

FERNANDA CASAÑAS, PLAINTIFF AND APPELLANT, VS. CHARLES H. WALT, ADMINISTRATOR OF THE GOVERNMENT HACIENDA AT CALAMBA, AND ANGEL M. VILLARUZ, DEFENDANTS AND APPELLEES.

G.R. No. 8101. February 19, 1915

Ponente: CARSON, J.

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CARSON, J.:

Appellant having abandoned the question of jurisdiction raised in the court below, the real, and indeed, the only issue involved in this appeal is whether the defendant, Angel Villaruz, parish priest of Calamba, as administrator of the "Cofradias del Santisimo Rosario" or the plaintiff Fernanda Casanas is entitled to a preference in leasing, purchasing and acquiring a certain parcel of land, constituting a part of the lands "commonly known as the friar lands" in Calamba purchased by the Government of the Philippine Islands.

It is agreed that the right in question must be determined in accordance with the following provision of section 65 of the Act of Congress approved July 1, 1902: "And provided further, That actual settlers and occupants at the time said lands are acquired by the Government shall have the preference over all others to lease, purchase, or acquire their holdings within such reasonable time as may be determined by said Government."

It is conclusively established and, indeed, practically admitted that the plaintiff, her father, and her grandfather were the actual occupants of the land in question for some fifty years prior to the year 1894; and that she herself was in possession from the year 1898 down to the year 1906, when the question of preference now under consideration was decided against her and in favor of the defendant Villaruz by the defendant Walt, an agent of the Bureau of Public Lands, which was charged with the administration of the so-called "friar lands" purchased by the Government in 1903. It thus appears that except for a period of some four years—that is to say, from 1894 to 1898—the land in question was actually occupied by plaintiff and her ancestors for more than fifty years prior to the purchase of the friar lands by the Government.

Just what was the status of this parcel of land during these four years is not quite clear from the record. It appears that in 1894 plaintiff was ejected therefrom for nonpayment of the yearly canon claimed by the former owners; and although it further appears that some time in the year 1896 she made a general settlement with the owners by virtue of which she was restored to possession of several tracts of land from which she had been ejected at the same time and for the same reason, the particular parcel in question is not mentioned in the instrument setting forth the terms and conditions of the settlement. She claims, and the evidence seems to sustain her contention, that in the interval, a formal rental contract of the land in question was entered into between the former owners and one Barranquero (a Spaniard who was married to a woman in her household, and who was dependent on her bounty); but that in truth and in fact Barranquero was her agent, and held and occupied the parcel of land as her agent, she herself paying the rent agreed upon and through him exercising control and dominion in the premises just as if the rental contract had been entered into directly between herself and the former owners.

It further appears that in the year 1898 the administrator of the former owners (the friars) abandoned the estate, as a result of the unsettled conditions then prevailing in the Islands, and that thereafter they practically abandoned all further attempts to control or administer the land in question in this action until it was sold to the Government in 1903. It also appears that the Spaniard Barranquero having left the neighborhood about the same time, the plaintiff took actual possession of the parcel of land in question, and like many other occupants of lands similarly situated, set up a claim of ownership thereto, paid the taxes levied thereon, and continued to exercise her alleged rights of ownership until the Government asserted its superior title under its purchase from the former friar owners.

The claim of the defendant Villaruz, as parish priest and administrator of the *cofradias*, rests upon evidence tending to disclose that not long before the abandonment of the friar lands in Calamba by the former owners in the year 1898, the administrator entered the following note on the books of the estate referring to the land in question:

"This parcel, by disposition of the *visitador*, passes to the *cofradias* del Santisimo Rosario in charge of the parish priest."

Upon the entry of this note in the books of the estate the defendant parish priest rests his whole claim to the preference guaranteed by the Act of Congress. It does not appear that he ever entered into actual occupation of the land in question. On the contrary, it affirmatively appears that he did not; that the plaintiff, either by herself or through her intermediary Barranquero, was in possession at the time when this entry was made, and continued in possession down to and long after the purchase of the estate by the Government; and that at no time did the priest of the parish, for himself or for the *cofradias*, exercise any right of possession in or control over the land in question, until the right of preference was decided in his favor by the defendant agent of the Bureau of Lands.

Upon this statement of the facts, we have no doubt whatever that under both the spirit and the letter of the Act of Congress the plaintiff was and is entitled to the preference in the lease or purchase of the land in question secured to "actual settlers and occupants" under the provisions of section 65 of the above cited Act of Congress.

It does not appear that the defendant parish priest or his predecessors ever actually occupied the land in question for one instant of time. It is conclusively proven that for more than fifty years prior to the purchase of the land by the Government, the plaintiff and her father and her grandfather were in actual occupation, with the exception perhaps of some three or four years, during which it was nominally held by plaintiff's agent and dependent Barranquero; and while the evidence is not wholly satisfactory, it clearly appears that all the differences and disputes as to rent between the plaintiff and her friar landlords were finally and definitely settled during this period, so that it is fair to presume that the occupation by Barranquero on her behalf was tacitly recognized and accepted by them. But however this may be, the fact remains that even during the period of three or four years during which the land was ostensibly occupied by Barranquero, she was in truth and in fact the real tenant and he no more than an agent, acting on her behalf.

The trial judge seems to have been under the impression that the beneficent provisions of the Act of Congress should be extended only to those lawfully in possession of the so-called friar lands acquired by the Government. But it is to be observed that the language of the Act refers to actual settlers and occupants, and makes no condition as to the lawfulness of their occupation. The truth is that the purchase of these lands was forced on the Government in large part by the refusal of a large number of the occupants to recognize the legal title of their friar landlords, which resulted in wide spread agrarian disturbances incident to repeated and oftentimes fruitless attempts to enforce the legal rights of the landlords which had been infringed by their tenants. Under these conditions there can be little doubt that the object which the Government sought to attain by the purchase of the friar lands would have been thwarted and defeated to no small extent, had Congress undertaken to limit the beneficent provisions of the statute to those lawfully in possession or occupation.

The language of the statute, read in the light of the history of the purchase of the friar lands, makes it clear that it was the purpose and intention of the legislator to give a preference to actual settlers upon and occupants of the friar lands, without regard to the question of the legality of their occupation, and notwithstanding the fact that they might have no legal rights in the premises which the former or the new owner of these lands was bound to respect. The manifest intention of the legislator was not to limit the preference to occupants who were lawfully in possession under the former owners, but to extend it to all persons who were actually occupying the land at the time of its purchase, under a bona fide claim of ownership or of a right to possession, even where it appeared that for failure to pay rent or for any reason whatever, they might have been lawfully ejected by the former owners.

Of course, the language of the statute must be construed in connection with the subject matter with which it deals and with reference to the ends sought to be attained by its enactment, and mere usurpers who secured a precarious foothold on these lands by the ouster by fraud, force, or stealth of actual settlers and occupants, during the unsettled conditions incident to and following upon the change of sovereignty in the Islands, do not come within the purview of the statute giving preferences to actual settlers and occupants. It cannot be conceived that Congress intended to give a preference to such a usurper over one who was the actual occupant prior to the usurpation, whose family for generations had been in lawful occupation, and who had the legal right of occupancy at the time of the purchase of these lands by the Government. Thus while the preference is not to be denied to an actual occupant merely because he can not establish a legal right of occupancy, it is clear that one who had the legal right of occupancy under the former owners of the lands and whose actual occupancy had been disturbed by a mere usurper must be held to be the "actual settler or occupant" with the right to the statutory preference when the question is put in issue between him and the usurper. As between them, the seizure of mere physical possession by the usurper cannot be held to have resulted in depriving the lawful occupant of any legal right in or to the lands. Usurpation by fraud, force, or stealth, gives to the usurper no new right which will be recognized in a court of law if duly challenged by the owner or occupant. Hence it is that in adjudicating conflicting claims to the preference under the statute, we have not hesitated to admit evidence as to the right of possession of one of the applicants under a rental contract with the former owner, where it was alleged that the other claimant was a mere usurper.

But it must always be kept in mind that the preference is secured by the statute to actual settlers and occupants, and not to those who at the time of the purchase by the Government, may have had a mere right to possession by virtue of rental contracts with the former owners or otherwise, which never had been exercised. A mere contract with the former owners giving a claimant a right to possession under them is not sufficient. The claimant must have been an actual occupant, as distinguished from one who had a mere right to occupancy. The purpose and object of the statutory preference was to secure certain privileges to those actually settled upon or occupying the lands.

In the case at bar, neither the defendant parish priest nor his predecessors in interest secured possession of the land in question. He rests his claim to the preference wholly on an alleged right to possession which never was exercised. It not appearing that either he or his predecessors in interest were actual settlers or occupants, he can maintain no claim whatever to a preference under the statute.

The plaintiff on the other hand makes a strong showing of actual and continuous occupation for over fifty years prior to the date of purchase by the Government. If her evidence be accepted as to the nature of her occupation through Barranquero, the entry of a note in the books of the former owners, just before their administrator abandoned the property, could not deprive her of the preference guaranteed to actual settlers and occupants. Had the administrator entered a note to the effect that all the lands on the estate were to "pass" to some designated person or group of persons, it would be manifestly absurd to contend that without anything further, the

Government would be compelled to give such person or person the preference secured under the statute to actual settlers and occupants.

But even if we disregard the testimony as to her occupation of this land prior to 1898, there can be no question I that from that time until the year 1903 when the land was purchased, she was the actual occupant under a bona fide claim of a right to possession. And since there is no other claimant to the preference who even attempts to show actual occupation of the land, she is clearly entitled to the preference without regard to the question of the lawfulness of her entry upon and possession of the land during that period.

Let judgment be entered reversing the judgment entered in the court below, without costs in this instance. So ordered.

Torres, Trent, and Araullo, JJ., concur.

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