

PASCUAL RODOLFA, PLAINTIFF AND APPELLEE, VS. LUIS SERMONIA ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 6515. December 07, 1911

Ponente: MORELAND, J.

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MORELAND, J.:

This is an action of ejectment. The plaintiff claims title by purchase from one Magdalena Cernandi, who claims to have inherited it as the only heir of Buenaventura Cernandi. The defendants Luis, Leon and Teodoro Sermonia assert title to the land which they are occupying by purchase from Buenaventura Cernandi before his death, while the defendant Andrea Pajantoy claims the parcel which she is occupying by gift from her aunt Calixta Pajantoy, wife of Buenaventura Cernandi, with immediate delivery of possession of the lands, which have remained in her possession continuously since that time. She also asserts that she is the only surviving heir of Calixta, who died intestate, owning and possessed of said land as her separate property.

Judgment was rendered in favor of the plaintiff. Title to the land was declared in him and possession was ordered delivered in accordance with such judgment. From that judgment this appeal was taken.

We are of the opinion that the judgment cannot stand.

The plaintiff has plainly failed to prove a cause of action. The burden of proof is upon him to show title. He must recover upon the strength of his own title and cannot rely for success upon the weakness of that of his adversaries. Having no better title than that which he acquired from Magdalena Cernandi, he can recover only in case she could.

It is undisputed in the evidence that the defendants Luis, Leon and Teodoro Sermonia purchased certain lands from Buenaventura Cernandi sometime before his death and that they have been openly, notoriously, peaceably and continuously occupying the same ever since the purchase. It is the undisputed evidence that the lands which they now occupy are the same lands which they bought of Buenaventura Cernandi and of which they took immediate possession on the purchase. It is the undisputed evidence that Buenaventura died in the year 1897, with said defendants in possession of the lands to his knowledge under the purchases referred to. It is the undisputed evidence that said defendants have been in possession of the lands ever since his death to the knowledge of Magdalena Cernandi and the plaintiff, openly, notoriously, peaceably and continuously, claiming title thereto under the deeds which they present in evidence. It is conceded that at the time of such purchase and sale they knew that the said defendants were claiming said lands as owners by purchase, admitting a superior title in nobody.

The court, bases its judgment in favor of the plaintiff wholly upon the proposition that the technical descriptions of the lands in the deeds of said defendants do not now agree with the descriptions of the lands which they are actually occupying; and that said lands, being, as claims the court, clearly comprehended within the description of the lands mentioned in the complaint, plaintiff is entitled to the possession thereof. We do not believe that that conclusion necessarily follows. The description of the lands at the present time may not be at all like the

description of the lands at the time they were sold by Buenaventura to said defendants. This for the very good reason that those descriptions refer to and are based very largely upon the names of contiguous owners. Contiguous owners frequently change. The description consequently changes. Moreover, it is well known that in the sale of small parcels of land in the Philippine Islands the descriptions have been heretofore very inaccurate, generally speaking, and the identification of the lands from the description alone is in many cases substantially impossible. But, aside from all this, the description of the land in a deed is not necessarily controlling as to the lands actually sold. The conveyance itself may, by mistake, describe one piece of land when the intention of the parties was to convey an entirely different piece. Acting on the agreed intention, the purchaser may have taken possession of the land which was intended to be sold instead of the land actually described. The occupation of the land by consent of the vendor, with the intention clear between the parties to sell and buy that particular piece of land, the faulty description in the conveyance cannot later be made the basis for the dispossession of the vendee by an heir who claims the right to dispossess solely by reason of his inheritance.

In the case at bar, from the undisputed proofs, the description of the lands in defendants' conveyances has very little signification. As we have already said, it is undisputed that the defendants Luis, Leon and Teodoro Sermonia purchased certain lands from Buenaventura Cernandi; that they immediately took possession of the lands which they purchased and which were supposed to have been described in their deeds; that they have continuously occupied these lands from that day until the present and that they were the lands which Buenaventura intended to sell and which they intended to purchase.

Under such circumstances, the fact, if it be a fact, that the descriptions in their deeds do not coincide with the lands which they actually bought and occupied is of very little importance. The great and important fact is that these are the lands which they actually bought. By consent of all parties they took possession of these lands and have occupied them ever since.

Counsel for the appellee lays considerable stress upon what he alleges to be certain admissions or contradictions of the witnesses for the defendants. We have carefully read the evidence and are satisfied that the overwhelming preponderance thereof presents the facts as we have stated them.

The defendant Andrea Pajantoy claims the land which she occupies in two ways: First, by virtue of her relationship with Calixta Pajantoy, wife of Buenaventura Cernandi; and, second, a gift of said land from said Calixta with delivery of possession which has lasted the prescriptual period. It appears from the proofs that this defendant was the only heir of said Calixta Pajantoy and that the land which she occupies is land which belonged exclusively to said Calixta at the time of her death. Moreover, it appears in the case as undisputed proof that said Calixta, prior to her death, delivered the parcel of land in question to the defendant Andrea as a conveyance to her of the same, without, however, executing any instrument incorporating¹ such transfer; that said Andrea took possession of the land at the time of such delivery and has continuously retained such possession to the present time. While Magdalena Cernandi was an heir of Buenaventura Cernandi, being his niece, she was not an heir of Calixta Pajantoy, his wife, the only heir of the latter being the defendant Andrea. These facts certainly furnish the foundation for a right of possession. Moreover, from possession itself ownership is presumed in the absence of proof showing title or interest in some other person. Magdalena claims ownership of the parcel occupied by the defendant Andrea by having inherited it from Buenaventura. It appears, however, undisputed in the evidence that Buenaventura never had possession of such land but that possession thereof was always found in Calixta, his wife. From this and from the fact that Calixta disposed of this piece of land during the life-time of her husband by transferring it to the defendant Andrea, it is indicated with fair conclusiveness that it was her separate property and that she had the right to dispose of it as she wished. This being true, Magdalena did not receive such property by virtue of her relationship with Buenaventura. She has not, therefore, demonstrated in the proofs a right or title

superior to that of the defendant Andrea.

It is asserted by the appellee, and it is true, that this court has many times held that it will not interfere with the intelligent conclusion of a trial court concerning the credibility of witnesses and the opposing testimony which they present, the court having seen them in the act of testifying and having carefully observed their manner and demeanor, unless the record discloses that some fact or circumstance of weight and influence has either been overlooked by the court or has been misapprehended or misinterpreted. (U. S. vs. Ambrosio and Palsario, 17 Phil. Rep., 295.)

In the case at bar, however, there can scarcely be said to be conflicting evidence there cannot be said to be any real dispute between the parties as to the vital facts in the case. The case before us is one in which the court failed to draw the proper conclusion from the evidence before it.

For these reasons the judgment appealed from is reversed and the complaint dismissed on the merits; title to the lands occupied by the defendants to be awarded to them, respectively. So ordered.

Torres, Mapa, and Carson, JJ., concur.

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