet, peaceable, open, and visible possession of said lands at the time of the staking of said mineral claim on the part of the plaintiff, and they and their antecessors having been so in possession for more than thirty years, the entry of the plaintiff upon said land and the staking of said mineral claim was a trespass and an unlawful invasion of their rights as owners and possessors.

In order to determine the first question in the case, namely, whether or not the defendants are the owners of the land described in their Exhibit No. 1 in this case, which includes at least a portion of the mining claim which the plaintiff alleges he owns, we have carefully read the testimony given upon the trial and the exhibits offered in connection therewith. A detailed consideration of the testimony leads us to the conclusion that the finding of the learned trial court upon that subject can not be said to be against the weight of the evidence.

This question being decided in favor of the defendants, it necessarily follows that the entrance upon said premises by the plaintiff and the staking of the mineral claim in pursuance thereof was a trespass against the right of possession of the defendants and was in violation of law. The present action on the part of the plaintiff can be maintained only upon the theory, that the plaintiff is either the owner of the lands: or is entitled to the possession thereof. Our finding that the defendants are the owners disposes of his claim to ownership. Our finding of the defendants' right to possession of said land disposes of his right to possession. It is argued, however, on his behalf, that the land is public land owned by the Government, and that he acquired rights therein by his proceeding under the Act of July 1, 1902, and that the possession of the defendants is subordinated to such rights. Even if we concede that the land in question is public land, nevertheless the defendants' possession for more than thirty years has given them frights which even the Government itself is bound in a measure to respect. In order to claim rights under the Act of July 1, 1902, the plaintiff must show that he has properly staked the land; but in making that showing he necessarily discloses also that in staking that land he violated certain rights of the defendants. The latter, having acquired actual possession of the land and .having maintained that possession for a long series of

years, can not be forcibly dispossessed thereof, or from any portion thereof, even by the Government itself.

Article 441 of the Civil Code provides:

"In no case can possession be forcibly acquired while there is a possessor opposing it. A person believing that he has an action or right to deprive another of the holding of a thing must request the assistance of competent authority whenever the holder refuses the delivery."

Article 446 of the same code provides:

"Every possessor has a right to be respected in his possession; and should he be disturbed therein, he must be protected or possession must be restored to him by the means established in the laws of procedure."

Article 448 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."

Article 459 provides:

"The actual possessor who shows his possession at a prior period is presumed to have had possession also during the intermediate period until the contrary is proved."

Article 460 provides:

"The possessor may lose his possession:

"1. By the abandonment of the thing:.

"2. By transfer to another for a good or valuable consideration.

"3. By the destruction or total loss of the thing or by the thing becoming unmarketable.

"4. By the possession of another, even against the will of the former possessor, if the new possession has lasted more than one year."

It is, therefore, evident that even, if we concede the land in controversy to be Government land, the defendants, having acquired the rights of a possessor, can not be deprived; of those rights except by due process of law, even though the Government itself be the complaining party.

All of the rights which the plaintiff alleges in this action are rights which are based upon a trespass against the personal rights of the defendants. Upon the provisions of the code above referred to, and upon the general principle that a party may not take advantage of his own wrong, we are of the opinion that the plaintiff can not maintain this action. Every right which the plaintiff asserts in this case springs from the performance of an act which the law prohibited; at the time of its performance.

It is to be observed that the rights of the Government in the lands in question are not in this case adjudicated. The Government is not a party and whatever is said and decided in this case applies only to the parties to this action.

Moreover, this decision refers to and affects only that land of defendants described in the conveyance in evidence.

The judgment of the trial court is affirmed, with costs of this instance. So ordered.

Arellano, C. J., and Torres, J., concur.

Carson, J., concurs in the result.

Trent, J., dissents.

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