

GREGORIA ARNEDO CRUZ ET AL., PETITIONERS AND APPELLEES, VS. DOMINGO DE LEON ET AL., OPPONENTS AND APPELLANTS.

G.R. No. 6546. January 15, 1912

Ponente: TORRES, J.

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TORRES, J.:

This is an appeal raised by the opponents, from the judgment rendered by the Honorable Judge Higinio Benitez.

On the 12th of August, 1907, Gregoria Arnedo Cruz, in her own behalf and in the name and representation of her sisters, Maria Concepcion, Manuela and Juana, all surnamed Arnedo Cruz, made written application to the Court of Land Registration for the registration of two parcels of land, situated in the barrio of San Miguel, pueblo of Calumpit, Province of Bulacan, of which they claimed to be the absolute owners, and described as follows:

Parcel A, bounded on the north by land of Ramon de los Reyes; on the east by that of Victoria A. Cruz; on the south by a road from the barrio of San Miguel; and on the west by the land of Eugenia de Jesus. It has an area of 222,871.23 square meters.

Parcel B, bounded on the north by the road from the barrio of San Miguel; on the east by the land of Victoria A. Cruz; on the south by the Rio Grande de Calumpit; and on the west by the land of Eugenia de Jesus. It has an area of 14,130.67 square meters. The estate described, composed of two parcels of land, was appraised, for the purposes of the last assessment, together with the buildings thereon constructed.

The petitioners alleged that there was no encumbrance on the property, nor any person entitled to any right or share therein, according to their best knowledge and belief; that they acquired this land by inheritance from their deceased parents, Jose Arnedo Cruz and Maria Santos Espiritu; and that, in the unlikely event of its being impossible to grant their application in accordance with the Land Registration Act, they would rely upon the benefits of chapter 6 of Act No. 926, inasmuch as they had been in possession of the said lands for more than fifty years, during which period they were used for the cultivation of rice, being surrounded by pilapiles, or earthen dikes.

Upon a hearing of the case, on February 20, 1908, the court, by an order of the same date and after the issuance of a decree of general default, decreed the adjudication and registration of the two aforescribed properties in the names of the sisters Gregoria Arnedo Cruz, Manuela Arnedo Cruz, Maria Concepcion Arnedo Cruz and Juana Arnedo Cruz.

By a written petition of the date of December 15, 1908, Toribio de Leon, Agustin Catanghal, Fulgencio Clarin, Clara de Leon, Antonio Mundo, Julian de Leon, Joaquin de Leon, Domingo de Leon, Eernardo Reyes, Ambrosio Carlos, Pedro de Leon, Florentina Ramos, Monica Laderas, Juana Martinez, Francisco de Torres, and Mariano Valladar, stated to the court that they were the owners and possessors of certain building lots which formed a part of the two parcels of land concerned in this case, and that, notwithstanding the fact that the applicants knew that the said lots were held by the petitioners as owners thereof. they nevertheless included the same as their property

and in their application for registration maliciously made no mention of the petitioners as the occupants of such portions of the said parcels of land, in this manner fraudulently obtaining the judgment in their favor by the Land Court on February 20, 1908; and that, because of such fraudulent procedure the petitioners had no opportunity to appear before the court at the hearing of the case to defend their rights in the portions of land which they respectively occupied. They therefore petitioned that the previous judgment of February 20 be reconsidered and reversed, after due procedure, in so far as their respective lots were concerned.

After a hearing on this motion the court, with the acquiescence of the applicants, ordered, on January 7, 1909, that the case should be reheard.

In consequence thereof, briefs were filed by the opponents and Domingo de Leon alleged: that for about eight years past he had been in possession as owner of a building lot, containing banana plants, situate in the barrio of Frances, Calumpit, Bulacan, bounded on the north by the barrio road, on the east by the property of the heirs of Antonia de Leon, on the south by the Rio Grande de la Pampanga, and on the west by the property of Toribio de Leon, containing 2,522 square meters; and that this lot was acquired by inheritance from his deceased parents, Cayetano and Fernanda Catanghal, who had possessed it as owners for a period of about forty years.

Bernardo Reyes alleged that he was in possession as owner, and had so possessed for some twenty-eight years, a building lot, containing banana plants, situate in the barrio of Frances, bounded on the north by the barrio road, on the east by the property of Toribio de Leon, on the south by the Rio Grande de la Pampanga, and on the west by the property of Isidro N. Baltazar, which lot has an area of 2,590 square meters and was acquired by him by purchase from the spouses Rafael Laderas and Aleja Mata who during their lifetime had held it as owners for more than twenty years.

Raymunda, Bernarda and Jose, all surnamed del Rosario, alleged that they were coowners of a lot situate in the barrio of Frances, bounded on the north by the property of Maria Santos, on the east by that of Pedro del Rosario, on the south by that of Florentina Reyes, and on the west by that of Pedro del Rosario, containing an area of two balitas, which lot was acquired by them through inheritance from their deceased parents, Pedro and Felipa Reyes, who had held it as owners for more than sixteen years.

Florentina Ramos alleged: that for about two years she had been in possession as owner of a lot situate in the said barrio, bounded on the north by the property of Gregoria Arnedo Cruz, on the east by that of Agustin Catanghal, on the south by the barrio road, and on the west by the property of Francisco Torres, and measuring 1,033 square meters, which lot he inherited from his deceased parents, Juan and Josefa Mundo, who themselves had inherited it from Mariano Ramos and had held it as owners for more than sixty years.

Patricio and Felisa Lumabas and Juana, Fernanda and Andres Catanghal, the three latter being minors attended by a curator ad litem, alleged that they were the coowners of two lots, one in the barrio of Frances and bounded on the north by the barrio road, on the east by the property of Julian de Leon, on the south by the Rio Grande, and on the west by the property of Mariano Valladar, containing 19 ares and 76 centares, and the other in the same barrio, bounded on the north by the property of Gregoria Arnedo Cruz, on the east by that of Victoria A. Cruz, on the south by the barrio road, and on the west by the property of Toribio de Leon, with an area of 8 ares and 40 centares; and that they inherited these lots from their deceased mother, Maria Galang, who herself had acquired them by purchase from the spouses Miguel Mundo. and Esperanza Bernabe, through a private instrument of May 1, 1886.

Agustin Catanghal alleged that he was in possession as owner, and had been for more than twenty years, of a lot containing banana plants, situate in the said barrio and bounded on the north by the property of Gregoria Arnedo Cruz, on the east by that of Maria Catanghal, on the south by the barrio road, and on the west by the property of

Florentina Ramos, with an area of 7 ares and 92 centares which was acquired by him through inheritance from his parents, Lucas and Adriana Hilario, who during their lifetime had held it as owners for more than thirty years.

Joaquin de Leon alleged that he was in possession as owner, and had been for more than three years, of a lot in the barrio of Frances, bounded on the north by the barrio road, on the east by the property of Cayetana Monserate, on the south by the Rio Grande de la Pampanga, and on the west by the property of Julian de Leon, having an area of 5 ares and 31 centares, which lot he acquired by purchase from Gabriela Francisco, Mauricio and Magdalena Yambao and Isidra Torres, who themselves inherited it from their deceased parents, Feliciano and Segunda Arcillas; and that the two latter had possessed it for more than thirty years.

Ambrosio Carlos alleged that he was in possession, and had been for more than five years, of a piece of land situate in the said barrio, bounded on the north by the property of Gregoria Arnedo Cruz, on the east by that of Calixto Ramos, on the south by the barrio road, and on the west by the property of Gregoria Arnedo Cruz, and that it contains 756 square meters and was acquired by him through inheritance from his deceased mother, Antonia Ramos, who had obtained it from Marciano Ramos, and these two had possessed it during their lifetime for more than forty years.

Andres de Leon alleged that he was in possession, and had been for more than twenty years past, of a lot in the same barrio bounded on the north by the barrio road, on the east by the property of Clara de Leon, on the south by the Rio Grande, and on the west by the property of the heirs of Antonio de Leon, which lot has an area of 396 square meters and was inherited by him from his parents, Florentino and Juana Payabyab, who during their lifetime had possessed it for more than forty years.

Ignacio and Urbana Ramos, attended by a curator ad litem, on account of their being minors, alleged that they were the owners and possessors of a lot in the same barrio, bounded on the north by the property of Gregoria Arnedo Cruz, on the east by that of Florentina Ramos, on the south by the barrio road, and on the west by the property of Ambrosio Carlos, having an area of 636 square meters, which was acquired by them through inheritance from their father, Calixto Ramos, by the latter from his mother, Luisa Ramos, who herself had inherited it from her father, Mariano,, all of whom had possessed it during their lifetime for more than fifty years.

Monica Laderas stated that she was in possession as owner, and had been for some twenty years past, of a lot in the barrio of Frances, bounded on the north by the barrio road, on the east by the property of Bernardo Reyes, on the south by the Rio Grande de la Pampanga, and on the west by the property of Pedro del Rosario, with an area of 1,625 square meters, which was inherited by him from his deceased parents, Rafael and Aleja Mata, who during their lifetime had possessed it for more than thirty years.

Toribio de Leon alleged that he was in possession as owner, and had been for more than twenty years past, of two building lots situate, one, in the barrio of Frances, bounded on the north by the property of Gregoria Arnedo Cruz, on the east by that of Juan Alfonso, on the south by the barrio road, and on the west by the property of Victor Carlos, with an area of 799.80 square meters; and the other, in the same barrio, bounded on the north by the barrio road, on the east by the property of Domingo de Leon, on the south by the Rio Grande de la Pampanga, and on the west by the property of Bernardo Reyes, having an area of 1,197.65 square meters, which lots were acquired by him through inheritance from his parents who during their lifetime had possessed them as owners for more than thirty years.

Gabina, Inocencia, Liceria, Pio and Vicenta, all surnamed Clarin, attended by a curator, alleged that they were, and had been for more than six years, in joint possession of a building lot in the said barrio, bounded on the north by the barrio road, on the east by the property of Andres de Leon, on the south by the Rio Grande de la Pampanga, and on the west by the property of Domingo de Leon, with an area of 396 square meters, which was acquired by

them through inheritance from their deceased mother, Antonia de Leon, and by the latter from her parents who had possessed it for more than forty years.

Pedro de Leon claimed to be in possession, and to have been since 1907, of a lot bounded on the north by the Frances Barrio road, on the east by another belonging to him, on the south by the Rio Grande, and on the west by the property of Joaquin de Leon, which lot measures 375 square meters and was acquired by him through purchase from Luis Manocab who himself inherited it from his parents who during their lifetime had possessed it as owners for more than forty years.

Francisco de Torres set forth that he was the owner of a lot in the said barrio, bounded on the north by the property of Gregoria Arnedo Cruz, on the east by that of Florentina Ramos, on the south by the barrio road, and on the west by the property of the heirs of Calixto Ramos, which lot had an area of 626.40 square meters and was acquired by him by purchase from Domingo de Leon, who had obtained it from Bruno Salamante and the latter from Iñigo Ramos, and that Ramos inherited it from his parents, Vicente and Felipa Carlos, who had possessed it as owners during a period of about forty years.

Eugenia Catanghal alleged that she was in possession as owner, and had been for more than twenty years past, of a lot in the barrio of Frances, bounded on the north by the property of Gregoria Arnedo Cruz, on the east by that of Toribio de Leon, on the south by the barrio road, and on the west by the property of Agustin Catanghal, which lot, 1,332 square meters in area, was acquired by her through inheritance from her parents, Lucas and Adriana Hilario, who, during their lifetime, had possessed it as owners for more than thirty years.

Mariano Valladar declared that she was the owner of a lot in the said barrio, bounded on the north by the barrio road, on the east by the property of Agustin Catanghal, on the south by the Rio Grande de la Pampanga, and on the west by the property of Clara de Leon, which lot, 945 square meters in area, was purchased by him, through a public instrument of February 6, 1907, from Domingo de Leon who, by a private instrument of February 1, 1905, had bought it from the spouses Feliciano and Teresa Mercado.

Julian de Leon alleged that he was in possession as owner, and had been for more than eighteen years, of a lot in the same barrio, bounded on the north by the barrio road, on the east by the property of Joaquin de Leon, on the south by the Rio Grande de la Pampanga, and on the west by the property of Agustin Catanghal, which lot, 11 ares and 56 centares in area, was acquired by him more than 20 years before, by gift from Estefania Torres who during her lifetime had possessed it as owner for more than thirty years.

Clara de Leon alleged that she was in possession as owner, and had been for more than twenty years, of a building lot in the said barrio, bounded on the north by the barrio road, on the east by the property of Mariano Valladar, on the south by the Rio Grande de la Pampanga, and on the west by the property of Andres de Leon, which lot, containing an area of 792 square meters, was acquired by her through inheritance from her parents, Florentino and Juana Payabyab, who during their lifetime had possessed it as owners for more than thirty years.

All the aforementioned opponents alleged that their respective lots were within the perimeter of the parcels of land registered in the name of the applicants by the decree of February 20, 1908, and therefore asked for the annulment of the same, in so far as it affected their above-described respective lots, and that the costs be assessed against the applicants.

A rehearing in this case having been had, with the production of evidence adduced by the parties, the court, on August 16, 1910, upon the facts established, found against the oppositions presented and ordered the registration of the two parcels of land, described in the application and plans accompanying the record of the case, in the names of the sisters Gregoria Arnedo Cruz, Manuela Arnedo Cruz, Maria Concepcion Arnedo Cruz and Juana

Arnedo Cruz. From this order counsel for the opponents excepted and by written motion asked for a rehearing on the ground that the evidence did not justify the judgment and that the latter was contrary to law. This motion was denied by order of September 2, 1910, from which order exception was taken by counsel for the opponents who announced their intention to appeal, by bill of exceptions, which, when filed, was certified and forwarded with the record of the case to the clerk of this court.

The issue herein involved is one of the registration, in the Court of Land Registration, of two parcels of land claimed to belong to the applicants Gregoria, Manuela, Maria Concepcion, and Juana, all surnamed Arnedo Cruz, which two rural properties are described in the plan presented by the appellants as Exhibit A.

It is unquestionable that the said four sisters are the owners and are in possession of the two said parcels of land, used for the cultivation of rice and sugar cane and situate in the barrio of San Miguel, of the pueblo of Calumpit, Bulacan.

The question to be decided, in view of the oppositions presented by about thirty individuals who possess various lots apparently comprised within the application and plan of the said two parcels of land, is whether it is or is not proper to register the aforementioned two parcels of land with the inclusion of the lots that are the subject of those oppositions.

The opponents have furnished proof that they, as well also as their predecessors in interest, have been in possession, as owners, of their respective lots, all of them for much more than ten years, and the applicants, on the unestablished allegation that the opponents are mere usurpers of certain portions of the properties in dispute, have not proved that the said opponents occupy these portions of land by virtue of any permission, nor by the mere tolerance of the owners of the two parcels before mentioned, nor have they shown how and in what manner the opponents succeeded in entering thereon.

Although the documentary and other evidence produced by the applicants has shown conclusively that they are the legitimate owners and possessors of the two aforementioned parcels of land, yet they have not duly established the fact that they are the owners of the portions now in the possession of the opponents, and whether these lots are comprised within the perimeter and boundaries of the two said parcels of land designated on the plan under the letters A and B. The question presented of first importance is one of metes and bounds, or of area.

Santiago V. Cruz, an agent of Teodoro Tiongson, who was formerly a lessee of the said two parcels of land during three years prior to 1882, testified that, as such agent, he had not collected any land rent for the lots, occupied by many houses, which were within the land that formed the barrio called Frances; that the lands leased by Tiongson from the applicants' mother were used for the cultivation of rice and sugar cane; that, at the expiration of Tiongson's lease, the latter were taken over by Victoria Arnedo; and that several tenants on shares lived in their houses built on the leased lands.

Victoria Arnedo Cruz testified that she had leased the said two parcels of land, used for the cultivation of rice and sugar cane; that in the barrio of Frances there were houses, about fifteen or twenty in number, built on the lots which adjoined the lands of Gregoria Arnedo Cruz, some of which lots are situate on the bank of the river; that in the contract of lease executed by the witness and the applicants' mother, the said lots are not included, for the land leased by the former only extended to the fences of the said lots, and this she also had been told by Teodoro Tiongson, the preceding lessee, who himself had been so informed by the owner of the lands, the applicants' mother; that witness did not know whether the latter, during her lifetime, collected rent for the said lots, for witness, as lessee, did not collect such rent for them; that she did not believe that these lots were comprised within the lands leased by her, and, finally, that some of them, occupied by residents of that barrio, formed a part of the land owned by her, adjacent to the lands of the applicants, while others were a part of the lands of the latter.

From the foregoing testimony it is concluded that, in the successive leases of the said two parcels of land, there were not included lots which appear to have been occupied by various residents of the locality, apparently the opponents, and, inasmuch as the latter were long prior to 1882 in material possession of the lots which they occupied, without having made any acknowledgment of the applicants' alleged ownership, nor of that of their predecessor in interest; and, further, since there is no evidence to show how and in what manner the opponents and their predecessors in interest began to occupy the lots in question and that they entered upon the same through the tolerance of their alleged owners, and also that the said lots formed a part of the two parcels of land sought to be registered, it would be improper to hold that the disputed lots should be included in the registration.

As for all other aspects of the case, let it be borne in mind that by abandonment, negligence or carelessness, owners provided with the most perfect titles may be deprived and dispossessed of their properties by usurpers who, by the lapse of the time specified by law, acquire the same by prescription. (Arts. 1930 and 1959, Civil Code.)

Civil possession, according to article 430 of the same code, is the holding of a thing or the enjoyment of a right, together with the intention of acquiring ownership of the thing or right. 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. (Art. 446, Civil Code.)

The record in this case does not show, by decisive and conclusive proof, that the lots of the opponents are comprised within the lands of the applicants, and that the opponents are and have been in possession of the lots in question, unduly or precariously, by tolerance of their legitimate owners, for a less time than that required by statute for prescription, and without any good right. Therefore the registration of the two parcels of land, the subject matter of the application, is deemed proper, with the exclusion of the lots or portions of land owned by the opponents.

For the reasons aforesaid, and with the modification specified, the judgment appealed from is affirmed; but before completing the inscription and registration of the said parcels of land in the name of the applicants, with the exclusion of the portions of land owned by the opponents, a correct survey, which must be duly approved, shall be made of the said properties, and a plan shall be drawn, for the purpose of the issuance of the proper title in accordance with the law. No special finding is made as to the costs. So ordered.

Johnson, Carson, Moreland, and Trent, JJ., concur.

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