

**NICOLAS MARIANO, SR., ET AL., PLAINTIFFS AND APPELLEES, VS.
GREGORIO PURUGANAN ET AL., DEFENDANTS AND APPELLANTS.***G.R No. 7910. October 01, 1913*

Ponente: ARELLANO, C.J.

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This case is the sequel of another that was decided by this court. The execution of the judgment awarded in the first suit has given rise to the present action.

In the previous case, the plaintiff was Cirilo Puruganan, and the defendants, Teodoro Martin, Ramon Barroga, Julian Ventura, and Miguel Agustin (8 Phil. Rep., 519). The action brought was for the recovery of possession of six parcels of land and rested on a title of composition with the State, issued to Puruganan and recorded in the property registry in 1895. The Court of First Instance of Ilocos Sur held that the plaintiff had established his right of ownership of the lands described in the complaint and sentenced the defendants to deliver them to him. The defendants appealed and this court held: "One of the essential requisites in an action of recovery is to fix the identity of the filing that the party desires to recover, a fact which has unquestionably been accomplished by Puruganan by the proof submitted by him, the four defendants not having duly shown that the area and boundaries of the land detained by them were different from those stated in the complaint." Therefore the judgment appealed from was affirmed.

Upon the issuance of the appropriate writ of execution, it was served by the sheriff on August 13, 1908. Antonio M. de Castro, the surveyor who surveyed the lands before the title of composition with the State was issued, was present at the execution. Owing to the objections raised during these proceedings, the new measurement of the six parcels of land was postponed until the following day, the 14th, and when accomplished, with the attendance of two of the defendants, the writ was served in the manner set forth in the following returns:

"In view of the result of the rectification made, the statement of the boundaries mentioned (owners of the adjacent properties), corroborated by the expert witness, Antonio M. de Castro, and of the authentic information gathered I, the undersigned deputy sheriff, convinced that the aforementioned properties are the same as those specified in the writ of execution, made delivery and gave possession of them to Cirilo Puruganan, represented by his son, Juan Puruganan and enjoined upon the defendants, who were present, that thenceforth they must recognize the said Cirilo Puruganan as the lawful and true owner of the aforesaid properties."

On August 14, 1908, the plaintiff was put in possession of the lands referred to in his title.

But now come Nicolas Mariano and 18 other persons, on October 22, 1910, two years and two months afterwards, and bring the present suit against the heirs of Cirilo Puruganan (for he himself had died in the meantime), and request a nullification of the possession given to Cirilo Puruganan and that his heirs be sentenced to deliver to the plaintiffs the said lands in the defendants' possession, to pay a certain amount of unhulled rice, or its equivalent in the sum of P848, and the costs.

In this new suit the heirs of the party who was the plaintiff in the previous action, presented for the second time their title deed and other documents establishing their ownership sustained in two instances, by the lower court and the Supreme Court. The former held, in the judgment rendered in the previous case, that: "The plaintiff Puruganan sued for the six parcels of land in question and proved his claim by an ownership title recorded in the property registry in the year 1895, by receipts attesting the payment of the land tax, and by the testimony of witnesses." Furthermore that: "The ownership of the plaintiff, Cirilo Puruganan, to the lands described in the complaint, having been established, and as the defendants * * * have proved nothing, * * * the court holds that the plaintiff is the owner of the said lands, and sentences the defendants, Teodoro Martin, Ramon Barroga, Julian Ventura, and Miguel Agustin (those in possession) to deliver the same to the plaintiff."

Now the same lower court, in view of the complaint of the 19 plaintiffs in the second suit, who claim to be the possessors of the six parcels of land in question instead of those four defendants before mentioned, has sentenced the Puruganans to deliver to these 19 plaintiffs the lands rightly won from those four parties who held or rather detained them. This sentence was based on the finding that such lands do not exist or do not appear in the place designated in the title, and that the six parcels of land ordered in this case to be delivered are exactly equal in area to the five parcels of land described in the complaint, in the title and in the writ of execution, but do not in all respects agree in their boundaries with those described in the writ of execution, nor with the plaintiff's complaint and title. This is the point that must be elucidated in this appeal.

First parcel, in Gambeng.—According to the title, complaint and writ of execution, contains 3 hectares and 85 ares; is bounded on the north by the lands of Isidora Dancel, on the east and south by those of Bernabe de los Santos (now those of Domingo Caluya), and on the west by the property of Jose Dancel (now that of Carlos Abadilla). Description in writ of execution: "A parcel of land 3 hectares and 85 ares in area; bounded on the north by the land of Isidora Dancel, on the east by that formerly held by Bernabe de los Santos and now by Domingo Caluya, the latter not present although he was duly summoned as one of the adjacent owners, on the south by the property previously held by the said Santos and now by the aforementioned Caluya, and on the west by that before claimed by Jose Dancel and now by the heirs of Liberato Abadilla, among them Carlos Abadilla, who, being present, affirmed that he was one of them."

Second parcel, in Gambeng.—Area, 71 ares and 70 centares; bounded on the north by the land of Bernabe Peralta, on the east by that of Jose Dancel (the same party mentioned in the above description of the first parcel, as an adjacent holder on the west), on the south by that of this same Jose Dancel, and on the west by that of Jose Agbayani. Description in writ: "Forty ares and 80 centares (a part of this land, consisting of the difference between this measurement and that of the 71 ares and 70 centares, was washed away by the river); bounded on the north by the land formerly held by Bernabe Peralta and now by Domingo Caluya, on the south and east by the property previously in the possession of Jose Dancel and now held by the heirs of Liberato Abadilla, among them Carlos Abadilla, who declared that it belonged to him and his coheirs, and on the west by the land formerly belonging to Jose Agbayani and now occupied by the river."

Third parcel, in Corcuera.—Area, 1 hectare and 18 ares; bounded on the north by lands of Liberato Abadilla, on the east by those of Cirilo Talon, on the south by those of Bernabe Peralta, and on the west by those of Ceferino Mina. Description in writ: "One hectare and 18 ares; bounded on the north by the lands formerly held by Liberato Abadilla and now by his heirs, on the south by that formerly of Bernabe Peralta and now of Domingo Caluya, on the west by the land previously held by Ceferino Mina and now by his heir and by Isidora Dancel, and on the east by that formerly possessed by Cirilo Talon and now by Joaquin Madamba."

Fourth parcel, in Corcuera.—Area, 43 ares and 5 centares; bounded on the north by lands of the church, on the east by those of Bernabe Peralta, on the south by a trail, and on the west by the property of Liberato Abadilla.

Description in writ: "Forty three ares and 5 centares; bounded on the north by lands of the church, on the south by a trail that formerly existed and now occupied by Teodoro Martin, on the west by the property formerly of Bernabe Peralta and now of Domingo Caluya, and on the west by that previously held by Liberato Abadilla and now by his heirs."

Fifth parcel, in Corcuera.—Area, 1 hectare 57 ares and 95 centares bounded on the north by a watercourse, on the east by the lands of Bernabe Peralta, on the south by the Gasgas River, and on the west by the property of the aforementioned Abadilla. Description in writ: "One hectare 57 ares and 95 centares; bounded on the north by a water-course, on the east by the land previously held by Bernabe Peralta and now by Domingo Caluya, on the south formerly by the Gasgas River and now by the land occupied by Teodoro Martin, one of the defendants, and which was formerly a part of the river bed, but, by a change in the course of the stream toward the south, became arable, and on the west by the property formerly held by Liberato Abadilla and now by his heirs. This property was indicated by the said Teodoro Martin as being the same land which was previously put into the possession of the plaintiff and the latter affirmed it to be such."

Sixth parcel, in Corcuera.—Area, 15 ares; bounded on the north by a trail, on the east by the land of Bernabe Peralta, on the south by the Gasgas River, and on the west by the property of the aforesaid Abadilla. Description in writ: "Fifteen ares; bounded on the north formerly by a trail and now occupied by Flaviano Martin, on the south formerly by the Gasgas River and now by the land occupied by Pedro Corotan which formerly was a part of the river bed, but, by a change in the course of the stream toward the south, became arable, on the west by the land previously held by Liberato Abadilla and now by his heirs, and on the east by that before occupied by Bernabe Peralta and now by Gregorio Dichoso."

Domingo Caluya testified that he held lands in Gambeng, purchased from Bernabe Peralta and adjoining those in dispute; and Carlos Abadilla, that, twenty years before, his deceased uncle Liberato Abadilla purchased from Jose Dancel the lands adjoining those in question, also the latter. Neither of these two witnesses was contradicted.

Two of the defendants in the previous suit, Ramon Barroga and Julio Ventura, were witnesses for the herein plaintiffs and testified that Cirilo Puruganan took possession, not only of the lands of the defendants in that other suit, but also of those of the plaintiffs in the present one.

If, besides the lands won from the defendants in the present suit, there had been included in the possession given the plaintiff in that suit the other lands which the plaintiffs in this case claim as theirs, then the sheriff would have awarded a greater area of land than that specified in the title, in the complaint, and in the writ of execution; but it has been hereinabove demonstrated that the same area is mentioned in the title, in the complaint, in the writ of execution, and in the proceedings had thereon. Consequently, the testimony of the said two witnesses is unworthy of credence and, though it were credible, the suit should have hinged on the excess of area, and not on the alleged nonexistence, of the lands described in the Puruganans' title of ownership.

And, as the area is the same, the substitution of some boundaries for others showing the location of the land, instead, of the boundaries expressed in the title, in the complaint, and in the writ of execution, does not alter the identity of the parcels which have already come within the scope of *res adjudicata*.

Proof that there exists property which corresponds to the title of composition, of the extension and limits expressed by the latter, evidences that the real property awarded by execution of judgment belongs to him who obtained from the State the said title, which is a lawful one that conveys the land from the tenancy of the original and sovereign owner thereof to that of him who applied for its acquisition and award by composition; and against such title of ownership inscribed in the property registry, mere possession cannot avail, even when proven and still less when not so shown. In this second suit, possession has not been proved by any title whatsoever either of

acquisition or transfer of ownership, but was based on a fact, merely affirmed by some witnesses, and these unworthy of credence because of their endeavor to establish in this suit such mere fact of possession, while in previous suits it was established in another diametrically opposite.

The judgment appealed from is reversed and the defendants are absolved from the complaint, without special finding as to costs in this instance.

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

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