

EUGENIA SAVELLA, PLAINTIFF AND APPELLEE, VS. ESTEBAN SABELLANO ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 7350. March 08, 1912

Ponente: ARELLANO, C.J.

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ARELLANO, C.J.:

Eugenia Savella, widow of Maximiano Segui and lawful mother of her minor children Luisa, Benilda and Pedro, had by her said husband, filed suit in the Court of First Instance of Ilocos Sur against Esteban Sabellano and Filomeno Simbe, because they had dispossessed her of a tract of land by going thereupon on the 16th and 18th of November, 1910, and taking the rice crop thereon, amounting to 10 uyones, with a total value of P150, at the rate of P15 the uyon; wherefore she begged that said arable land be declared her and her children's property and that the defendants be sentenced to pay the value of 10 uyones of paddy, which is P150, and P300 damages occasioned by the institution of this suit.

The defendants alleged that the land in question had been sold to them by Mariano Segui.

According to the complaint, this is the same Mariano Segui who had sold it to his brother Maximiano Segui on January 4, 1908, by a document ratified before a notary on April 29, 1910. This document is one of absolute sale, according to its wording:

"I likewise declare,"—says the vendor,—"that my said brother (Maximiano or Mariano Segui, jr., the vendor calling himself Mariano Segui, sr.) and I have solemnly agreed that from this date he is henceforth the owner of these (six parcels of land) and may devise or sell them. Likewise, my said brother and I have solemnly agreed that I shall now and at any time defend his title against anyone who may question this sale that I make."

The document executed by Mariano Segui, sr., in favor of Esteban Sabellano and two others on August 20, 1910, reads thus:

"* * and from this date I transfer to said parties my right of ownership until I pay them my debt of six hundred pesos without diminution or interest whatsoever, so that they may take and use it according to its nature."

From these documents and the testimony of the defendant Sabellano, the court decided that the land in question belongs to the plaintiff and ordered the defendants to deliver it to her along with the last crop harvested and to pay the costs of the case.

Appeal was taken by means of a bill of exceptions making the following assignments of error: (1) The court's lack of jurisdiction; (2) admission and consideration of the documentary evidence of the plaintiff outside the trial and without the knowledge of the defendants; (3) inapplicability of article 1473 of the Civil Code; and (4) the findings and sentence.

The first assignment need not be considered, consisting as it does in that a complaint for P150, the value of 10 uyones of paddy, ought to be filed in the justice of the peace court, an action which it is said the complaint seeks to bring for there is clearly sought therein the declaration of ownership for the plaintiffs disturbed by the seizure

of the crop of 10 uyones of paddy, which was the act that disturbed the possession and threatened the ownership; and it is formally prayed that this ownership be judicially declared, so that in the future the defendants refrain from any act disturbing the ownership and possession of the plaintiff in said arable land.

As to the second assignment, this court finds: (1) That the plaintiff offered said document as evidence at the trial although it was in the possession of her counsel, who was then absent, and "the court admitted this evidence of the plaintiff and ordered that it be included in the case just as soon as she could get it from her counsel," without objection or protest against this manner of admitting documentary evidence; and (2) that the principal plaintiff, Esteban Sabellano, testified and voluntarily replied to questions by his own counsel, affirming that he had secured knowledge of the plaintiff's document of sale and purchase when he was charged by her before the justice of the peace of Cabucao with robbery of the crop that his people had carried away in spite of her objection and had then learned that the plaintiff had really purchased for P400 the tract of land in question and five others, because she had exhibited said document of sale and purchase and the witness had read it, seeing that it was a document ratified before a notary. This evidence of the defendant himself and not of any witness for the plaintiff furnishes the secondary evidence of the contents of a document authorized by section 321 of the Code of Civil Procedure, in case of loss, that is, "the recollection of a witness:" a relevant witness in this case for he is the very party prejudiced by the document, whose contents it was unnecessary for the plaintiff to remember, as it was the defendant himself who offered at the trial complete recollection both of the form in which it was executed and of its context. By the defendant's own confession the court learns of the title whereby the plaintiff seeks to recover the land and it is proof so plain that no other is needed.

As for the third assignment, since it appears that the land was sold twice to two different persons, to Maximiano Seguf on January 4, 1908, and to Esteban Sabellano and others on August 20, 1910, the matter comes directly under article 1473, according to which:

"Should there be no entry, the property shall belong to the person who first took possession of it in good faith, and, in the absence thereof, to the person who presents the oldest title, provided there is good faith."

The judgment of the trial court in favor of the plaintiff, who exhibits the oldest title, is, not improper, since it is not shown who is actually in possession, although it may be presumed that the defendant is, since he is such defendant in a suit for recovery, but this possession of his is only that incident to his going upon the land and taking the crop growing thereon.

As for the last assignment, the findings of the judgment are strictly in accordance with law, for Maximiano Seguf first bought the land and so at his death it must pass to his widow and heirs, whose personalities are established by the documentary evidence brought into this higher court with the bill of exceptions without objection, and even, though it is only a declaration in their favor of legal title of ownership in the land, the judgment could conclude in no other way than by making such declaration. With reference to restitution of the crop, the appellants say that "there is no proof in the case that the defendants took possession of any crop belonging to the plaintiff," but on page 8 of his testimony the defendant Sabellano says that he took the last crop: "while I was harvesting on the land by means of my people," as he says, "and at about nine or ten o'clock in the morning the plaintiff Eugenia Savella appeared there on the land to object to our ordering the crops on said land to be harvested, alleging that Mariano Segui had bought it in April, 1908, and, being unable to stop us, she took down our names and laid an information against us in the justice of the peace court for robbery."

The judgment appealed from is affirmed, with the understanding that the declaration of ownership in the plaintiff's favor extends to her children had by her deceased husband, Maximiano Segui; with the costs of this instance against the appellants.

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

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