

JACINTO DE JESUS Y LADAO, PLAINTIFF AND APPELLEE, VS. LUIS MANZANO. DEFENDANT AND APPELLANT.*G.R. No. 9212. January 28, 1915*

Ponente: TORRES, J.

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This appeal was brought through a bill of exceptions filed by the defendant from the judgment of December 16, 1912, whereby the Honorable J. C. Jenkins, judge, ordered the delivery and return to the plaintiff of the parcel of land in litigation, the boundaries and area of which are set forth in the judgment and which is situated in the place named Bacao within the municipal district of San Marcelino, Province of Zambales, and to pay the costs.

By a written complaint of March 16, 1912, counsel for Jacinto de Jesus y Ladao filed an action in the Court of First Instance of Zambales, alleging that he was the owner of a parcel of rice land, situated in the place called Bacao of the pueblo of San Marcelino, Zambales, the area and boundaries of which appear set forth in the complaint; that his ownership was founded on a possessory information title judicially approved on July 16, 1895, after due summons and acquiescence of the defendant, Luis Manzano; that since then the plaintiff had possessed the said land in the capacity of owner, publicly, adversely and peaceably, until the month of January, 1912, on which date and in compliance with the judgment of the Court of First Instance of Zambales, in forcible entry and detainer proceedings, case No. 157, Luis Manzano vs. Jacinto de Jesus y Ladao, the latter was thereupon deprived of the possession of the said land; that the said land was delivered to the herein defendant, Luis Manzano, who up to date was holding possession thereof to the prejudice of its true owner, Jacinto de Jesus; that the said land was worth P300 and produced annually twelve uynes of rice; and that the plaintiff, therefore, had suffered losses and damages to the value of six uynes, or P90, by the unlawful possession of the land by the defendant. Counsel for plaintiff therefore prayed that judgment be rendered in his client's behalf awarding him the ownership and possession of the said land; that the defendant be ordered to cease from disturbing the plaintiff in his possession of the property in question, to pay as damages the sum of P90, and the costs.

The defendant in his answer made a general and specific denial of each and all of the allegations contained in the complaint, and as a special defense set forth: That in the said case No. 157, forcible entry and detainer proceedings brought by him against Jacinto de Jesus, the latter alleged and endeavored to prove that he was the owner of the land in question; that Luis Manzano obtained judgment in his favor, the court having held that he was the owner of the disputed property for the reason that he had been in possession thereof for a period of more than fifteen years; that the land which was the subject matter of that suit, case No. 157, and which is the same that is claimed by the plaintiff, is situated in the sitio of Tabuyeyeng and not in Bacao as stated in the complaint; that, in or about the month of July, 1912, Jacinto de Jesus y Ladao did, by means of force and without the consent of Luis Manzano, again occupy the land in question, and that he occasioned the defendant losses and damages to the amount of P300 Philippine currency. Said counsel therefore prayed that the defendant be absolved from the complaint and that the land described therein be restored to him, with the costs against the plaintiff.

After a hearing of the case and an examination of the evidence introduced by both parties, the court rendered the

judgment aforementioned, from which the defendant excepted and moved for a reopening of the case and a new trial. This motion was denied, an exception to the ruling was taken by the petitioner and, upon presentation of the proper bill of exceptions, the same was approved and transmitted to the clerk of this court.

By means of an action for the recovery of possession, it is sought to recover a parcel of land claimed to be unduly held by the defendant against the title of ownership set up by the plaintiff upon possessory information proceedings that were recorded in the property registry on February 20, 1896, that is, sixteen years prior to the presentation of the complaint.

These information proceedings were had in accordance with the Mortgage Law, the steps required by articles 390 and 391 were taken and their requirements fulfilled; as no adverse claim was filed by any person claiming a right in the land that was the subject matter of the said information proceedings these latter were deemed to be sufficient by the court, approved without prejudice to any third person having a better right, and entry thereof was ordered to be made in the property registry, in conformity with the provisions of article 392 of the law above mentioned.

It is to be noted that, when the owners of the adjoining lands, among whom was the defendant Luis Manzano, were notified and summoned in due form, with a full knowledge of the facts they stated that they had no objection to make to the application presented by the plaintiff, thereby giving it to be understood that the latter was in possession as owner, among others, of the land in litigation.

At the hearing of the case both parties agreed that the land in question is that which is shown between the letters A, B, C, and D of the rough sketch marked Exhibit A. From this map it also appears that to the south of the land in controversy there is a closed ditch that serves as a boundary line to divide the land of Luis Manzano from that claimed by the plaintiff De Jesus.

The plaintiff Jacinto de Jesus and his witness Ladoray proved that this land belonged to the former for more than twenty-five years and that he held possession and tilled it as the owner thereof, publicly and peaceably during all this time until the year 1900 when the estuary on the south overflowed, covering his land with water and making its cultivation impossible. They also proved that in 1901, after the water subsided, the plaintiff recommenced to till the land and continued in its possession until he was ejected by the defendant Manzano. It is an indisputable fact that on the south this land adjoins other land belonging to the defendant Luis Manzano, and that this latter's property is in the sitio called Tabuyeyeng, while the disputed land is situated in the sitio of Bacao.

The description of the parcel of land in question given by the witnesses for the plaintiff, as well as that contained in the sketch Exhibit A, admitted by the parties to prove the identity of the land, agree with the description of the same found on page 2 of Exhibit B, which is a certified copy of the said possessory information proceedings, duly approved by the order of July 16 of the same year and entered in the property registry on February 20, 1896, with the exception that Vicente Eugenio is now the owner of the land west of that in litigation, he having purchased it from its original owner. This document proves that the applicant Jacinto de Jesus had possessed and had quietly and peaceably tilled the land in Bacao for many years prior to his commencing the possessory information proceedings and that he had acquired it by inheritance from his parents.

The defendant tried to destroy the evidence of the plaintiff by presenting Exhibit 1, which is a record of possessory information proceedings initiated by him on January 31, 1895, claiming that this latter was his ownership title to the parcel of land in litigation.

Exhibit 1 shows that the defendant's land contains more than 6 hectares and it is alleged that the land in question forms a part of it. This contention has no foundation, for the first glance will show that the land which was the

subject matter of those possessory proceedings is situated in Tabuyeyeng and has boundaries and adjoining owners other than those of the land of the plaintiff described in his possessory information record, Exhibit B, and unquestionably situated in the sitio of Bacao. Neither does the description of the defendant's land in Exhibit 1 agree with the description of the land indicated in the plaintiff's rough sketch Exhibit A, accepted by the defendant himself as being correct and authentic. The defendant cannot be allowed to repudiate the description contained in this sketch, which he himself has admitted, or to impeach Exhibit B, a record of proceedings in which he was informed, as an adjoining owner on the south of the plaintiff, of the purpose of that possessory information.

The trial court found that the said parcel of land belongs to the plaintiff. This finding cannot be affected by the allegations of the defendant's witnesses because their testimony refers to the land which the defendant owns in Tabuyeyeng and that is neither the property here in question, nor is it claimed by the plaintiff. In the previous action for forcible entry and detainer, brought by Manzano against De Jesus, the former proved both by his own testimony and by that of his witnesses that he had been in possession of the disputed land for more than fifteen years. Now, one year afterwards, the same Manzano and two of those same witnesses positively testify that he has been in possession of this land for a period of more than fifty years. Such contradictory statements lead one to doubt the veracity of the defendant and his witnesses with respect to his right of ownership to the disputed property, and the trial judge was right in attaching no weight to those statements for, as they refer to the land in Tabuyeyeng, they cannot alter the result of the trial in respect to the Bacao land.

Paragraph 6 of article 393 of the Mortgage Law prescribes that entries of possession shall be converted into records of ownership when they have the requisites thereafter enumerated, among which is the lapse of twenty years from the date of entry.

The record clearly shows that on the date of the filing of the complaint, sixteen years had elapsed from the date of the entry. There was no need that twenty years should have elapsed. Under the provisions of sections 39, 40, and 41 of the Code of Civil Procedure, ten years are sufficient to convert the said entry of possession into a record of ownership. Consequently, if the plaintiff is provided with a title of ownership, duly entered in the property registry, the action for recovery brought by him in his capacity of owner of the land in litigation should lie, provided that the defendant does not show a better right in himself to the said land.

The judgment rendered in the previous action of forcible entry and detainer between these same parties, cannot be set up as *res judicata* in this. It is no bar to the successful prosecution of the plaintiff's action to recover possession of his property. In this new action for recovery of possession the former judgment does not support such decisive exception.

It is well known that section 87 of the Code of Civil Procedure provides that a judgment rendered in a suit of unlawful entry and detainer of lands or buildings is not conclusive proof in another action between the same parties arising out of a different cause of action, nor will it bar an action in the Court of First Instance between the same parties respecting title to the land or building. (*De Leon vs. Trinidad*, 12 Phil. Rep., 274; *Alonso vs. Municipality of Placer*, 5 Phil. Rep., 71; *Maguyon vs. Agra*, 7 Phil. Rep., 4; *Penalosa vs. Tuason*, 22 Phil. Rep., 303.)

For the foregoing reasons, whereby the errors assigned to the judgment appealed from are deemed to have been refuted, the said judgment should be and is hereby affirmed, with costs against the appellant. So ordered.

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

Moreland, J., concurs in the result.

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