

DOROTEO KARAGDAG, PLAINTIFF AND APPELLANT, VS. FILOMENA BARADO ET AL., DEFENDANTS AND APPELLEES.*G.R. No. 9977. February 12, 1916*

Ponente: JOHNSON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-9977/>**JOHNSON, J.:**

This action was commenced in the Court of First Instance of the Province of Leyte, on the 17th of November, 1913. Its purpose was to recover of the defendants the possession of a certain piece or parcel of land particularly described in paragraph 3 of the complaint. While the action is against Filomena Barado et al., there is not a word in the bill of exceptions which in any manner whatever indicates who constitute the "et al.", and yet the record clearly shows that there were other persons interested in the parcel of land in question besides the plaintiff and Filomena Barado.

The plaintiff alleges that he purchased the particular parcel of land from Enrica Soriano, on the 24th of June, 1913. He alleges that Enrica Soriano had acquired said parcel from the State and that her title had been inscribed in the registry of property since the 28th of April, 1897.

The defendant, in her answer, denies each and every material allegation of the complaint.

During the trial of the cause many facts were proved which were neither alleged in the complaint nor in the answer. The plaintiff attempts to show that in the month of December, 1901, the defendant Filomena Barado commenced an action in the court of the justice of the peace, to recover of Enrica Soriano the possession of a parcel of land, which included the particular parcel in question now, and that that action was decided against her; that an appeal was taken from said judgment, to the Court of First Instance and there affirmed. It appears from the record, however, that that action (of 1901) was not an action to recover the possession of the property in question, but was an action to prevent Enrica Soriano from molesting Filomena Barado in her quiet and peaceable possession of said land. That proof, on the part of the plaintiff, shows that the defendant, Filomena Barado, was in possession of the parcel of land in question as early as the 28th of December, 1901. The defendant, during the trial of the cause, without objection on the part of the plaintiff, proved, by means of oral documentary evidence, that she had been in the quiet and peaceable enjoyment of the parcel of land in question since 1873; that she inherited the same from her grandfather; that her grandfather had been in possession of the same for a period of forty years prior to the year 1873. The record does not clearly show just what was the nature of her title, or of that of her grandfather.

In the month of April, 1897, the defendant, Filomena Barado, acquired an informacion posesoria title which was duly registered in the registry of property. We think a large preponderance of the evidence shows clearly that neither the plaintiff nor Enrica Soriano had ever been in the possession of the land in question. The evidence clearly shows that during all of the period of the possession of Filomena Barado, she claimed to be the absolute owner of the land. The proof presented by the plaintiff himself shows that the defendant had been in the possession of the land in question, claiming to be the owner thereof, at least since the 28th of December, 1901.

The lower court reached the conclusion, in a very carefully prepared opinion, that the defendant had been in the actual, adverse possession of the parcel of land in question, claiming to be the owner thereof, for a period of ten years and was, therefore, vested with the title thereto, by virtue of the provisions of section 41 of Act No. 190.

From that conclusion of the lower court, the plaintiff appealed, and in this court alleges that the lower court committed an error in not deciding that he was the owner of the land in question, and also that, inasmuch as the defendant had not plead "prescription," that he could not take advantage of the lapse of time for the purpose of defeating the plaintiff's claim. These two assignments of error may be discussed together.

We have repeatedly held that "prescription," as a defense, must be expressly alleged. (*Aldeguer vs. Hoskyn*, 2 Phil. Rep., 500; *Domingo vs. Osorio*, 7 Phil. Rep., 405; *Maxilom vs. Tabotabo*, 9 Phil. Rep., 390; *Harty vs. Luna*, 13 Phil. Rep., 31; *Sunico vs. Ramirez*, 14 Phil. Rep., 500; *Marzon vs. Udtujan*, 20 Phil. Rep., 232; *8ahinga vs. Evangelista*, 20 Phil. Rep., 273; *U. S. vs. Serapio*, 23 Phil. Rep., 584; *Pelaez vs. Abreu*, 26 Phil. Rep., 415.)

Where however the defense in an action to recover the possession of land is based upon the fact that the defendant is the absolute owner and is vested with the absolute title by "ten years actual adverse possession for that time, uninterruptedly continued for ten years, by occupancy, descent, grants or otherwise, in whatever way such occupancy may have commenced or continued, which occupancy shall vest in every actual occupant or possessor of land, a full and complete title," it is not necessary to plead "prescription." Especially is that true where without objection the defendant had been permitted to prove that he had been in the actual, adverse, notorious, uninterrupted, and continuous possession of the property for a period of ten years, by occupancy, descent, grants, or otherwise. (*Corporacion de PP. Agustinos Recoletos vs. Crisostomo*, 32 Phil. Rep., 427.)

No rule is better settled in pleading and practice than that neither party can prove facts which he has not alleged, if objection is properly made. Under a general denial the defendant is permitted to present any evidence which disproves, or tends to disprove, any of the allegations in the complaint. The reason why "prescription" cannot be interposed under a demurrer or a general denial is the fact that the defendant thereby admits the allegations in the complaint, but seeks to avoid their effect by other proof. Evidence which amounts to a confession or an avoidance is not generally admissible under a general denial.

It frequently happens that defects in pleadings are cured by evidence admitted without objection. Judges are not expected to read the pleadings for the purpose of knowing what proof is admissible and what proof is not admissible, until their attention is called thereto. If defective pleadings are cured by proof adduced during the trial of the cause, the court is justified in rendering his decision upon a preponderance of the proof, even though some of the important facts would not have been admitted had proper objection been made.

After a careful examination of the record, we are of the opinion that the proof shows, by a large preponderance, that the full and complete title to the land in question has been vested in the defendant, by ten years of actual, adverse possession; that she has been in the uninterrupted and continuous possession of said parcel of land for ten years, and that she became the owner of the land by descent.

For all of the foregoing reasons, we are of the opinion and so hold, that the judgment of the lower court should be and is hereby affirmed, with costs. So ordered

Arellano, C. J., and Torres, J., concur.

Carson, and Trent, JJ., concur in the result.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.