

VICTORINO DEL CASTILLO, PLAINTIFF AND APPELLEE, VS. PABLO ESCARELLA, DEFENDANT AND APPELLANT.*G.R. No. 7895. December 29, 1913*

Ponente: TORRES, J.

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This appeal through a bill of exceptions was raised by counsel for the defendant from the judgment rendered on November 24, 1911, by the Honorable P. M. Moir, judge, whereby he sentenced the defendant to deliver and restore to the plaintiff the two parcels of land planted in abaca and situated in the barrio of Boang, of the pueblo of Tabaco, Albay, the respective boundaries and area of which are stated in the said judgment; and furthermore to pay the plaintiff P200 for the 1911 crop, after deducting therefrom the sum of P50 which plaintiff owed defendant, with the obligation on the latter's part to execute and deliver to plaintiff a deed of conveyance of the said lands, but with the cost of the execution thereof charged against plaintiff, defendant to pay the costs of the suit.

On August 24, 1911, counsel for Victorino del Castillo filed a written complaint with the Court of First Instance of Albay wherein he set forth, as a first cause of action, that, being the owner of two parcels of hemp land situated in the barrio of Boang, of the pueblo of Tabaco, the respective area and boundaries of which are specified in the complaint, the defendant, Pablo Escarella, on July 1, 1911, usurped the said parcels of land, deprived the plaintiff of the possession and enjoyment of the same and unlawfully appropriated to himself all their fruits and products, whereby the plaintiff was injured to the extent of P2,000; and as a second cause of action he alleged that on April 1, 1901, the defendant as the owner of the same two parcels of land, then without plantings, sold them to the plaintiff for the price of P1,200, payable in undetermined installments, wherefore the plaintiff, upon taking possession of them disposed of them as their lawful owner and paid on account of the price of the said land, in June, 1901, the sum of P500; in 1904, P300; in 1906 and 1907, P100 and P200; and during the years from 1907 to 1910, P150 in three installments of P50 each; that the total amount of such partial payments amounted to P1,150, leaving a balance due the defendant, on the price of the land sold, of P50; that the plaintiff was willing to pay the defendant this balance to complete the price of the land purchased by the former for P1,200; that a demand having been made upon the defendant to execute a deed of sale and conveyance of the said land, he refused to comply therewith, denying that he had made such sale to the plaintiff, and on July 1, 1911, seized the land under the pretext of being the owner thereof; and that, during the course of ten years that had elapsed from the time of the purchase to date, the plaintiff had succeeded in improving the said land by dint of labor and by expenditure of his own money, whereby the hitherto uncultivated tracts were converted into two hemp-producing properties of great value and profit. He therefore prayed that judgment be awarded his client for the ownership and possession of the said land, for damages in the sum of P2,000 and the costs, and that the defendant be ordered to execute a deed of sale and conveyance of the property to the plaintiff.

The demurrer entered against the complaint having been overruled, counsel for the defendant, who entered an exception to the order overruling the demurrer, made in his answer a general and specific denial of each and all of

the allegations contained in the complaint, with the exception of those admitted in the answer. As a special defense he alleged that the defendant was the owner of the lands described in the complaint and as such appointed the plaintiff as caretaker or manager to take charge of the cultivation and harvesting of the abaca planted thereon, with instructions to render him an account of the products of the same; that during the past two years the plaintiff, failing to conduct himself as a good caretaker, had, without the defendant's authorization, derived gain from the abaca harvested, wherefore he was several times admonished, and as the plaintiff did not change his conduct the defendant had to remove him from the position which he was holding; that he denied having executed any contract whatever, either verbal or written, relative to the sale of the said parcels of land to the plaintiff; and that he also denied each and all of the allegations referring to the second cause of action, inasmuch as the defendant had been and still was the owner of the said land.

As a cross-complaint he alleged that the plaintiff owed him the products of the said land for the two years stated, amounting to a total of ten thousand kilos of abaca. He therefore prayed that he be absolved from the complaint and that the plaintiff be sentenced in accordance with the petition of the cross-complaint and to payment of the costs.

The plaintiff, in his answer to the said cross-complaint, denied each and all of the allegations therein contained.

The case having come to trial, with the introduction of evidence by both parties, the court rendered the judgment before mentioned, to which the defendant excepted and made a written motion for a reopening of the case and a new hearing. This motion was denied, an exception to the ruling was saved by the appellant and, upon presentation of the proper bill of exceptions, the same was approved and transmitted to the clerk of this court.

The plaintiff brought an action of ejectment against the defendant for the purpose of recovering two tracts of land of his ownership which the latter usurped in the first part of July, 1911; and notwithstanding the defendant's averment that he is the owner of the land in question, we accept the statement of facts, the conclusions and the grounds of law contained in the judgment of the lower court, inasmuch as the record shows it to have been duly proved that the plaintiff, Victorino del Castillo, acquired the said land by purchase from the defendant, Pablo Escarella, in April, 1901, and was in the possession and enjoyment of the same until July, 1911, when it was usurped and detained by the vendor-defendant, its previous owner, who received from the vendee plaintiff the major part of the price of the sale, fixed at P1,200, there remaining to be paid him only a balance of P50 to effect the complete payment of the price of the land sold, for the vendor has already received from the plaintiff the sum of P1,150.

It is an indisputable fact that the plaintiff held the land prior to its detention by the defendant, although the latter alleges that the former occupied it as his caretaker and tenant on shares, and that the amounts which the defendant received from the plaintiff were, in part, derived from the products of the land and, in part, reimbursements for a sum which he had deposited with the plaintiff, which averments were not substantiated by satisfactory proof.

As against the oral evidence introduced by the defendant, the record contains as exhibits letters addressed by Pablo Escarella to his relative Victorino del Castillo, the plaintiff, and in one of these, that designated A, Escarella begged Castillo to pay him the balance of his account for the coconut land which Castillo and his wife had purchased from him, because Escarella was in urgent need of the money. The defendant further stated therein that, for the purpose indicated, he would send Leon Borais, a person of his confidence, to bear the letter to the plaintiff and that the latter could request from the messenger a receipt for such amount as he might deliver to him. In the letter, Exhibit B, addressed by the defendant Escarella to the plaintiff Victorino del Castillo, the writer stated that he had an engagement to fulfill by the end of October, 1905, and begged the addressee to remit him the said balance, or at least some part of it, by the bearer of the letter, Juan Bronolla; and in the letter, Exhibit C, Escarella

informed Castillo that he had received the latter's letter from the bearer thereof, together with the sum of P100, and invited Castillo to come to his, Escarella's, house in order that they might adjust the pending accounts, as a precaution counseled by the uncertainty of life.

The defendant testified that he did not write the said three letters, but that they were in his wife's handwriting. The trial court, however, with respect to this point, states in his judgment that the general appearance of these letters shows that they were written by a man, and not by a woman, and the signature written by the defendant in the presence of the judge convincingly proves that the signatures that appear in the said documents are the genuine signatures of the defendant.

The record discloses no reasonable ground that may lawfully prevent the acceptance of the opinion formed by the trial judge or of his findings based upon the evidence adduced by the parties during the trial. We therefore hold, in conformity with that evidence, that the two parcels of land were in fact sold to the plaintiff for P1,200, in April, 1901, and, consequently, that the plaintiff, unlawfully deprived of his possession, is entitled to recover the said land.

The circumstance that only a verbal contract was executed between Escarella and Castillo for the sale of the said parcels of land detracts nothing from the binding force of the covenant entered into by the contracting parties, since the said contract of sale was stipulated prior even to the enactment of the Code of Civil Procedure, and, according to the provisions of articles 1278 and 1280 of the Civil Code, a verbal contract of sale of realty shall be valid and effective, provided the essential conditions required for its validity exist. The supreme court of Spain, in its decision of June 18, 1902, where the aforecited article 1280 is applied, sets up the legal doctrine that it is not an essential requisite for the subsistence of certain contracts that they should be recorded in a public or private instrument in accordance with law, but is a coercive means granted to the contracting parties to enable them to compel each other to observe that prescribed form. This same rule is laid down in the decisions rendered in the cases of *Thunga Chui vs. Que Bentec* (2 Phil. Rep., 561), and *Couto vs. Cortes* (8 Phil. Rep., 459).

Upon the perfectly proved premise, then, that the defendant, Escarella, sold the land in question to the plaintiff, Castillo, it cannot be denied that the action of ejectment brought is proper, and the defendant must return the usurped property and execute the proper deed of sale in plaintiff's favor, who in turn must pay the defendant the balance of the price of the sale, and the latter is obligated to make reimbursement for the value of the crop which he gathered from the land, as ordered in the judgment appealed from, which is in accordance with the law.

For the foregoing reasons, whereby the errors assigned to the said judgment are deemed to have been refuted, we hereby affirm that judgment, with the costs against the appellant.

Arellano, C. J., Carson, Moreland, and Trent, JJ., concur.

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