

MARCIANA MORENO DE WORRICK, PLAINTIFF AND APPELLANT, VS. PAULINA, VALERIANA, LINO, AND RAYMUNDO GACO, DEFENDANTS AND APPELLEES.*G.R. No. 8678. December 29, 1913*

Ponente: TORRES, J.

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Appeal through bill of exceptions by counsel for the plaintiff, from a judgment of July 29, 1912, whereby the Honorable P. M. Moir, judge, absolved the defendants from the complaint, with the costs against the plaintiff.

On July 13, 1911, counsel for the plaintiff Marciana Moreno de Worrick filed a written complaint in the Court of First Instance of Ambos Camarines, alleging therein that she is the lawful owner of a tract of abaca land situated in the barrio of Cabanbanan, pueblo of San Vicente, Camarines, 129 hectares and 68 ares in area, the boundaries of which are given for the four cardinal points; that the defendants Paulina, Valeriana, Lino, and Raymundo, all surnamed Gaco, claimed to be the owners and possessors of a parcel of the said land, which has an approximate area of 10 pisosones and is bounded on the north, south, east, and west by the plaintiff's land; that the latter had suffered losses and damages to the extent of P200 through the annoyances occasioned her by the defendants' complaints and claims; wherefore the court was asked to render judgment by finding the plaintiff to be the exclusive lawful owner of the property described in the complaint and the sole person entitled to the possession and enjoyment thereof, by imposing perpetual silence upon all the defendants with respect to the ownership and possession of the said land, and by sentencing them to pay the sum of P200 as losses and damages, and the costs.

After confirming his exception entered to the order overruling the demurrer made to the complaint, counsel for defendants in reply denied each and all of the allegations contained therein, except that set out in the first paragraph thereof, which he admitted. In special defense, he alleged that the defendants had been for some time past the owners and proprietors of the land claimed by them and were in quiet and peaceable possession of it up to January 1, 1911, when the plaintiff unlawfully entered into possession of it; for they had acquired ownership thereof by inheritance from the [father] of the defendant Paulina and grandfather of the other defendants, the deceased Juan Gaco, their predecessor in interest, who had held the land until the said month of January; and that at his death the defendants had remained in quiet and peaceable possession of it; wherefore the defendants had through a possession of more than forty years acquired ownership and control by prescription also; and, further, the plaintiff's right to claim the property in question, on the supposition that she may have had such, had prescribed.

As a counterclaim, he alleged that the plaintiff did, on or about January 1, 1911, without the knowledge or consent of the defendants, the owners of the land claimed by them for some time past, appropriate and take possession thereof and refuse to return it to the defendants; that the plaintiff, by such unlawful act of dispossession and by having ordered the stripping of the abaca plants on the said land for her own profit, caused the defendants losses and damages to the extent of P500. He therefore petitioned that they be absolved from the complaint, and that the

plaintiff be sentenced to return to them the land in question, to hold their peace forever, to pay P500 to the defendants as losses and damages, and to pay the costs of the suit.

Counsel for the plaintiff, in his reply of June 25, 1912, denied each and all of the allegations contained in the defendants' counterclaim and prayed that judgment be rendered in his client's behalf and against the defendants, in conformity with the petition in his complaint.

After hearing of the case and introduction of evidence by the parties, the documents exhibited being attached to the record, the court rendered the judgment aforementioned, to which counsel for the plaintiff entered an exception and asked for a new trial. This motion was overruled, and exception taken thereto by the appellant. The proper bill of exceptions was filed, approved, and transmitted to the clerk of this court.

The plaintiff has brought against the defendants an action for recovery of possession, for the purpose of obtaining from the courts an express finding that she is the owner of the parcel of land which the defendants claim to hold under title of ownership.

This parcel or portion of land of some 10 pisones in area, equivalent approximately to three hectares, is entirely embraced within and bounded on all its sides by the large tract of land which belongs to the plaintiff.

Aside from the oral evidence by which an attempt was made to show that the defendants enjoyed possession of the land in question, the document marked A was exhibited for the purpose of proving the ownership held in the said land by Juan Gaco, alleged to be the defendants' predecessor in interest.

This Exhibit A is a copy of an original document found among the protocols of the public instrument filed in the archives of the old alcadia mayor of the Province of Camarines Norte and was issued on September 14, 1870, by the alcalde and signed by two witnesses.

In the information contained in the document above mentioned are the statements of three witnesses who asserted that to their knowledge Juan Gaco brought under original cultivation the land situated in Cabanbanan, planted it to abaca and had been in possession of the property for a period of twenty to thirty years. The said document also shows a general sketch of the land, with statement of its boundaries for the four cardinal points. By a decree of September 14, 1870, that information initiated by Juan Gaco relative to the possession of the said land was approved in so far as it was in accord with the law and with the proviso of not being to the prejudice of third parties.

As against this document and the other evidence adduced by the defendants, the plaintiff presented a composition title for 129 hectares and 68 ares of land, situated in the said barrio of Cabanbanan, sitio of Nueva Segovia, issued to Estanislao Moreno by the Direccion General de Administracion Civil, on January 10, 1887. A memorandum of this title was made in the records of the government of that province and in those of the Inspeccion General de Montes and the instrument itself was entered in the property registry on September 18, 1890.

Upon the death of Estanislao Moreno the property passed by inheritance to Udefonso Moreno y Ramirez, and, on account of the latter having died intestate, in proceeding with the division of his estate among his declared heirs, the land before mentioned, together with some other property, was allotted to his sister Marciana Moreno. This division of the estate was approved by the Court of First Instance, and Marciana Moreno's hereditary title to the said land, originally acquired by her first predecessor in interest through "composition" with the state, was inscribed in the registry.

From the testimony brought out by the plaintiff, it was shown that none of the defendants was in possession of the parcel of land in litigation, and that they resided and had their houses on adjacent land belonging to Felix Moreno,

whose laborers they were, it being customary in that province for the tenants or laborers of the owner of the land to build their houses and live on the land where they work and where grows the abaca they are required to cultivate and strip. However, it is concluded from the whole of the evidence submitted by both parties, that the defendants did in fact occupy the land in question, comprised within, and situated almost in the center of the large tract belonging to the plaintiff, as the laborers, if not of the plaintiff, of her predecessors in interest, with the knowledge and tolerance of such owners.

The document exhibited by the defendants does not constitute proof that the land to which it refers was undoubtedly the land now in litigation.

The record does not show that when the state awarded a "composition" title to Estanislao Moreno, the plaintiff's predecessor in interest, for the large tract of land of 129 hectares and 68 ares, the grant was made subject to the exclusion of the land of which the defendants claim to be the owners as having inherited it from their alleged predecessor in interest, Juan Gaco, for it does not so appear in the "composition" title, and in recording the boundaries of the 129 hectares and 68 ares no express exclusion was made of the land in question as not being comprised within that title.

Article 444 of the Civil Code prescribes: "Acts which are merely tolerated and those clandestinely executed, without knowledge of the possessor of the thing, or by force, do not affect the possession."

Article 1942 of the same code also provides: "Acts of a possessory character, performed by virtue of a license, or by mere tolerance on the part of the owner, are of no effect for establishing possession."

Even supposing that Juan Gaco, the defendants' predecessor in interest, actually occupied the parcel of land in litigation, yet, once the state had, after fulfillment of the procedure established by administrative laws, awarded the entire tract of land described in the "composition" title, without exception or exclusion whatever of any part thereof as private property, it is to be presumed that all the land so granted to Ildefonso Moreno under title of "composition" belonged to the State, and that Juan Gaco occupied the disputed parcel of land by mere tolerance and without any title whatever, for his heirs have not proved that their said predecessor in interest was the lawful owner of the property, or that he acquired it in accordance with law.

Upon the institution and termination of administrative proceedings for the award by the state of a "composition" title to a tract of land that had not become private property, it is presumed that all the formalities prescribed by law were fulfilled and that the land concerned was in fact new and unappropriated ground; and when once title issued to the grantee, he became the sole owner and proprietor of the land so granted and awarded by the state through "composition," since the Government, in granting the ownership title in such land, did so on the assumption that it was unappropriated and not legally in the possession of any one, for the reason that, in response to the notices and edicts published, no one protested or presented any claim whatever against the "composition" sought of a part or portion of the land concerned in the aforesaid possessory proceedings.

The land obtained by Ildefonso Moreno during his lifetime comes within the case described in the preceding paragraph, since it is not disclosed by the record that, upon the institution of the proper proceedings for award of title, either Juan Gaco or any of his descendents protested or presented any claim against the application for "composition," submitted by the grantee. Upon the issuance of the title referred to, memorandum made thereof in the records of the government of the province and its inscription in the property registry, the grantee Moreno became the sole lawful owner of the entire 129 hectares and 68 ares of land specified in the title, and without the exclusion of the parcel claimed by the defendants, for they did not duly prove that they were the owners, and before them their predecessor in interest, Juan Gaco, of the parcel of land in question, prior to the proceedings for obtaining the "composition" title.

In the decision in the case of Balatian vs. Agra (17 Phil. Rep., 501), the following legal principle was laid down: "A title by composition with the state is a title of exclusive ownership in favor of the party who appears therein as grantee. It excludes all other claimants and no adverse claim can be recognized unless such claim is clearly proven."

In the case of Dancel and Mina vs. Ventura (24 Phil. Rep., 421), it was held: "The concessionary of an unappropriated tract of land who has obtained a composition title thereto, issued by and in the name of the Government and duly registered, is the sole owner of the property appearing in his name in the property registry, until his title be annulled or cancelled by a final judgment of the courts."

The defendants have not proved that they are the lawful owners of the parcel of land in dispute, and even if the possessory information, Exhibit A, were admissible as proof of their possession, yet, as it was given under the proviso of not being in prejudice of third parties with a better right, once the plaintiff has proven her better right to the whole of the land comprised within the said title, without exclusion of any definite portion thereof in the defendants' favor, the plaintiff has an incontrovertible right of ownership in the entire property and, likewise, in the land in litigation.

With respect to the claim for losses and damages, it must be borne in mind that there is no evidence of record to show that the defendants acted in bad faith in usurping the property. By reason of the document they held, they probably believed they had a right to it. Therefore, as it must be held that they acted in good faith, so long as there is no proof to the contrary, it would not be right to oblige them to pay the indemnity demanded.

For the foregoing reasons, we hereby reverse the judgment appealed from and hold that Marciana Moreno de Worrick is the lawful owner of the aforesaid parcel of land, with respect to which we enjoin upon the defendants perpetual silence. No special finding is made as to costs,

Arellano, C. J., Johnson and Moreland, JJ., concur.

Carson, J., dissents.

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