

REMIGIO NICOLAS, PLAINTIFF AND APPELLANT, VS. GREGORIO GUERRERO, DEFENDANT AND APPELLEE.

G.R. No. 7729. September 14, 1912

Ponente: TORRES, J.

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TORRES, J.:

This case has been appealed by counsel for the plaintiff, from a judgment of acquittal rendered by the Honorable Dionisio Chanco, Judge.

On July 1, 1911, Remigio Nicolas filed a written complaint in the Court of First Instance of Ilocos Norte alleging that he has been the owner and proprietor since 1909 of two irrigated rural estates situated in the places named San Lorenzo and San Magno de Ragas, in Dingras, Ilocos Norte, whose area and boundaries were set forth in the complaint, and that since the said date, 1909, he had been holding and enjoying the same quietly and peaceably without any interruption; that in the month of June, 1911, the defendant, Gregorio Guerrero, appropriated the said estates, with no right therein whatever, and was cultivating them and had sown them to rice, thereby causing grave prejudice to the plaintiff's unquestionable rights; and that, by the institution of this case, he had suffered damages to the extent of P200. The complaint concluded with the petition that the defendant: (1) be ordered immediately to deliver the estates in question to the plaintiff; (2) be restrained from again at any future time appropriating them to himself or interrupting plaintiff's possession thereof; and (3) be compelled to pay P200 on account of the institution of this suit, as well as the costs.

Counsel for the defendant in his answer made a general and specific denial of all the principal allegations on which the complaint was based, and alleged as a special defense that the lands claimed by the plaintiff belonged exclusively to the defendant because the latter had purchased them from Joaquin Castro, a resident of Laoag, Ilocos Norte, and, further, that he had suffered damages to the extent of P500 through this suit; therefore he prayed that in the judgment to be rendered the defendant be absolved from the complaint and the plaintiff sentenced to pay P500 and the costs. He also asked that, for the purposes of the warranty of title, the vendor, Joaquin de Castro, be notified and summoned to appear within the term prescribed by law to answer the said complaint.

Joaquin de Castro appeared and by a writing of July 31, 1911, set forth, in answer to the complaint: that he denied generally and specifically all the fundamental grounds thereof; that, on April 26, 1911, he sold to the defendant, Guerrero, the lands in question, of which he had been the possessor and proprietor prior to such sale; and that, on account of his being obliged to defend his title to said lands, the plaintiff had caused him damages to the extent of P100; therefore, he asked that he, as well as the defendant, be absolved from the complaint and that the plaintiff, for malicious prosecution, be sentenced to pay hini P100 as damages and the costs of the suit.

After the trial and the presentation of evidence, both oral and documentary, by the parties, the exhibits being made a part of the record, the court, on September 29, 1911, rendered judgment absolving the defendant, Gregorio Guerrero, from the complaint, with the costs against the plaintiff, Remigio Nicolas. The latter, by a written motion

of October 9, 1911, took exception to, and asked for the annulment of, the judgment and moved for a new trial. This motion was overruled by an order of the 16th of the same month and year, exception thereto was taken by the plaintiff, the proper bill of exceptions was presented and approved, certified and transmitted to the clerk of this court, together with the trial record.

A question of fact is involved in this litigation, that is, as to who is the real owner of the two parcels of land which the plaintiff claims from the defendant. The former claims that although he acquired them from the latter by purchase, the vendor took possession of the same to the prejudice of the vendee's interests.

By Exhibits A, B, and C, pages 1, 2, and 3 of the record, the plaintiff, Remigio Nicolas, endeavored to prove his ownership of the two parcels of land averred to have been sold to him by their previous owner, the defendant Gregorio Guerrero. He alleged that the purchase of those estates was effected on May 15, 1909; that the transfer of ownership was recorded in an instrument drawn up in his house on the same date in the presence of Pantaleon Nicolas, that it was written by Mariano Matias on top of a trunk in the house, and that at the very time the contract was made the vendor received the price of the sale. Pantaleon Nicolas corroborated these statements of the plaintiff, yet stated that he was present when a receipt was made out by Mariano Matias, relative to the sale made by his uncle, the plaintiff, of some lands which were sold to the latter on that occasion by Gregorio Guerrero, the defendant. Mariano Matias did not testify, as he has since died.

With regard to the document proving the sale of the said parcels of land, the plaintiff stated in an affidavit that he could not exhibit it, as it had been lost with his pocketbook which had been carried away by the current of the river north of Dingras on an occasion when, in crossing it, he was unexpectedly overtaken by a violent flood, and that he then went to the place where the said lands are situated, as he had been advised by Pantaleon Baoit that the same had been usurped by the defendant, Guerrero. The witness Pantaleon Baoit corroborated the plaintiff's statements, but related details whereby he contradicted and belied the averments of the plaintiff.

From what has been alleged and proved in this case, it appears that the original owner of the two parcels of land in question was Joaquin de Castro, who pledged them as security for a certain sum of money which he had received from the defendant, Gregorio Guerrero, wherefore the latter took charge of the lands as creditor-pledgee, in 1900, and so held them until the end of 1908 when they were redeemed by their owner, Joaquin de Castro, who stated to the defendant, so the latter testified, that he would transfer the pledge to Remigio Nicolas, but he did not know whether Nicolas came to possess the lands or not; but on April 26, 1911, Joaquin de Castro sold absolutely to Gregorio Guerrero the aforementioned two parcels of land, together with another one, for the sum of P800 Philippine currency, according to a document written in the dialect of the province, Exhibit A, page 5 of the record, executed on the same date and translated on page 7 of the file of exhibits. This instrument bears the signatures of the vendor, his two children Esperanza and Juan Castro, his son-in-law Damaso Rubio, and of two witnesses who were present at its execution. After that date Guerrero again occupied and held the said lands, as owner thereof, and denied that he had sold them to the plaintiff, Nicolas, on May 15, 1909, for then he was not yet the owner of the property. The defendant testified that he signed the document presented by the plaintiff as Exhibit A, in the belief that it was an application to be relieved from the land tax, and added that while he held the land under the incumbrance before mentioned, he had paid the land tax thereon, but had ceased to do so after the property had been redeemed, and that the plaintiff then told him that he had bought the two parcels, wherefore witness signed the document, Exhibit A, presented by the plaintiff, wherein he requested that he be no longer charged with the land tax assessed against the property.

The record likewise shows that in no wise could the defendant, Guerrero, have executed the alleged deed of sale, nor authorized any document whatever in the plaintiff's house in Laoag on the 15th of May, 1909, because on that date he was in the subprovince of Abra, in company with others, for the purpose of buying horses and cows,

having left his residence on the 4th of May and not returning until the 27th of the same month, in proof whereof the exhibited certificates of animals acquired by the defendant Guerrero in Abra during the said month of May, 1909.

So that, not only does the defendant, Guerrero, deny the alleged contract contained in the said document as well as the execution of the same on the 15th of May, 1909, attesting to the sale of the lands in question, but also the record shows no proof that such document was executed, nor that the deed of sale was made, as alleged by the plaintiff, in order to establish his claim of being the owner of the said lands. Furthermore, the pocketbook containing the said document could not have been lost, as the plaintiff alleged, by being washed away by the current while he was crossing the Dingras River, because there was no freshet at the time and, according to information furnished by the official weather observer stationed at Laoag, it did not rain in Ilocos Norte on the 20th and 24th of June, 1911, but on the contrary, there was a clear sky, and only on the night of the last date, at a little after nine o'clock, it rained a trifle, the rain-gauge registering a small amount of water. As against the testimony of the plaintiff that he crossed the said river at night, there is that of his witness, Pantaleon Baoit, to the effect that Nicolas arrived at the place where the land is situated, at about two o'clock in the afternoon, and that when he appeared there he had his said pocketbook with him, which was perfectly dry, and said nothing about any mishap in the river. Moreover, as against the plaintiff's statement that he started for Laoag about the 22d of June, 1911, his said witness testified that he sent notice to the plaintiff of the usurpation about the 5th of the following month of July. By all the foregoing details it has been evidently demonstrated that the alleged sale through the execution of the said document of May 15, 1909, was not made.

The evidence adduced in this case by the defendant fully and conclusively proves that he is the legitimate owner of the lands in question and that the plaintiff had not the slightest right to claim the same, with all the more reason since the original and real owner of the said lands was Joaquin de Castro, and in 1909 the defendant, Guerrero, could not have conveyed his ownership to the plaintiff, for he was not then the owner of those parcels of land, which he acquired in April, 1911, and although he occupied them as creditor pledgee from 1900 to 1908, he had no right in such capacity to dispose of them, and much less in 1909, when the lands had already been redeemed and returned to their owner, Joaquin de Castro.

Proof of the facts averred in a complaint devolves upon the plaintiff, since each party must prove his own affirmative allegations. (Art 1214, Civil Code, and sec. 297, Code of Civil Procedure.)

The plaintiff has not substantiated the grounds on which he bases his complaint, while the defendant has furnished complete and satisfactory proof of his exceptions.

It was plainly a reckless action on the part of the plaintiff to have presumed to prosecute this suit on the pretense of proving his alleged right by means of a document which, according to the evidence adduced at the trial, never existed and was never executed.

For the foregoing reasons the judgment appealed from should be, as it is hereby, affirmed, with the costs of this instance against the appellant. So ordered.

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

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