

PEDRO GERALDO, PLAINTIFF AND APPELLEE, VS. MATEO ARPON, DEFENDANT AND APPELLANT.*G.R. No. 6664. March 29, 1912*

Ponente: TRENT, J.

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The questions involved in this appeal are (1) the ownership of a small parcel of rice land situated in the Province of Leyte, and (2) the products of the same since 1904. The trial court found the plaintiff to be the owner of a part of the land described in his complaint and entitled to receive the products therefrom, amounting to P175. The defendant appealed.

For the purpose of establishing his title, the plaintiff presented a certified copy of a possessory information obtained in 1897 and duly registered the following year, and also the testimony of himself and one other witness to the effect that the plaintiff had been for more than twenty years prior to 1904 in possession of the land in question. On the other hand, three witnesses, including the defendant, testified that the defendant is now and has been in possession of a part of the land described in the complaint since the year 1890, and that the other part is possessed by one Epifanio Blancaflor. The defendant also presented a notarial document in which it appears that he purchased from Tiburcio, Felipe, Placido, and Paulino Cirera the land claimed by him.

While it cannot be said that a possessory information, although duly registered, which was obtained in 1897, is conclusive either as to ownership or possession, yet, in this case, the possessory information presented by the plaintiff, taken in connection with the oral testimony presented by him, shows clearly that he is the real owner of that part of the land sought to be recovered which is now in possession of the defendant. It is true that the defendant claimed that he purchased this land in 1890 from the above-named parties and that in support of this claim he presented the notarial document which was executed on April 30, 1910 (some ten days before the institution of this action). The defendant testified that this notarial document was executed at the time he made the purchase in 1890 and that this is the same identical document which he received at that time, while the document shows upon its face and also from the notary's certificate that it was executed on April 30, 1910. So the defendant's testimony in reference to having received this document in 1890 cannot possibly be true. The defense attempted to explain this point by trying to show that this notarial document is a copy of the private document executed in favor of the defendant in that year. The old document, if it existed, was not presented, neither was there any attempt made to present the same. The record shows conclusively that the execution of this notarial document was made for the sole purpose of trying to defeat the plaintiff, and that the defendant never purchased any part of this land.

Counsel for the defendant, in his printed brief, insists that the trial court erred in admitting the certified copy of the possessory information presented by the plaintiff, and bases this contention upon the provisions of section 284 of the Code of Civil Procedure. This section treats of original writings and provides that there can be no evidence of the contents of a writing other than the writing itself, except in certain cases, one of these cases being when the original is a record or other document in the custody of a public official. The document presented by the plaintiff

is a copy of the possessory information taken from the property registry and duly certified by the registrar of deeds. And furthermore, his objection, which was raised for the first time on appeal, comes too late.

It was also contended that the trial court erred in rendering judgment against the defendant for the products of that portion of the land which he has occupied since 1904. We think this contention is well founded. The plaintiff, prior to 1904, had been in possession of this land cultivating it almost every year for a period of more than twenty years. But it appears that about the latter part of 1903 he ceased to cultivate this land and that the defendant entered into possession of part of the same and has continued in the use and occupation of that part up to the present time. The plaintiff has paid very little attention to this land since that year. So little that he did not know at the time this case was tried that one Blancaflor was in possession of a part of the land sought to be recovered by him. All of this land is occupied by the defendant and Blancaflor, but it does not appear how much is occupied by each one. The plaintiff testified that when he cultivated all of the land he produced some 80 to 100 cavanese of palay annually. Another witness testified that palay since 1904 has sold for from two pesos to two and one-half pesos per cavan. There is nothing in the record to show what portion of the crop should belong to the landlord and what portion to the occupant, neither does the record show with any degree of certainty how much of the 2.2625 hectares in the entire piece is in possession of the defendant. The testimony presented by the plaintiff is so indefinite and uncertain that a money judgment for the unlawful use and occupation of the land by the defendant cannot be sustained.

Therefore, the judgment appealed from should be and hereby is modified by disallowing recovery for the products of the land. As thus modified, the same is affirmed without costs.

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

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