

7 Phil. 581

[G.R. No. 3287. March 02, 1907]

**PASTOR LERMA, PLAINTIFF AND APPELLEE, VS. CIPRIANA DE LA CRUZ,
DEFENDANT AND APPELLANT.**

D E C I S I O N

CARSON, J.:

The plaintiff alleges that he is the owner of a certain parcel of land in the district of Tondo in the city of Manila; that on the 1st day of January, 1902, he rented it to one Juan Hernandez; that Hernandez paid the rent in 1902, but made no further payments thereafter; that Hernandez died in October, 1904, leaving a wife and several minor children; that after his death his widow, the defendant in this action, continued in possession of the land and refuses to pay rent therefor; and that since the death of her husband she has cut down and disposed of a number of trees growing on the said land to the great damage of the plaintiff.

The action was brought to recover, first, the rents accrued at the time of the death of Hernandez; second, rent for the use and occupation of the land since his death; third, damages for the injury to the land by cutting and disposing of the trees growing thereon.

The defendant denies the existence of the rental contract between her husband and the plaintiff, and insists that by long occupation he had acquired a prescriptive title to the land, and that she, as his widow, is entitled to possession as against the plaintiff. A written rental contract was introduced in evidence and its execution proven by competent witnesses. By the terms of this contract, Juan Hernandez agreed to rent the land in question from the plaintiff, and to pay therefor an annual rental of 25 pesos. Counsel for defendant excepted to the admission of this contract and of all evidence pertaining thereto, but we are of opinion that it was properly admitted under the provisions of section 278 of the Code of Civil Procedure, which provides that: "Where, however, one derives title to real property from another, the declaration, act, or omission of the latter, while holding the title, in relation to the property, is evidence against the former."

The evidence touching this rental contract completely disposes of the defendant's claim of prescriptive title in herself or her predecessors in interest, and the title of the plaintiff is fully sustained by the testimony of the witnesses and the documentary evidence of record introduced during the trial of the case.

The trial judge properly refused to give judgment against this defendant for rents accrued prior to the death of Hernandez (Willard's Notes to The Civil Code, art. 661), but gave judgment for possession of the land, and for an amount which in his opinion was a "reasonable rent" for the use and occupation of the land since the death of Hernandez, and for damages for cutting and disposing of certain trees.

The plaintiff did not ask for possession, nor is there any prayer to that effect in the complaint, and the judgment must, therefore, be reversed in so far as it undertakes to provide for the restitution of the land in question to the plaintiff.

The judgment against the defendant appears to have been based on the theory that, having continued in possession of the land after the death of her husband, she must be taken to have been in occupation under a continuation of the rental contract with her husband. There is nothing in the record to sustain this view. She was not a party to the original contract. She never accepted it as binding upon her, either before or since the death of her husband, and, on the contrary, claimed the right of possession and denied the title of the plaintiff. The seventh article of the original rental contract is as follows:

"This contract is strictly personal as to the tenant, terminating with his death, and if his heirs, or any of them, should desire to continue under this contract, they shall sign a new contract."

No such contract was signed, and there is nothing in the record to sustain a finding that any contract of renting was ever entered into between the plaintiff and the defendant.

The judgment for an amount which the court finds to be a "reasonable rent" during the occupation of the defendant and for the value of the trees cut down and disposed of by her should, however, be sustained in accordance with the terms of article 455 of the Civil Code, which prescribes that "a possessor in bad faith must pay the profits received and those which the lawful owner might have received," etc.

A possessor in bad faith (*mala fe*) is one who is not ignorant of the fact that there exists a

defect in his title, or his mode of acquiring possession. (Art. 433 of the Civil Code.) There is evidence of record which shows that the defendant was present when her husband entered into the rental contract in 1902, and we are satisfied that she was not ignorant of the defect in her husband's alleged prescriptive title when she pretended to take possession thereunder.

What has been said disposes of all the errors assigned upon appeal, and it is not necessary, therefore, to discuss them separately.

After twenty days let judgment be entered reversing so much of the judgment of the trial court as gives possession of the land in question to the plaintiff, and affirming the remaining provisions thereof, without special condemnation of costs in this instance, and ten days thereafter let the record be returned to the court from whence it came for proper procedure. So ordered.

Arellano, C. J., Torres, Mapa, Willard, and Tracey, JJ., concur.
