

ALEJANDRO TECSON, PETITIONER AND APPELLEE, VS. LA CORPORACION DE LOS PP. DOMINICOS, OPPONENT AND APPELLANT.

G.R. No. 6410. March 16, 1911

Ponente: MORELAND, J.

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MORELAND, J.:

This is an appeal from a judgment of the Land Court, Hon. Simplicio del Rosario presiding, registering a parcel of land in the name of the petitioner, Alejandro Tecson, against the opposition of the Corporacion de PP. Dominicos, which claims that the land belongs to it.

The appellant in this case makes three assignments of error:

"First. The pleading in opposition to a registration of land in the Court of Land Registration is sufficient ground in procedural law to raise the question of another action pending between the same parties over the same land.

"Second. A decision in favor of the defendant in an action for the recovery of mere possession is not a decision in relation to the ownership thereof.

"Third. In view of the proofs presented on the trial the overruling of the opposition of the Corporation de PP. Dominicos is clearly unjust."

The purpose of the first assignment of error is evidently to raise the question of another action pending between the same parties over the same subject matter. The learned counsel for the appellant asserts that the Corporacion de PP. Dominicos, prior to the commencement of the present proceeding, had begun a proceeding in the Court of Land Registration for the purpose of registering the land in dispute in this controversy under Act No. 496, and that the petitioner in this case, Alejandro Tecson, appeared in that proceeding and filed his opposition thereto, thereby joining issue for all the purposes of a trial. This being so, the commencement of the present proceeding by Alejandro Tecson is, according to the contention of counsel for the appellant, the commencement of another action between the same parties over the same subject matter, something which the law does not permit. In reply to this contention it is necessary to say only that this court has held heretofore that the jurisdiction of the Land Court extends no further than the Inscription of the land described in its final decree and the enforcement of that decree, and that, even though the land described in the petition be found by the court, as between the petitioner and the oppositor, to be the property of the opponent, such land can not be inscribed in his name, the Land Court having, as we have said, no jurisdiction or power to do so. It naturally and necessarily follows that the opponent, if he desires the land of which he claims ownership to be registered in accordance with law, must begin a new proceeding in the Land Court for that purpose, (*Foss vs. Atkins*, 201 Mass., 158; *Id.*, 204 Mass., 337; *People. Ex Rel. Smith vs. Crissman*, 41 Colo., 450.) The result is that two proceedings for the registration of the same land may be pending between the same parties in the same court at the same time; and they may, under order of the court, be tried together. The objection of the appellant upon this ground is, therefore, without merit.

The second error assigned is directed to that portion of the decision of the learned court below in which it refers to a decision of the Hon. Estanislao Yusay, judge of the Court of First Instance of Rizal, rendered in an action brought by the Corporation de PP. Dominicos against several defendants, among them Alejandro Tecson, the petitioner in the case at bar, for the purpose of recovering possession of certain parcels of land, among them the land now in controversy, which was at that time occupied and claimed by said Alejandro Tecson as owner. In his decision the learned court below in the action at bar referred to that decision and attached to it some importance. It is true that the action appears to have been for the recovery of possession merely, but the right to possession asserted by the plaintiff in that case was founded upon its claim of ownership of the Hacienda de Navotas, of which it claimed the land occupied by Alejandro Tecson was a part. The plaintiff in that case attempted to show, and produced witnesses for that purpose, that Alejandro Tecson was a tenant of the Hacienda de Navotas, owned by the plaintiff, and that having refused to pay rent, his eviction therefrom was sought. The court in that case found in favor of the defendant Alejandro Tecson and against the plaintiff. The only thing we can gather from that decision is that plaintiff's right to possession was not superior to that of the defendant. The trial court in the case at bar did not rest its conclusion upon the decision in that case but used it rather in support of his finding that the petitioner, Alejandro Tecson, had occupied the land in question adversely for many years and was its owner by virtue of prescription. This was an entirely proper use of that decision, it tending to demonstrate that even at and before the time of its rendition Tecson was occupying the land under a right superior to the Corporacion de PP. Dominicoa and probably under claim of ownership.

As to the third error assigned, it presents simply a question of fact. We have examined the cause thoroughly and read carefully the evidence produced on the trial. After a thorough consideration of the whole case, we are unable to say that the conclusions of the learned trial court upon the facts are against the fair preponderance of the evidence adduced. The trial court in the opinion upon which its judgment in favor of the petitioner is founded went into the facts in detail. He analyzed the testimony carefully and gave his reasons for the decision which he made. So thoroughly and satisfactorily did he do this that we do not feel called upon to go into a detailed discussion of the evidence here. As to the facts, we base our conclusions upon those stated in that opinion.

The assignments of error and the arguments made thereupon presenting no sufficient reason for the reversal of the judgment of the court below, that judgment is hereby affirmed, without special finding as to costs.

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

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