

FELIPE DE LA SERNA, PLAINTIFF AND APPELLEE, VS. MATEA LIBRADILLA, ALEJANDRO BAILOSOS, AND GALO BAILOSOS, DEFENDANTS AND APPELLANTS.*G. R. No. 7954. August 27, 1915*

Ponente: JOHNSON, J.

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The purpose of the present action was to recover of the defendants the possession of a parcel of land particularly described in paragraph 2 of the complaint. The action was commenced on the 2d day of January, 1909. To the complaint the defendant demurred, which demurrer was sustained by the lower court. On the 16th day of September, 1909, the plaintiff filed an amended complaint, to which the defendant presented an answer setting up a general and special defense. The plaintiff alleged that he was the owner of the land and had been in possession of the same for forty years, and that the defendants, on the 17th day of September, 1908, had interfered with his possession. The plaintiff alleged that he had obtained title to the land by inheritance from his parents. The defendants alleged that they were the owners of the land; that they had acquired the same by inheritance, and that their parents had been in the quiet and peaceable possession of said land since the year 1886.

Upon the issue thus presented, the cause was brought on for trial. After hearing the evidence, the Honorable George N. Hurd found that the plaintiff was the owner of the land in question; that the defendants had caused damages to the possession of the plaintiff in the sum of 80 cents, and rendered a judgment against the defendants and in favor of the plaintiff for the restitution of the possession of the land, together with a judgment for damages in the sum of 80 cents and costs. From that judgment the defendants appealed to this court and made several assignments of error, the first and second of which present questions of fact only. The appellant, under his first and second assignments of error, argues that the evidence adduced during the trial of the cause was not sufficient to show that the plaintiff was the owner of the land in question.

After a careful examination of the evidence, we have reached the conclusion that a preponderance of the proof adduced shows that the plaintiff is the owner of the property in question, particularly described in the complaint, and that he inherited the same from his father and has occupied the same for a period of nearly forty years.

The third assignment of error relates to the admissibility of a document in the form of a possessory information. Said document was offered in evidence by the defendants. Objection was made to this admissibility. The court sustained the objection upon two grounds, first, that the description of the land in said document did not include the land in question and, second, for the reason that said possessory information had not been registered in the registry of property. If it is true that said possessory information did not include the land in question, certainly it was not admissible as evidence in support of the contention of the defendants and the lower court committed no error in refusing to admit it as proof. An examination of said possessory information has been made and it seems clear to us that the same does not contain a description of the land in question. Said possessory information was dated in February, 1895. This action was commenced in January, 1909, or nearly fourteen years after the date

when the defendants claim they possessed the land in question. The proof shows that the plaintiff had been in possession of the parcel of land described in the complaint for a period of nearly forty years. Accepting the finding of fact made by the lower court that the plaintiff had been in possession of the land for such a long time, we are forced to the conclusion that the defendants did not, until very recently, believe that their possessory information included the land in question, or otherwise they would have made claim to the same before. The first reason given by the lower court was sufficient for not admitting the possessory information as proof. That being true, we deem it unnecessary to discuss the second reason given by the lower court for not considering the possessory information as proof against the plaintiff, it being sufficient to say that, in view of the fact that said possessory information was not registered, it could in no way affect the right, title, or interest of third innocent parties.

After a careful examination of the record brought to this court, we are persuaded that the judgment of the lower court is fully justified, both by the proof adduced during the trial of the cause and the law applicable thereto; at least that part of his judgment in which he enjoined the defendants from further interfering with or molesting the plaintiff in his possession of the parcel of and in question. Therefore, that part of the judgment of the lower court in which he enjoined the defendants from interfering with the plaintiff in his possession of the parcel of land in question is hereby affirmed, with costs. So ordered.

Arellano, C. J., Torres, Carson, Trent, and Araullo, JJ., concur.

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