

THE ROMAN CATHOLIC ARCHBISHOP OF MANILA, APPLICANT AND APPELLANT, VS. MACARIO ARNEDO ET AL., OBJECTORS AND APPELLEES.

G.R. No. 9064. March 31, 1915

Ponente: TORRES, J.

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TORRES, J.:

Appeal filed through bill of exceptions by counsel for the applicant from the judgment of March 24, 1193, whereby the Honorable Norberto Romualdez, judge, denied inscription of the lands described in the application, but reserved to the applicant the rights provided in section 37 of Act No. 496, since the lands that are the subject matter of the application were not sufficiently identified in the documents presented by the applicant, for while these documents indicate that said lands are situate in the sitio of Caputatan, the respondent party proved at the trial that there exists within the municipality of Macabebe another sitio also called Caputatan, as well as another place of the same name in the barrio of Masantol of the same municipality of Macabebe; and furthermore for the reason that the opponents Arnedo, together with his brothers and sisters, and Pelagio Nunga are now and have been in public, peaceful and continuous possession, under title of ownership, of these lands for over thirty years, these objectors having respectively inscribed their ownership and possession in the property registry.

On September 30, 1911, counsel for the Roman Catholic Archbishop of Manila, a corporation sole, filed a written application in the Court of Land Registration seeking inscription in accordance with law of three parcels of land of which said corporation is the absolute owner, situate in the barrios of San Isidro and San Vicente of the municipalities of Macabebe and Apalit, the description and boundaries whereof are set forth in the plan and technical description marked Exhibit A which was made a part of the application, and the total area whereof is 506,521 square meters. The said lands were acquired by said corporation by donation, and the estates above described are occupied by Macario Arnedo and Pelagio Nunga who claim to be the owners thereof, and so forth.

By petition of November 4, 1911, later amended on June 22, 1912, counsel for Macario, Jose, Cayetano, Eugenio; Maria, and Ines, all surnamed Arnedo, objected to the said application, alleging that the lands which are the subject matter thereof were the property of their predecessor in interest, Joaquin Arnedo, who had inherited them from his ancestors in the year 1858, and had possessed them continuously and peacefully in the character of owner, until in turn succeeded in the enjoyment of said possession down to the present time by his heirs, the herein objectors who have never had any contract or dealings with the applicant or any representative of his with reference to these lands. On December 4, 1911, Pelagio Nunga also objected to the said application, alleging that he opposed the inscription sought, unless there be excluded therefrom the two parcels of land comprised within those applied for, because they belong to and are possessed by him.

After trial wherein the parties adduced parol and documentary evidence, the court rendered the judgment that has been referred to. Counsel for the applicant excepted thereto and requested the holding of new trial, announcing his intention of filing a bill of exceptions. This motion was denied, so the interested party asked that all the evidence

submitted in this case be made an integral part of the bill of exceptions, which, after presentation and approval, was forwarded to the clerk of this court.

The question to be decided by the court in this decision turns upon whether or not the three parcels of land described in the application whereon this case is based belong to the mission founded by Melchor Mallari and represented by the Most Reverend Metropolitan Archbishop of Manila.

The ownership right which the applicant claims to have in said three parcels of land is based on the founding of a mission, with an endowment of 2,000 pesos, on 40 quinones of land situate in the spot called Caputatan of the town of Macabebe, Pampanga, the property of the founder Melchor Mallari. His father Nicolas is said to have been the possessor of 300 quiñones of land in the said sitio, with the obligation on the part of the mission priest, to which position the bachelor Juan Mercado was later appointed, of reciting 40 masses a year for the purposes set forth. On petition of the mission priest Juan Mercado it appears that possession of said 40 quiñones was given on September 16, 1724, by the governor of the natives (capitan gobernador de los naturales), although the form in which the act was executed was not recorded nor were the boundaries of the tract fixed (p. 75). On November 3, 1858, Narciso Mallari, a descendant of the founder of the mission, reported that in the previous month of July of said year the mission priest had died and that as a consequence the lands of the mission, which had been reduced to 4 quiñones only, had been abandoned ; and on November 9 of the same year, 1858, the said Narciso Mallari petitioned the Archbishop to deliver to him the 4 quinones that remained of the said 40 under leasehold through annual payment to the ecclesiastical agent of the rental of the land. The said Narciso Mallari requested, as descendant of the founder, that Martin de los Reyes be appointed mission priest of said establishment, and on May 16, 1859, the latter was given possession by the gobernadorcillo of the municipality of Macabebe of the 40 quiñones of land set forth in the instrument of establishment, Exhibit C; but such action had to be suspended a few hours after its commencement because of the opposition of the attorney for Jose Sioco (page 147).

Without discussing whether the area of the land upon which the said mission was founded was really 4 or 40 quiñones or whether the founder Melchor Mallari was really the owner or proprietor of said land, and confining our attention exclusively to the right exercised by counsel for the Metropolitan Archbishop in seeking inscription of the said three parcels of land which he alleges formed part of those 40 quiñones, this decision is limited to declaring that the interested party who seeks inscription of realty in the Court of Land Registration under title of ownership must prove by satisfactory and conclusive evidence not only the dominion he exercises over said realty but also the identity thereof, because the applicant is in the same situation as, one who seeks recovery of realty through the corresponding action; therefore without the indispensable demonstration of his ownership right and the identification of the realty he claims or desires to inscribe in the registry, it is legally impossible to grant his petition, according to the precedents of the courts established in the decisions in the cases of Sison vs. Ramos (13 Phil. Rep., 54), Belen vs. Belen (13 Phil. Rep., 202), and Villa Abrille vs. Bañuelos (20 Phil. Rep., 1).

The documentary evidence presented by the applicant proves that a mission was founded and the foundation was charged upon a tract of land said to comprise an area of 40 quiñones, and the sum of P2,000 was fixed as the lien upon the estate so charged. Even admitting that the founder Nicolas Mallari was really the legitimate owner of 40 quinones of land situate in Caputatan, municipality of Macabebe, it is a fact that in November, 1858, Narciso Mallari, a descendant of the founder, averred in his report to the Archbishop that said 40 quiñones had been reduced to only 4 quiñones, and also that the tenant Felipe Layson asserted that he was only cultivating 4 quiñones and had been paying P40 rental from 1847 up to 1858; and that when in 1859 an attempt was made to ascertain the location of the rest of the land to make up the 40 quinones, a resident of the place named Jose Sioco protested and announced that he would bring suit in case he should be dispossessed.

It might be true that, upon foundation of the mission by Melchor Mallari, he offered in his father's name 40

quiñones of land to support by its rental the ecclesiastical living and that the founder's father must have been the owner of the and charged, but it is not exactly shown by the evidence adduced by the applicant at what place in the town of Macabebe were and now are located said 40 quinones of land. Moreover, it is said that the mission priest appointed in 1859, Martin de los Reyes, was given possession by the gobernadorcillo of Macabebe of the said 40 quiñones, but it is not recorded how and in what form said possession was conferred and what were the metes and bounds of the 40 quiñones of land of which the priest Reyes took possession.

In the description of the three parcels of land set forth in the application it is stated that said three parcels are located in the barrios of San Isidro and San Vicente of the towns of Macabebe and Apalit, while the lands actually possessed by the objectors, who are denounced by the applicant as usurpers, are situate in the places called Caputatan, Talacsan, Apat, and Pulo, of the barrio of San Gabriel of the town of Macabebe, which barrio is distinct from the barrios designated in the application.

With such antecedents it is clear that it would be impossible to identify by exact statement of its boundaries the land that is said to have been charged and assigned to bear the expense and the endowment of the mission of which mention has been made, just as it has not been demonstrated whether said three parcels are separate one from another or form one single tract, as the property of a single owner, and were part of the 40 or the 4 quiñones upon which the said mission was founded.

Counsel for the applicant admits that the objectors are actually in possession of the three parcels of land, inscription whereof he seeks in this case, although he alleged that the objectors enjoy said possession in the character of lessors and not as owners, as they allege on page 312 of the record.

It is also fully proven in the record that the objectors have been in possession of the lands in litigation for very many years, through the testimony of a sufficient number of witnesses who affirm that Engracia Tanjutco, the grandmother, and Joaquin Arnedo, the father of Macario Arnedo and his brothers and sisters, were in possession of said parcels and others which their descendants the objectors at present possess and have possessed for over fifty-three years past, even without reckoning the possession enjoyed by the ascendants of their said grandmother and her predecessors in interest, who have been in possession of the lands in question quietly and peacefully, under title of ownership, and publicly, without having been disturbed by, any protest or claim on anybody's part.

As for the documentary evidence, the objectors surnamed Arnedo presented a certificate of the register of deeds of the Pampanga district covering the titles to five parcels of land belonging to them situate in the places called Caputatan, Talacsan, Donapat, Tacasan, and Dita, comprised in the barrio of San Gabriel, town of Macabebe, which titles consist of possessory informations applied for by Joaquin Arnedo, the objectors' father, and approved and inscribed in the property registry of the Pampanga district on May 7, 1895.

It appears from said certificate of the register of deeds that the first and second parcels of land had been inherited by Joaquin Arnedo from his mother, Engracia Tanjutco, on May 15, 1858; the third parcel was acquired by him through purchase from Juan Paras, Fermin Miranda, and Manuel Garcia on January 2, 1880; the fourth parcel also was acquired from Juan Blanco on May 5, 1882; and the fifth parcel was purchased from Manuel Garcia on January 3, 1880 (pp. 195-203).

The objector Pelagio Nunga exhibited a certificate issued by the said register of deeds covering the titles to seven parcels of land which said objector possesses as owner, inherited from his mother Teodorica Buncay, which rural estates she had acquired from the state through free adjudication by composition granted by the government of the former sovereignty, for which purpose the corresponding titles were issued to her and were inscribed in the property registry on August 5, 1897, said lands being situate: the first and seventh in the place called Pulo; the next two in Caputatan; the fourth in the sitio Caballeriza; the fifth in the placed called Duat; and the sixth in the

place named Camta; all included in the barrio of San Gabriel of the town of Macabebe and distinct from those indicated by the applicant.

It is a principle, established in the case of *Balatian vs. Agra* (17 Phil. Rep., 501), that a title by composition with the state is a title of exclusive ownership in favor of the party who appears therein as the grantee.

Hence, it is duly proven in the record that the objectors now possess their respective rural estates in good faith and by virtue of title transferring ownership, for the objectors surnamed Arnedo acquired theirs by hereditary title from their father Joaquin Arnedo who in turn acquired them, two from his mother Tanjutco and the remaining three from third persons who sold them to him as owners and legitimate possessors of the real properties, the objectors having now been in possession of two of them for fifty-three years, of the other two for thirty-one years, and of the fifth parcel for twenty-nine years, counting the possession enjoyed by their ancestors.

Even setting aside the title whereby the objectors' father acquired the five parcels of land referred to in the certificate of the register of deeds, the possessory information, applied for by Joaquin Arnedo for the purpose of proving that beyond any doubt he possessed under title of owner the five parcels of land that have been mentioned, demonstrates the right of possession he enjoyed for over twenty years in three of the estates in question and for over fifty years in two of them, and constitutes sufficient title at least of the right of possession under title of owner until some one with a better right presents himself, and this has not occurred.

Inscription in the property registry of the said possessory informations, proving the possession which the objectors' ascendant, Arnedo, enjoyed and which they themselves now enjoy under title of ownership, is converted into inscription of dominion after the lapse of twenty years according to paragraph 6, article 393, of the Mortgage Law; although under the provisions of sections 39, 40, and 41 of the Code of Civil Procedure the lapse of a period of ten years is sufficient for the possessor of realty inscribed in the registry to be regarded thereafter as the legitimate owner of said realty, when his possession has been inscribed in the registry for over ten years.

The possession which the objectors surnamed Arnedo have enjoyed under title of ownership of the five parcels of realty mentioned goes back much further than twenty years from the date of the institution of this case, without presentation by counsel for the applicant of a better title that can supersede the objectors'—just as it does not appear in the case what is the land charged with the sum of two thousand pesos a year in favor of said mission, and whether Melchor Mallari, the founder thereof, was the possessor and owner of said 40 quiñones of land, or at least of 4 quiñones which it seems were the only ones that remained subject to the charge, for which reasons the inscription applied for is improper.

A title of possessory information has the same efficacy at a trial as that with which all other titles recognized in law are invested, and a possessory information inscribed in the property registry demonstrates *prima facie* that the possessor of the land to which it refers is the owner thereof. (*Inchausti & Co. vs. Commanding General*, 6 Phil. Rep., 556; *Carino vs. Insular Government*, 8 Phil. Rep., 150; *Baldovino vs. Amenos*, 9 Phil. Rep., 537.)

With reference to the seven parcels of land which the objector Nunga alleges belong to him, it is a fact proven that these parcels of realty were acquired by his mother Teodorica Buncay through free composition granted by the state, wherefore his title of ownership thereto, especially with regard to the two parcels included in the plan prepared by the qualified surveyor at applicant's request, must be respected, because it is to be presumed that the lands ceded by the state to Teodorica Buncay were unappropriated lands, susceptible of being disposed of by the state under its powers of eminent domain; and as counsel for the applicant has not demonstrated that the parcels of land of which the objector Nunga is in possession under title of ownership were the property of the founder of the mission, Melchor Mallari, or at least that two of them were there can be no doubt that the objectors, Nunga as well as Arnedos, are the legitimate owners of their respective tracts of land, among which are included those indicated

in the application, therefore their inscription in the property registry cannot be allowed.

By these reasons the errors assigned by the appellant to the judgment appealed from are refuted, and the said judgment should be affirmed, as we do affirm it, with the costs against the appellant. So ordered.

Arellano, C. J., Carson, Moreland, and Araullo, JJ., concur.

Johnson, J., dissents.

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