

**ISIDORA DANCEL AND ALEJANDRA MINA, THE LATTER AS
GUARDIAN OF THE MINOR ESTEBAN MINA Y DANCEL, PLAINTIFFS
AND APPELLANTS, VS. JULIAN VENTURA, MIGUEL AGUSTIN,
TEODORO MARTIN, AND ...**

G.R. No. 6598. March 08, 1913

Ponente: TORRES, J.

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TORRES, J.:

This appeal was filed, through a bill of exceptions, by counsel for the plaintiffs from the judgment rendered on August 22, 1910, whereby the Honorable Dionisio Chanco, judge, absolved from the complaint the defendants Julian Ventura, Miguel Agustin, Teodoro Martin, Ramon Barruga, Inocencia Peña, Evaristo Crisostomo, Leoncio Agustin, Prospero Bautista, Ciriaco Mariano, German Santos, Paula Santos, Nicolas Mariano, Tomas Mariano, Simeon Mariano, Placido Santos, Juan Calixto, Candido Mariano, Desiderio Diego, Pedro Lloreta, Cecilio Calucag, Gelasio Mata, Isidora Nery, Matias Nicolas, Braulio Manuel, Restituto Miguel, Severo Ancheta, Silverio Martin, Pascual Mariano, Leon de Lara, Eustaquio Ancheta, Teodoro Ruiz, Lucio Martin, Apolonio Agustin, Melquiades Martin, Juvenal Mariano, Ramon Mariano, Teodoro Ancheta, Julio Agcaoili, and Melecio Estavillo, with no special finding as to costs.

On July 23, 1908, Alejandra Mina, as the guardian of the minor Esteban Mina y Dancel, and Isidora Dancel filed with the Court of First Instance of Ilocos Norte a written complaint wherein they alleged that Isidora Dancel and the minor Esteban Mina were the owners of a tract of rural land situated in the place called Gambeng, and of three tracts of land, likewise rural, in Corcuera of the pueblo of Dingras-Solsona, of said province:

(a) A tract of rural land in Gambeng, 3 hectares 9 ares and 20 centares in area, bounded on the north by the land of the heirs of the deceased Jose Dancel; on the east, by the same land and by that of Cirilo Puruganan; on the south, by those of the town church and by a watercourse. (b) A tract of rural land in Corcuera, 47 ares and 36 centares in area, bounded on the north by the lands of the town church; on the east, by those of the heirs of Jose Dancel; on the south, by those of Cirilo Puruganan; and on the west, by those of Tomas Zumel. (c) A tract of rural land in the said sitio, 2 hectares 82 ares and 88 centares in area, bounded on the north by the lands of the said Dancel; on the east and west, by those of Cirilo Puruganan; and on the south, by uncultivated land, (d) A tract of rural land in the same sitio, 34 ares and 44 centares in area, bounded on the north and the east by the lands of Cirilo Puruganan; on the south, by those of the deceased Jose Dancel; and on the west, by a watercourse; that, in 1903, the defendants, Julian Ventura and Miguel Agustin, being foremen of the farmer tenants who were cultivating the land in Gambeng, and Teodoro Martin and Ramon Barruga, being likewise foremen of the farmer tenants who were cultivating the lands in Corcuera, ceased without just cause to pay the rent agreed upon, refused to recognize the plaintiffs as the owners of the said property, and appropriated the same, claiming that they were the owners thereof; and that the defendants thereby caused to the plaintiffs losses and damages in the amount of P768, equivalent to 96 uyones of paddy which they failed to furnish the latter, at the rate of 16 uyones a year and P8 per uyon, since 1903; and they asked that a judgment of recovery be rendered in their behalf by sentencing the

defendants to restore to them the aforescribed rural nroperty together with the products thereof unduly collected since 1903, and to the payment of the costs.

The demurrer interposed by the said four defendants to the aforementioned complaint having been overruled, their counsel, by a writing of August 11 of the same year, denied each and all of the grounds of the complaint and alleged that the defendants were not liable, in their capacity of foremen of the farmer tenants who were cultivating the said lands, for the payment of rent to the plaintiffs; that the defendants had not received and did not possess the said lands; that the plaintiffs had brought suit for rescission of contract against the defendants Teodoro Martin and Ramon Barruga, of Corcuera, and Julian Ventura and Miguel Agustin, of Gambeng, wherein they demanded of the defendants as their tenants on shares the payment of the rent for the said lands from 1903, claiming that the latter had not paid the same; that, in that suit, the defendants were absolved, as the plaintiffs did not prove that they had delivered the said lands to the defendants, nor that there existed any contract of lease between the plaintiffs and the defendants; that if the plaintiffs had tenants on shares who cultivated lands in Corcuera and Gambeng and were not the defendants, such tenants who failed to pay the rent demanded must be the defendants, and not their foremen, Ventura and Agustin, of Gambeng, and Martin and Barruga, of Corcuera, who did not as tenants of the plaintiffs receive any land to cultivate and had not, in the character of foremen, endeavored to appropriate the lands described in the complaint, nor did they in any manner persuade the plaintiff's farmer tenants to cease paying the rental price thereof. Defendants' counsel therefore asked that his clients be absolved from the complaint, with the costs against the plaintiffs.

In view of the fact that, as disclosed by an inspection of the said lands, held thereon by the clerk of the court attended by the parties and their respective counsel and a surveyor, on February 20, 1909, the defendants were in possession of but a small part of the lands in litigation, the rest of the same being occupied by more than fifty persons, mentioned by name in the record of the said inspection, who claimed to be the owners of the respective portions of land held by them, the court, on April 14, 1909, ordered that the complaint be amended so as to include therein as parties defendant all the persons whose names appeared in the aforementioned record of inspection and in the plan drawn up by the surveyor.

Counsel for the plaintiffs, being notified of the preceding order, asked that another new inspection be made, that the adjoining landowners specified in the complaint be summoned, and that the right be reserved to his clients to make or not to make the said amendment; but the court, by an order of November 5, overruled the motion and warned the plaintiffs' counsel that if he did not, in accordance with previous directions and within the unextendible period of five days, amend the complaint, the case would be decided in pursuance of law.

In compliance with the aforesaid order of the court, the plaintiffs, Isidora Dancel and Joaquin Madamba, the latter in his capacity of guardian of the minor Esteban Mina, filed a written amendment to their original complaint, by including therein the persons named Inocencio Pana, Melecio Estavillo, Evaristo Crisostomo, Leoncio Agustin, Prospero Bautista, Ciriaco Mariano, German Santos, Paula Santos, Nicolas Mariano, Tomas Mariano, Simeon Mariano, Placido Santos, Juan Calixto, Candido Mariano, Julio Agcaoili, Desiderio Diego, Pedro Lloreta, Cecilio Calucag, Gelasio Mata, Isidora Nery, Matias Nicolas, Braulio Manuel, Restituto Miguel, Severo Ancheta, Silverio Martin, Pascual Mariano, Leon de Lara, Eustaquio Ancheta, Teodoro Ruiz, Lucio Martin, Apolonio Agustin, Melquiades Martin, Juvenal Mariano, Ramon Mariano, and Teodoro Ancheta, and reproduced in full in said amendment all the facts of possession and ownership alleged in the complaint thus amended, and asked that judgment be rendered in their behalf by sentencing the defendants immediately to restore to the plaintiffs the lands in question, to pay damages and the costs.

Counsel for the defendants Matias Nicolas, Pedro Loreto and Braulio Manuel denied all the grounds of the complaint and alleged as a defense that his clients held lands in Gambeng and Corcuera, as they had inherited

them from their forefathers, that they had been in the possession and enjoyment of the said lands for more than thirty years, and that the property or land held by the defendants and claimed by the plaintiffs was not described in the complaint.

The demurrer filed to the amended complaint by the other defendants having been overruled, counsel for these latter, by a written motion of July 15, 1910, asked for their absolution with the costs against the plaintiffs, and, to this end, denied all the essential allegations on which the said complaint was based, since, he alleged, these defendants held as owners their respective lands in the sitios of Gambeng and Corcuera, they each and all of them or their spouses having acquired the same either personally or by purchase, donation, or inheritance, and had been known as such possessors and owners for more than thirty years; that the plaintiffs were not known either as the possessors or the owners of any land or lands in the said sitios of Gambeng and Corcuera of the pueblo of Solsona, as an action brought by the plaintiffs against some of the defendants, for the rescission of a contract of lease, was decided against the plaintiffs, for the defendants did not recognize and had not recognized them, nor their predecessors, nor any other persons, to have any interest in the ownership and possession of the lands belonging to the defendants, which are situated in the said sitios of Gambeng and Corcuera.

The case having come, to trial and evidence having been introduced by the parties, counsel for the defendants, in another writing of August 12, 1910, alleged among other things that the plaintiffs had not presented any evidence whatever, except what had already been introduced, against the demurrer of the new defendants, the witnesses of which plaintiffs testified that the lands sought to be recovered were under the control of the first four defendants and they made no mention of the other new defendants; that the action for recovery was based on a title of ownership which did not show the identity of the lands claimed, as was and had been seen by the plan drawn by the surveyor on the occasion of the ocular inspection, inasmuch as the said title specified three hectares in connection with the plaintiffs, while from the inspection and survey made of the lands in Gambeng the same were found to contain seven hectares; that it appeared from the will left by Nicolasa Agcaoili, from whom the plaintiffs claimed to have inherited the lands in litigation, that the testatrix had only one parcel of land of 166 uyonos of paddy in Gambeng and another parcel in Corcuera, though in Gambeng she held a little more than three hectares or an area sufficient for sowing 30 uyonos of rice, which is one-fifth of the area mentioned in the will; that the defendants' rights of ownership were duly proved at the trial by witnesses familiar with the said localities, who testified that the plaintiffs did not possess any land whatever in the said places; and that the defendants had not paid for their lands any annual charge or rent to anyone, but had paid the taxes thereon to the Government.

In view of all the foregoing, the court, on August 22, 1910, rendered the judgment aforementioned, exception to which was taken, by counsel for the plaintiffs, who moved that it be set aside and a new trial granted, inasmuch as the evidence did not sufficiently justify the said judgment and the findings of fact were openly and manifestly contrary to such evidence. This motion was overruled by an order of September 2, and exception thereto was filed by the plaintiffs, who presented the proper bill of exceptions, which was approved and forwarded to the clerk of this court.

The action brought by counsel for the plaintiffs has for its object the recovery or restitution of four parcels of land situated, one of them in the place called Gambeng and the other three in Corcuera, of the municipality of Dingras Solsona, Ilocos Norte, for the reason that they have been detained and usurped by the 4 defendants and 35 other residents of those localities.

The complaint filed in this case is founded on the rights which the plaintiffs had in the lands claimed by virtue of their title of ownership issued to Nicolasa Agcaoili, an ancestress and predecessor in interest of the plaintiffs, by the director-general of the administracion civil, on May 13, 1889, and recorded with the inspeccion general de montes and the civil government of the said province, on May 21 and June 26 of the same year, 1889,

respectively, and inscribed in the property registry on December 2, 1891. In this deed it appears that the said Nicolasa Agcaoili was gratuitously awarded, by composition with the State, six parcels of land, among which are included the third, situated in Gambeng, and the fourth, fifth, and sixth, in the sitio of Corcuera, with statements of their respective boundaries and area.

For the purpose of issuing the said title, the proper administrative proceedings must have been had by the provincial board, with the indispensable condition that the applicant should have been, for the number of years required by law, in possession of the lands whose composition was sought, and, during the course of such procedure, the proper publications must have been made in the town and there must also have been effected the location and survey of the lands intended to be the subject of the concession granted by and in the name of the Government, in such manner that, after the termination of all the required proceedings and the issuance and inscription of the title in the property registry, the concessionary who obtained the registered title was the sole proprietress of the adjudicated land or lands entered in her name in the registry, until such title should be annulled or cancelled by final judgment of the courts.

The record does not show that the title obtained by Nicolasa Agcaoili, through composition with the State, to the six parcels of land, which include the four parcels in litigation, has been annulled and cancelled by any final judgment ; on the contrary, the contents of the decision rendered by the Real Audiencia de Manila, on October 7, 1872, affirming the judgment of November 9, 1871, raised on appeal from the Court of First Instance, are perfectly in accord with the said title as regards the tenure and ownership of the lands in question. The plaintiffs, therefore, as the successors of the said Nicolasa Agcaoili, are unquestionably entitled to claim the lands unlawfully usurped by the defendants.

With respect to the identification of the six parcels of land concerned in the said title, their respective boundaries and area are clearly and specifically determined, as seen by the mere reading of the document found on page 1 of the record of proceedings for title, and, therefore, the plaintiffs not only have proven their ownership under a perfectly valid and efficacious title, not invalidated by any other better one adversely filed, nor canceled by an express declaration in a final judgment rendered by a court of law, but also have proved in a conclusive manner the identity of the four parcels of land claimed by them, which certainly have not disappeared from the territory of Ilocos Norte. The change of name of some of the boundaries can be no impediment to the recovery sought, for the reason that the plaintiffs could not have lost their right of ownership, except through ordinary or extraordinary prescription of dominion legitimately acquired by the lapse of time respectively specified by law.

Aside from the documentary evidence which most fully proves the plaintiffs' ownership of the lands, in question and their right to have the same restored to them, the record offers satisfactory oral proof, consisting of the testimony of six witnesses who in a uniform and decisive manner affirmed that the plaintiffs were the legitimate owners and possessors of the said four parcels of land which are occupied by the first four defendants, Julian Ventura, Miguel Agustin, Teodoro Martin, and Ramon Barruga, as tenants or lessees of the plaintiffs. These four occupants, as well as the 35 persons who, it appears, now occupy a part of the said parcels of land and are likewise defendants in this suit, have adduced no proof whatever of the title under which, as alleged owners, they at present hold the disputed lands.

True it is that it is sufficient for the possessor to hold in order to be respected in the possession he enjoys, so long as no other claimant appears who may have and prove a better right; but it is no less true that from the moment it shall have been proven that such possessor detains and is usurping the property unduly to the prejudice of the owner who has proved his ownership under legitimate title, it is of course proper, and strict justice demands, that the usurped property be restored.

The 39 defendants come within the case just mentioned, inasmuch as, besides their mere holding or detention of the said lands, they have not proved that their possession in the quality of owners is lawful and is supported by any right that must be respected by the courts; while, on the other hand, the plaintiffs have perfectly proved their ownership rights in the said lands by authentic documents and a title issued by the administrative authorities in the name of the State and must be considered as the sole lawful owners of the lands in question. Moreover, it cannot be affirmed that the plaintiffs, by the usurpation and detention of the defendants, have legally lost the possession they were enjoying, inasmuch as the usurpation of a property creates no right in behalf of the intruders or usurpers, to the prejudice of the lawful owners thereof who can lose their ownership rights only through a long prescription which, in the present case, the defendants certainly have not satisfactorily acquired against the plaintiffs.

Furthermore, the fact that a majority of the defendants have paid the land tax does not of itself, though proven by receipts issued by the Government, sufficiently establish that they are the owners of the lands which they declared in bad faith to be theirs. Neither does a final judgment, unfavorable to the plaintiffs, in the matter of the rescission of a lease, prove that any of the defendants were the owners of the lands in question, because the present case deals with the dominion over and ownership of certain lands the recovery or restitution of which is demanded by the plaintiffs, and the only judgment that can invalidate the right and title of the plaintiffs is a final one declaring the defendants, or third persons not connected with the plaintiffs, to be the owners of the lands in question. So long as no one appears with better title and right than those shown by the plaintiffs, they are entitled to the protection of the law.

For the foregoing reasons, it is proper, with a reversal of the judgment appealed from, to sentence, and we hereby do sentence, all the 39 defendants therein named to restore to the plaintiffs the four parcels of land in question, in the possession of which the latter shall be placed in accordance with Jaw. No special finding is made either with respect to the fruits produced by the said property, on account of the absence of proof of the importance and amount thereof, or as to the costs of both instances.

Arellmo, C. J., and Johnson, J., concur.

Trent, J., concurs in the result.

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