

THE ROMAN CATHOLIC BISHOP OF NUEVA SEGOVIA, PLAINTIFF AND APPELLEE, VS. THE MUNICIPALITY OF BANTAY, ILOCOS SUR, DEFENDANT AND APPELLANT.

G.R. No. 8769. November 07, 1914

Ponente: CARSON, J.

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CARSON, J.:

The prayer of; the complaint in this action is that certain lands therein described, now in the possession of the defendant municipality, be "declared to be the property of the plaintiff" and that "the defendant be ordered to deliver these lands to the plaintiff."

In support of his contentions plaintiff relies wholly and exclusively on a single document (Exhibit A), read together with the testimony of a single witness. No other evidence was offered in support of the allegations of the complaint.

Exhibit A is, in the language of the trial judge, "a certificate issued by the provincial fiscal of Ilocos Sur, in his capacity of register of deeds of the Province of Ilocos Sur, wherein it is set forth that the Church of Bantay, Ilocos Sur, then represented by its former parish priest, applied for a possessory information of the properties in question and in the proceedings had for the purpose proved the possession of the Church of Bantay, Ilocos Sur, now the plaintiff, over the said properties for a period of more than thirty years, in which proceedings record was also made of the encumbrances that bear on the real estate mentioned and which are as follows:

"(1) That the church, the initiator of these proceedings, shall never sell, mortgage, or alienate the properties without the knowledge and consent of the residents of the pueblo of Bantay, who donated them to the said church; (2) that the usufruct of the said lands shall, upon payment of rent, or canon, always pertain to the residents of the pueblo of Bantay; (3) that the administration of the properties shall always lie with the parish priest of the church of the said pueblo; and, (4) that, when the municipality has not sufficient revenue to meet its required expenditures, an amount not exceeding P200 may be expended for this purpose from the income of the said land.

"On April 18, 1895, the parcels above mentioned, together with the charges on each of them, were recorded in the property registry of the Province of Ilocos Sur, section of the pueblo of Bantay, by virtue of the said possessory information."

It nowhere, appears that the defendant municipality was cited to appear, or did in fact appear in the course of the proceedings.

The single witness called on behalf of the plaintiff testified substantially as follows: That he was a clerk (escribiente) of the Church at Bantay; that he had formerly been one of the headmen (principalia) of the municipality of Bantay; that formerly the lands in question were owned by the citizens of Bantay administered by the headmen (principalia) of that municipality; that thereafter the headmen of the town donated the land in question to the Church of Bantay; that although he himself signed the document donating the land he could not

say when it was executed; that the parish priest at one time was administrator of the land in question, but he was not able to say when or under what conditions; that he knew that this was so, because in the performance of his duties as a clerk of the church, he remembered having helped to store the crops from these lands underneath the convent of the Church of Bantay, though he could not say when nor how often this had been done.

In connection with the testimony of this witness it is worthy of observation that in the "informacion posesoria" executed in 1895 at the instance of the parish priest of Bantay, there is no intimation that the alleged donation of the lands in question was made or evidenced in a written instrument. On the contrary, in reference to one of the smaller parcels included in the larger tract now in question, we find the following:

"Friar Lizardo Villanueva, an Augustinian brother and parish priest of the pueblo of Bantay, went to the justice of the peace court of that town and prayed that he be allowed to prove that the church under his charge had been in possession of the above-described hacienda for more than thirty years; that it had acquired it by donation from the residents of the said pueblo, and that the property had been acquired without any written instrument."

This express admission, taken together with the fact that in the execution of the "informacion posesoria" in the year 1895, the applicant, the parish priest of Bantay, relied wholly on the oral testimony of a few witnesses in support of his allegations as to a gift (donaci6n) from the municipality of the entire tract, and made no claim that the alleged gift had been made in writing, and the further fact that no Written instruments were offered at the trial of the case at bar other than the "informacion posesoria" justifies the inference that no writing evidencing the alleged gift was in fact executed. And however this may be, it is certain that the existence of such a writing was neither alleged nor proven in the court below.

The evidence submitted on behalf of the defendant municipality consisted in part of authentic, undisputed documents, conclusively establishing the fact that two of the parcels of land composing the entire tract in question were conveyed to the defendant municipality by the Augustinian Fathers in or about the years 1791 and 1803; and that the third was conveyed to it by one Dona Calixta del Castillo about 1851. The fact that this property was thus acquired by the defendant municipality is not denied by the plaintiff, who, indeed, claims title through the municipality by virtue of an alleged gift (donacion).

Two witnesses, former headmen of the municipality of Bantay, were called by the defendant municipality, who swore positively that no such gift had ever been made as that alleged in the complaint, and that neither the church nor its representatives ever had possession or control of the land in question.

It is manifest that plaintiff's allegations of title and of right to possession, as set forth in the record in this case, must stand or fall in accordance with the effect which should be given to the registered "informacion posesoria" (possessory information) prepared in the month of March, 1895, and registered on the 18th of April of that year. Indeed, counsel for plaintiff rest their contentions in this court wholly and exclusively on the probative value which they insist should be accorded that instrument.

"Possessory informations" of the nature of the one under consideration herein were ex parte proceedings had before a judge of first instance or a justice of the peace, wherein one in possession of real estate, claiming the right to possession, was permitted after notice to the adjoining landowners to set forth the fact that he was in actual possession of such real estate and the nature of the title under which he claimed the right of possession, and to call such witnesses and to produce such evidence in support of his claim as he thought necessary and proper. If the evidence thus submitted appeared to be satisfactory, and the applicant's claims were not successfully rebutted by some interested person the proceedings were approved by the judge before whom they were had, who at the same time ordered that they be registered "without prejudice to third persons having a better right in the premises." From a consideration of the very nature of such ex parte proceedings it is clear

that in themselves they could in no event have the effect of prejudicing a third person who has a better right to the ownership than the claimant in the possessory proceedings. When executed in due form, they furnish, at most, prima facie evidence of the fact that at the time of their execution, the claimant was in possession, claiming the right to possession as set forth in his application. Accordingly we find in article 394 of the Mortgage Law the following:

"The period of possession which appears to have elapsed at the time said entries are made shall be computed for the prescription which does not require a just title, unless a person prejudiced thereby denies it, in which case said period of possession must be proven in accordance with the common law.

"Entries of possession shall prejudice or favor third , persons from the date of their record, but only with regard to the effects which the laws attribute to mere possession.

"The entry of possession shall not prejudice the person who has a better right to the ownership of the realty, although his title has not been recorded, unless the prescription has confirmed and secured the claim recorded. Between the parties the possession shall be effectual from the date prescribed by the common law."

It is true that provision is made whereby the possession evidenced by a registered possessory information may ripen and be converted into a record of ownership after twenty years of uninterrupted possession have elapsed from the date of entry (art. 393, Mortgage Law), but the title thus secured is no more than a statutory title by prescription, and, as we have seen, until the full period of twenty years has elapsed, a registered possessory information cannot prejudice a third person with a better right in the premises. It is true also that under the provisions of the Maura Law, persons holding under a registered possessory information secured during the very short period during which it was in force, were given a title—as against the Government—to public lands claimed by them; but the provisions of this law in no wise affected the rights of claimants other than the Government itself. It is very clear therefore, that the possessory information submitted by plaintiff in the case at bar cannot prevail against the authentic and undisputed proof of title to the lands in question in the defendant municipality.

Let judgment be entered reversing the judgment entered in the court below and dismissing the complaint filed in this case, without costs to either party.

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

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