

JUAN SAMBRANO, PLAINTIFF AND APPELLANT, VS. BALDOMERO ARZAGA AND TEODORO LONGBOY, DEFENDANTS AND APPELLEES.

G.R. No. 6183. March 02, 1912

Ponente: JOHNSON, J.

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JOHNSON, J.:

The purpose of the present action was to recover the possession of two parcels of land described in paragraphs 4 and 5 of the complaint, and damages for the illegal detention thereof, together with costs.

The action was commenced on the 22d of July, 1908. The defendants, after denying each and all of the allegations of the complaint alleged that they were the owners and entitled to the possession of the lands in question. After hearing the evidence adduced during the trial of the cause, the Honorable Dionisio Chanco found that the evidence did not show that the plaintiff was the owner of the lands in question and also that the lands had not been sufficiently identified. The decision was filed on the 13th day of December, 1909.

It appears from the record that after the plaintiff had closed his case, none of the witnesses for the defendants were present in the court room and the attorney for the defendants asked that he be given a few moments for the purpose of finding his witnesses. This request on the part of the attorney for the defendants was denied. There was, therefore, no proof adduced during the trial of the cause to support the contentions of the defendants.

On the 27th of December, 1909, the attorney for the plaintiff presented a motion for a new trial, supported by an affidavit, based upon the ground that he had discovered two documents, Exhibits B and C, which he alleged showed that the lands in question belonged to him, and that he had used due diligence in attempting to find said documents. This motion was denied by the lower court. These documents (Exhibits B and C) were united with the record brought to this court. The defendants, however, had no opportunity in the court below to present objections to their admissibility nor to present evidence to overcome their legal effect as proof. It may be that these documents will supply the very defect of title upon which the lower court decided that the plaintiff was not the owner of the lands in question.

In practically every case relating to lands which comes to this court by appeal from the Ilocos provinces, there seems to be difficulty about the identification of the lands in question. It would seem to be a wise course to adopt by the lower court in case of deficiency of evidence relating to the identity of land, to make an ocular inspection himself or to appoint a commission for that purpose in order that the court may know just what lands are in litigation. In actions for the recovery of the possession of land, the description should be so definite that an officer of the court whose duty it is to carry out the order of the court, might go into the locality where the land is situated and definitely locate it. There ought not to be any difficulty in identifying lands, for example as in the present case, where the parties claim to have been in possession for a long period of time.

For the foregoing reasons the judgment of the lower court is set aside and a new trial is hereby ordered, to the end that the plaintiff may have an opportunity to present the newly discovered evidence and that the defendants be given an opportunity to adduce such additional evidence as they may deem necessary, and without any finding as

to costs.

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

Moreland, J., with whom concur Carson and Trent, JJ., concurring:

I agree with the opinion in this case except that portion recommending ocular inspection by the trial court.

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