

**SEVERINO P. CID ET AL., PLAINTIFFS AND APPELLEES, VS.
ABRAHAM PERALTA ET AL., DEFENDANTS AND APPELLANTS.***G.R. No. 6672. January 24, 1913*

Ponente: TORRES, J.

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Appeal, through a bill of exceptions, by counsel for the defendants from a judgment rendered in this case by the Honorable Dionisio Chanco, judge.

Severino P. Cid y Mata, Estanislao Nicolas y Juan, and Gregorio Guerrero y Mata filed suit on August 1, 1908, in the Court of First Instance of Ilocos Norte, alleging that they have been for more than twenty years the owners of a rural estate situated in Sari Julian de Culao, Dingras, Ilocos Norte, the cultivated part of which has an area of approximately 12 hectares and 50 ares, according to the compromise effected between the defendants, Abraham Peralta and Dorotea Bonoan y Castro, on April 28, 1908, and the uncultivated part thereof, 11 hectares 27 ares and 92 centares, or a total approximate area of 23 hectares 77 ares and 92 centares, but that the true measurement of the said land is 28 hectares 54 ares and 60 centares; bounded on the north formerly by Arcadio Almazan, and now by Celestino Almazan and a ditch; on the northeast, formerly by Andres Castro, and now by Epifanio; on the east, by a stony tract; on the southeast, by Domingo Caluya; on the south, formerly by Elias Villanueva and now by the latter's son, Benigno Villanueva; and on the west, formerly by Andres Castro and now by Esteban Castro and his coheirs; that Abraham Peralta was used as an intervener by the plaintiffs about April 1, 1908, Dorotea Bonoan then being a plaintiff and claiming the property in question, but by the compromise aforementioned, submitted to the Court of First Instance on July 7 of the same year, the said Peralta and Bonoan agreed to divide equally the cleared as well as the timbered portion of said land; that Peralta, about the month of August, 1903, unlawfully took possession of the said property without the knowledge of the plaintiffs and in spite of their objections he still continues in possession of one-half of the land, while the other half is held by Dorotea Bonoan under the compromise mentioned, as she could not dispose of the land, for she is only a coparcener of the plaintiffs and has a mother, brothers, and sisters with rights in the part she holds; that the plaintiffs have therefore brought this action against the defendants for the recovery of possession of the land afore described and have suffered losses and damages in consequence of the acts of the defendants on the said property, through their failure to collect the produce of the land which amounts to 600 uyones of rice, valued at P1 an uyon, and ask that judgment be rendered sentencing Abraham Peralta y Guerrero to deliver to the plaintiffs the property now in his possession, and Dorotea Bonoan y Castro to deliver to the plaintiffs the part of the said land she unlawfully and improperly disposed of, and that the defendants be sentenced to deliver to the plaintiffs the 600 uyones of rice which the latter failed to receive as the produce of the land or the equivalent thereof in cash amounting to P600, and to pay the costs of the trial.

Counsel for the defendants, in his written answer, sets forth that he denies generally and specifically each and all of the allegations of the complaint and, as a defense, alleges that the land described in the complaint has belonged exclusively to the defendant Dorotea Bonoan from time immemorial, and that more than ten years ago, her

codefendant, Peralta, obtained a right in the same land, by having at his own expense brought under cultivation about 12 hectares and 50 ares thereof, which right was recognized by the defendant Dorotea Bonoan in a compromise made on April 23, 1908; that the plaintiffs had no property in San Julian de Culao, Dingras, for the land in question was twice inundated and completely converted into a sand-bank, once in 1872 and again in 1882, and up to the present time has been uncultivated and sandy, and that if the plaintiffs really did have property in the said place, it would be the stony tract and not what the defendant Abraham Peralta had brought under cultivation and had been tilling for more than ten years, which belonged to Dorotea Bonoan, her mother, brothers, and sisters; that the defendants be absolved from the complaint, with the costs against the plaintiffs.

On September 30, 1908, Felix Nicolas set forth in writing that, having learned of the present suit over ownership of the land in question and being directly interested in the plaintiffs' side of the case, he therefore desired to join them in pushing it and requested permission to file a complaint as intervener against the defendants, which petition was granted by order of November 12 of the same year.

On April 27, 1909, the plaintiffs, for reasons stated, requested in writing an injunction restraining the defendants from continuing to perform acts of destruction on the land in question, asked that the latter be finally sentenced to payment of the sum claimed as losses and damages occasioned, and further, that the defendants be prohibited from constructing the dam and ditch on the property of the plaintiffs.

This petition was opposed by counsel for the defendants, who requested that the injunction prayed for be not issued and that the costs be assessed against the plaintiffs, which the court granted, refusing the injunction requested by the plaintiffs.

On account of the death of Gregorio Guerrero, counsel for Eulogio Guerrero, the legitimate son of the said deceased, requested in writing on July 18, 1910, that he be admitted as a party to this suit, for the reason that he had already applied to the court for the issuance in his behalf of letters of administration for the estate left by his said father, in order that the course of the proceedings might not be stayed, or else that he be granted an extension of the period of thirty days allowed him so that he might have an opportunity to represent in this suit the succession of the deceased. The record does not show whether any action was taken on this petition.

The case came to trial, and the evidence introduced by both parties having been examined, the court, on September 2, 1910, rendered judgment finding that the land situated in San Julian de Culao, Dingras, consisting of 28 hectares 54 ares and 60 centares, bounded on the north by Celestino Almazan and a ditch, on the northeast, by one Epifanio, on the east, by a stony tract, on the southeast, by Domingo Caluya, on the south, by Benigno Villanueva, and on the west, by Esteban Castro and his coheirs, belongs to Severino P. Cid, Estanislao Nicolas, Gregorio Guerrero, and Fernando Bonoan, and sentenced the defendants, Abraham Peralta and Dorotea Bonoan, to deliver it to them, without express finding as to the costs.

Counsel for the defendants excepted to this judgment and presented a written motion to set it aside and grant a new trial. This motion was overruled by an order of September 3, and an exception thereto was entered by counsel for the defendants.

Counsel for the plaintiffs prayed for the issuance of a writ of execution of the previous judgment, for delivery of the land in question to them, after such legal formalities and guarantees as might be deemed necessary, which petition was opposed by counsel for the defendants, who requested in writing that the same be not granted from lack of sufficient grounds in its support; but the court, by an order of the 5th of September, directed that the judgment be executed upon the filing of a bond for P3,000 with two or more bondsmen to answer for any losses and damages that might be occasioned the defendants through the execution of the said judgment, now on appeal. The record, however, does not show that the bond was given.

Upon the filing of the proper bill of exceptions the same was approved, certified, and forwarded, together with a transcript of the evidence, to the clerk of this court.

From the documentary and oral evidence produced in the trial of this case, it has been fully proven that the plaintiffs, Severino P. Cid y Mata, Estanislao Nicolas y Juan and Gregorio Guerrero y Mata, together with the heirs and successors of Fernando Bonoan, are the legitimate and joint owners of a tract of land situated in the place called San Julian de Culao, of the pueblo of Dingras, Ilocos Norte, the area, location, and boundaries of which land are specified in the complaint. It was duly proved at the trial that the said owners of the land in question had been cultivating the tillable part thereof by means of laborers, for the rest is sandy and stony, and that the plaintiffs, through their employees, had continued and persisted in the cultivation of the said property, notwithstanding the damage caused thereto by two floods which rendered the land untillable for some time. It was also proved that, the land having been assessed in 1902 solely in the name of the plaintiff Severino P. Cid, he paid the tax levied thereon; but in 1907 a part of the land was assessed in the name of Fernando Bonoan, who paid the corresponding tax, while the rest of the land was assessed in the name of Gregorio Guerrero and as the tax pertaining thereto was not paid by him, the said part of the land in his name was attached and sold at public auction to Abraham Peralta; and although Gregorio Guerrero afterwards repurchased the property and was placed in possession thereof, Peralta, though he then ceased to be the owner of the part so acquired by him at auction, still persisted in seizing all the property, including the other part thereof assessed in the name of Fernando Bonoan.

In this state of affairs an action for recovery was brought by Dorotea Bonoan, the daughter of Fernando Bonoan, against the detainer of the whole property, Abraham Peralta, but before the hearing thereon the parties compromised the suit by dividing the disputed land between themselves almost equally, to the detriment, not only of the other coowners of the land, who endeavored to present a claim as interveners, but also of the coheirs of Dorotea Bonoan, children of the deceased Fernando.

In the compromise entered into in that suit, Dorotea Bonoan, without any right whatever, disposed of all the land, which did not belong to her absolutely, nor even entirely to her father, for he, as a coheir in the whole property, was only entitled to a part thereof, and Dorotea Bonoan, with respect to that part belonging to her deceased father, is merely a coowner with her mother, brothers, and sisters, and, consequently, in no wise could she have made a lawful conveyance of the said one-half of the land to Abraham Peralta.

The latter, in turn, as the mere detainer of the part of the land conveyed by his codefendant, Dorotea Bonoan, could not acquire over the portion thereof conveyed to him any legally justified right whatever, since he received it from a person who absolutely lacked the right to transfer to him the ownership of the portion of such property improperly conveyed to him. If Dorotea Bonoan was not vested with a full right to make such a conveyance and no ownership rights whatever over the part conveyed were conferred upon her, then neither could the transferee, Abraham Peralta, have acquired any right at all which could in any manner in the eyes of the law justify and legalize the usurpation committed by him to the prejudice of the plaintiffs.

If Peralta acquired any right in a part of the land which was sold to him at public auction by the Government by reason of the insolvency of the taxpayer in whose name the said part of the property was assessed, still as soon as the latter, Gregorio Guerrero, repurchased the part of the land sold to him and was reinstated as the owner of the property, the tax on which had been in arrears, Peralta, the highest bidder, ceased to be the owner and proprietor of the land which he had purchased at auction and thereafter could have had no right or reason to seize either the land repurchased by Gregorio Guerrero or, much less, the rest of the land assessed against Fernando Bonoan, which was not even put up for sale.

The defendant Peralta seized all the land in litigation and after the compromise kept one-half of the property by virtue of the agreement made with his codefendant, Dorotea Bonoan. He in no wise proved, as he alleges, that the latter was the absolute owner of all the land in question, so as to have been able upon such proof to establish his acquisition of the right which he claims to have in the part of the property which he now holds and refuses to return to the plaintiffs, its true owners.

Pursuant to article 348 of the Civil Code, the owner has a right of action against the holder and the possessor of the thing to recover the same. The surviving plaintiffs and the heirs of the deceased Gregorio Guerrero and Fernando Bonoan are the legitimate owners in equal shares of the land owned by them in common (art. 392, Civil Code), and not only have they proved their common ownership in the land sought to be recovered but also the identity of the same; therefore the action hereby brought for the recovery of possession has, without any doubt, the support of law, especially since the documentary and oral evidence furnished by those owners in reference to the aforesaid features of the case has not been impugned or rebutted by any evidence of the defendants; on the contrary, Fausta de Castro, who appears to be the widow of Fernando Bonoan, and therefore the mother of the defendant Dorotea Bonoan, testified during the trial for the plaintiffs, affirming their right and ownership in the disputed land.

For the foregoing reasons, whereby the errors assigned to the judgment appealed from are deemed to have been refuted, the said judgment is affirmed with the costs against the appellants, but without prejudice to the rights of Dorotea Bonoan and her heirs to the portion of the land that belonged to her father, Fernando Bonoan.

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

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