

**AQUILINA AND DEMETRIO ARCENAS, PLAINTIFFS AND APPELLEES,
VS. ESTANISLAO LASERNA, DEFENDANT AND APPELLANT.***G.R. No. 7333. March 18, 1913*

Ponente: TORRES, J.

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Appeal by counsel for the defendant through bill of exceptions from the judgment of May 22, 1911, whereby the Hon. Jose C. Abreu, judge, held that the land in litigation occupied by the defendant belongs to the plaintiffs and must be restored to them and ordered him to deliver to them possession thereof, without special finding as to damages, for their amount was not shown, at the trial, and without special finding as to costs.

On January 4, 1911, Aquilina Arcenas and Demetrio Arcenas filed a complaint against Estanislao Laserna, alleging as ground of action that they are the owners of a parcel of land on Calle Legazpi, pueblo of Capiz, of 24 ares and 60 centares, bounded on the north by the land of Felix Arcangeles, Moises de los Reyes, and Soledad Amancio; on the east by the cross street now called P. Gomez and the land of Ramona Laserna; on the south by Calle Legaspi; and on the west by the land of Eugenio Ramos, Clemente Alba, Paulino Imcon, and Mauricio Andrada; which land they had acquired by purchase from Josefa Jabar in September, 1910; that illegally and maliciously and by the use of violence the defendant Laserna had on December 14, 1910, seized and fenced in a part of said land, approximately 207 square meters in area, on the side bordering on the cross street P. Gomez, with 5.85 meters on the side toward the south or Calle Legaspi; 21.20 meters toward the east or cross street P. Gomez; 15.13 meters on the north and 9 meters on the west; that the plaintiffs have been unable to use the land detained by the defendant and have been thereby damaged to the extent of P100; and therefore judgment is prayed in their favor against the defendant, sentencing him to return to them the land occupied by him of approximately 207 square meters, to pay them P100 damages, and to pay the costs of the suit.

In his answer, the defendant denied each and all of the allegations in the complaint, except those hereinafter admitted; acknowledged that he has surrounded the land described with a fence, as it belongs exclusively to him; and further alleged that the land to which the complaint refers is his absolute property and that he has been so holding it for over ten years, without reckoning the possession of his predecessors from time immemorial; and prayed for judgment in his favor, with the costs against the plaintiffs.

After a hearing on May 6, 1911, and examination of the evidence adduced by both parties with the documents they submitted at the trial, exhibition of a plan and the testimony of a licensed surveyor, the court as a result thereof, on May 22, 1911, rendered the judgment in question. Defendant excepted thereto and asked in writing for a new trial on the ground that said judgment was contrary to the law and the evidence adduced at the trial. This motion was denied by order of May 23, whereupon defendant excepted and presented the proper bill of exceptions, which was approved and forwarded to the clerk of this court.

The plaintiffs attempt through an action for recovery exercised by them to have returned by the defendant the parcel of land of 207 square meters that belongs to them on property usurped by him.

Denying the allegations set forth in the complaint, the defendant alleged that the land in question is his exclusive property and he has been in possession thereof for over ten years as owner, without reckoning the possession his predecessors enjoyed from time immemorial, and to this effect he exhibited in proof of his right Exhibits 1 and 2. The first is a copy of a possessory information relative to a lot which Casiana Alvarez had acquired by extrajudicial purchase on August 28, 1894, from Ambrosia Amisola Vidal for P150 which building lot he and his predecessors had possessed quietly and peacefully from time immemorial. It is free from encumbrance, measures 207 square meters, is bounded on the north by the lot of Matea Alvarez, on the east by a cross street, on the south by Calle Legaspi, and on the west by the lot and house of Ramona Laserna and Matea Alvarez. As the petitioner lacked a recorded title proving his ownership he entered in accordance with the Mortgage Law an oral information for the possession of said estate with summons of the adjacent landowners and a hearing before the public prosecutor, asking that in case of approval he be issued the original record for inscription thereof in the property registry, in which record it appears that Matea Alvarez and Ramona Laserna were cited as the owners of the adjacent lands. After the hearing before the public prosecutor the Court of First Instance by order of April 23, 1895, approved said information without prejudice to the better right of a third party and ordered the inscription requested in the property registry. At the bottom of the record of said proceedings is a signed and sealed certificate by the registrar of property that he had compared the copy literally and found it to agree with the original record filed in the registry of Capiz on July 27, 1897.

Exhibit 2 is a receipt issued in Capiz on February 24, 1896, by the same registrar, stating that Estanislao Laserna, the verbally authorized agent of Casiana Alvarez, had paid the sum of P87 inscription fees, as recorded in entry No. 292, volume 3 of the memorandum journal, fees paid in accordance with the law.

Defendant alleged that he had inherited the land in question from his mother, Casiana Alvarez, who is the party that secured the aforesaid possessory information. The hereditary right he demonstrates and sufficiently proved at the trial is admitted and does not seem to be contradicted by the plaintiffs, wherefore it is unquestionable that Estanislao Laserna is the lawful owner of the lot in question as the son of Casiana Alvarez and successor in the right she had over said lot, a right proved by said record of possessory information and by the testimony of several witnesses, among whom are the two sons of the original owner of the tract, Ambrosia Amisola, from whom defendant's predecessor in interest acquired it.

In opposition to defendant's said possessory certificate the plaintiffs in turn have exhibited as evidence of their right to the lot in litigation Exhibits A and B, the latter of which is a composition title issued to Matea Alvarez y Rubio by the Direccion General de Administracion Civil on May 25, 1891, for a parcel of 24 ares and 63 centares, bounded on the north by land of Felix Arcangeles, Moises de los Reyes, and Soledad Amancio; on the east by a cross street and Ramona Laserna; on the south by Calle Legazpi; and on the west by lands of Eugenio Ramos, Clemente Alba, and Mauricio Andrada; which title appears inscribed in the property registry of Capiz on March 14, 1892.

Exhibit A is a notarial instrument setting forth the sale made by Josefa Jabar y Navarra on September 26, 1910, of a lot and wooden house thereon with an iron roof and a stone wall which she acquired from the administrator of the intestate estate of Matea Alvarez, situate in the barrio of Ilaut, Calle Legaspi, pueblo of Capiz, of 24 ares and 70 centares in area, and bounded on the north by Calle Urdaneta, now Burgos, and the lot of Pastor Alcazar; on the east by the unnamed street that crosses Calle Legazpi and the lots of Moises de los Reyes, Soledad Amancio, and the deceased Ramona Laserna; on the south by Calle Legazpi and on the west by the lots of Eugenio Ramos, Clemente Alba, Paulino Friscoy, and Mauricio Andrada, for the sum of P2,650 received from the purchasers who remain absolute owners of said lot and house free from all encumbrance, the vendor Jabar having ratified it before a notary on December 27, 1910.

The question is reduced to whether the lot under consideration is or is not included in the composition title and in the instrument of sale exhibited by the plaintiffs under the letters A and B in connection with their plan, Exhibit F. Examining with due attention and weighing together the result and the merits of the evidence adduced by the parties, it appears under the rules of sound judgment that the land or lot in question is not included in the said composition title, nor in the land or lot sold by Josefa Jabar as derived from the intestate succession of Matea Alvarez to the plaintiffs Aquilina and Demetrio Arcenas.

Really, if the lot in litigation were included within the boundaries of the land which said composition title covers or of the land sold by Josefa Jabar to the plaintiffs, the southern boundary of the tract would be Calle Legazpi and Ramona Laserna's lot, and it would not have been recorded that the land is bounded on the east by the lot of said Ramona Laserna and the cross street, formerly unnamed and now called P. Gomez, for Ramona Laserna's lot does not border on the cross street P. Gomez and the lot in question does, said lot of Ramona's being between the land of the plaintiffs and that of the defendant and bounded by Calle Legazpi toward the south and not on the east. The surveyor, Agripino C. Albaladejo, avers that by direction of the plaintiffs he did not survey or include in the plan he had made a certain small portion of their land toward the north because it was swampy and useless.

The composition title was issued in May, 1891, and registered in March, 1892, while the possessory information entered by Casiana Alvarez was secured in April, 1895, for the land in the shape of a square which is the subject matter of this litigation. Were it true that said portion of land had been included in the parcel obtained from the state by Matea Alvarez, she, who was cited and notified in said information as the owner of land adjacent to the lot which was the subject of that information, and was informed of the proceedings in the matter requested by Casiana Alvarez, would have protested in defense of her rights; but still she did nothing, giving to understand by her inaction and silence that her right were not prejudiced or any of her property usurped.

Plaintiffs have offered no evidence in opposition to the possession proven by oral and documentary evidence that the defendant enjoyed over the lot in question, neither the testimony of Josefa Jabar, the former owner of the tract, who did not testify in this suit, nor was the record of proceedings, Exhibit E, which according to the plaintiff mentions the lot in question, forwarded to this court to show that the lot in litigation forms part of the land of the plaintiffs, for since they have not tried to have Josefa Jabar testify in the case or forwarded said record it is because they would not therewith prove their claim.

The record of possessory information exhibited in copy as No. 1, the original whereof is filed in the Capiz registry, is genuine and effective; it partakes of the character of a judicial proceeding and of a public document and is duly recorded in the property registry of the Province of Capiz in accordance with article 392 of the old mortgage law, which regulates the manner of recording possessory informations.

In the decision in the case of Salacup vs. Rambac the principle was laid down that a possessory information title has the same force and effect as all other titles recognized by law, and a possessory information recorded in the registry of property is prima facie proof that the possessor of the land to which it relates is the owner thereof. (17 Phil. Rep., 21.) The same principle was laid down in Inchausti & Co. vs. Commanding General (6 Phil. Rep., 556); and Baldovino vs. Amenos (9 Phil. Rep., 537).

According to this principle, applied repeatedly to different cases by this court and now a precedent, the record of possessory information inscribed in the property registry and presented by the defendant in defense of his right is a title sufficiently establishing his ownership in the absence of any other demonstrating a better right to the lot in question.

On this supposition it is undeniable that said possessory record constitutes a just title, by virtue of which and of his hereditary right the defendant Estanislao Laserna has been in good faith for over ten years possessing the land

in litigation, aside from the possession of his predecessors, and therefore he is reenforced by the right that ownership to the tract has prescribed in accordance with the provisions of article 1940 et seq. of the Civil Code, because he acquired it through inheritance as the lawful successor of his mother, who in turn had bought it from its original owner in August, 1894, and he possesses it in the belief that his said mother was the lawful owner of said lot, ownership whereof was legally transmitted to him by operation of law, and the possession he enjoys in said tract is peaceful, public, and as owner, as is proven in the case, and not interrupted either naturally or civilly, wherefore, if necessary, it is proper and just to hold prescription in his favor, were it not positively proven, as the record discloses that the land in question is not included within the boundaries of the land covered by the title and plan presented by the plaintiffs.

For these reasons the judgment appealed from must be reversed and the defendant absolved, as he hereby is, from the claim for recovery presented by the plaintiffs, without special finding as to coats.

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

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