

TOMASA M. SANTIAGO ET AL., PETITIONERS AND APPELLANTS, VS. MARCELA C. CRUZ ET AL., OPPONENTS AND APPELLANTS.

G.R. No. 6276. March 21, 1911

Ponente: CARSON, J.

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CARSON, J.:

This is an appeal from a decree entered in the Court of Land Registration in a proceeding wherein the appellants sought to have title to the land described in the application adjudicated in their favor and a decree entered for its registry.

The applicants are the widow and minor children of one Simon Tecson, deceased, and claim title to the land in question under a deed of sale to him from Eduvigis Manikis, widow of Estanislao G. Cruz, deceased.

The objectors, who opposed the registry of the land in favor of the applicants in the court below, claim title to an undivided one-half interest in the land, as the sole heirs of Estanislao C. Cruz, deceased, through his brother Pedro C. Cruz, deceased, their common ancestor.

It was satisfactorily proven, and, indeed, practically agreed in the court below that the land in question was originally public land, conveyed to Estanislao C. Cruz, deceased, by Government grant in the year 1886; that it thereafter became the communal property of Estanislao C. Cruz and his wife, Eduvigis Manikis; that after the death of Estanislao C. Cruz, his widow executed a deed of sale of the land on the 19th of May, 1896, to Simon Tecson, deceased, the husband and father, respectively, of the applicants, and that from that date to the date of the filing of the application in this proceeding, December 2, 1908 (a period of more than ten years' duration), Tecson and the appellants have successively been in quiet, peaceable and uninterrupted possession, under a claim of ownership.

It was further practically agreed and satisfactorily proven in the court below, that at the time of the death of Estanislao C. Cruz, his estate and his widow were each entitled to an undivided one-half interest in the land in question, it being a part of the bienes gananciales (communal property); that the objectors in this proceeding are the legitimate heirs of the estate of Estanislao C. Cruz, and his only heirs, if it be a fact that Pedro C. Cruz (the brother of Estanislao C. Cruz, through whom they claim their right of inheritance) was lawfully married to Petra, his alleged wife; but that if Pedro C. Cruz and Petra were not lawfully married then the land in question, as a part of the estate of Estanislao C. Cruz, went, at his death, to his widow, in accordance with the laws touching the distribution of intestate estates.

The applicants contend that the evidence does not sustain a finding that Pedro C. Cruz and Petra, his alleged wife, were lawfully married; and that even if it be granted that they were, and that the objectors are the lawful heirs of Estanislao C. Cruz, through his brother Pedro C. Cruz, nevertheless, the admitted occupation of the land in question for a period of more than ten years, under a claim of ownership, based on the deed of sale executed by the widow of Estanislao C. Cruz, establishes a prescriptive title, valid even against the heirs of the estate of her deceased husband.

The court below found against the applicants on both contentions, and was of opinion that they are entitled to but an undivided one-half interest in the land in question, that being all that the widow owned at the time when she executed the deed of sale. We think that the opinion of the trial judge in this regard must be sustained.

We have carefully examined the evidence of record touching the marriage of Pedro C. Cruz and Petra, his wife, and we agree with the trial judge that the evidence upon which the applicants attempt to raise a question as to its legality is of the flimsiest character, and wholly insufficient to justify us in holding that the trial court erred in finding the existence of a lawful marriage. True, the evidence in support of the marriage (and we might here add of the birth and baptism of the offspring therefrom) lacks the confirmation which would be furnished by duly authenticated copies of the pertinent extract from the parish registers (*libros canonicos*) of the church of San Rafael, in the Province of Bulacan, wherein it is alleged the formal record of these events was kept, but we think that the other evidence of record satisfactorily establishes, the fact of the marriage, and further establishes the legitimacy of the alleged offspring therefrom. This evidence was properly taken into consideration by the trial court, not only because no objection was offered to its introduction in the court below but also because it appears from the record that the parish registers, wherein it was alleged the above mentioned entries were made, have been destroyed. (*Chua Soco vs. Veloso*, 2 Phil. Rep., 658; *Loper vs. Standard Oil Co.*, 5 Phil. Rep., 549; *City of Manila vs. Cabangis*, 10 Phil. Rep., 151; *Boiler vs. Alcazar*, 13 Phil. Rep., 282; *Marella vs. Reyes*, 12 Phil. Rep., 1.)

Under the provisions of article 1950 of the Civil Code a prescriptive title to real estate is not acquired by the mere possession thereof, under a claim of ownership, for a period of ten years, unless it was originally acquired "*con justo titulo y buena fe*" (with color of title and good faith). Good faith, in this connection, while it is always to be presumed in the absence of proof to the contrary, requires a well-founded belief that the person from whom title was received was himself the owner of the land, with the right to convey it. In the case at bar, it affirmatively appears that Simon Tecson, through whom applicants claim title, was well aware that the widow, Eduvigis Manikis, was only entitled in her own right to an undivided one-half interest in the land in question at the time of her husband's death, and that this other undivided one-half interest was the property of her deceased husband's estate, and, as such, of his heirs; it also appears that, although the fact that the Government grant of the land in question was made to and in the name of Estanislao C. Cruz was well known to Tecson, the original title deeds having been delivered to him when he purchased the land from the widow, nevertheless he took from his vendor a deed which falsely makes it appear that the grant had been made to the widow herself, this false recital manifestly having for its object the concealment of the fact that the vendor was entitled, in her own right, to only an undivided one-half interest in the land conveyed; and it further appears that some, if not all, of the heirs of the estate of the deceased husband were living in the vicinity wherein the transaction took place, and could hardly fail to have been known as such to the purchaser of the land had he made reasonable inquiry to satisfy himself as to their existence or nonexistence. Under these circumstances we think that the finding of the lower court against the existence of good faith in the original purchase - that is to say, of a well-founded belief that the vendor was the owner of all the land which she undertook to sell him, and had the right to convey it - must be sustained.

The trial court, however, having properly found that the appellants are only entitled to an undivided one-half interest in the land in question, and that the objectors (*opositores*) are entitled to the remaining undivided one-half interest therein, thereupon improperly directed the registry of the land as the property of both the applicants and the objectors in the proportions indicated. Under the provisions of section 19 of the Land Registration Act, which requires "That one or more tenants claiming undivided shares less than a fee simple in the whole land described in the application shall not make application except jointly with the other tenant owning undivided shares, so that the whole fee shall be represented in the action;" and under our ruling in the case of *Tecson vs. Corporacion de los PP. Dominicos*, decided March 16, 1911[1] (with which compare *Foss vs. Atkins*, 201 Mass., 158; *Id.*, 204 Mass.,

337), wherein we held that under the general provisions of the Act, the court has no jurisdiction to decree the registry of title in favor of an objector (opositor); it is quite clear that the application should have been dismissed, without prejudice to the right of the various owners of the undivided interests in the land, jointly to present a new application for registry.

Twenty days hereafter judgment will be entered reversing the decree entered in the lower court without costs to either party in this instance, and ten days thereafter the record will be returned to the court below where the proper decree will be entered in accordance herewith. It is so ordered.

Arellano, C. J., Mapa, Moreland, and Trent, JJ., concur.

[1] Page 79, *supra*.

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