

[ G.R. No. 1664. October 27, 1906 ]

**ESTEBAN ARABES AND HIS WIFE LUCINA ESTOVILO, PLAINTIFFS AND APPELLEES, VS. DIEGO URIAN ET AL., DEFENDANTS AND APPELLANTS.**

**D E C I S I O N**

**ARELLANO, C.J.:**

The proceedings for the settlement of the estate of Juan Urian and his wife, Maria Nullen, who died intestate, must have been commenced in the year 1894, for it is alleged in the third paragraph of the .complaint that some time in February, 1894, as a result of the intestate proceedings instituted by the first two defendants and others, the former Court of First Instance of the Province of La Laguna ordered that an inventory be made of the property left by the deceased Urian and his wife. The other defendant in this case, Felipe Onrade, was appointed receiver and administrator of the said property. There were included in the said inventory and turned over to the receiver 12 tracts of land, 2,000 cocoanut trees, and 80 *cavanes* of palay which the plaintiffs in this action claimed to be theirs, asking in their complaint that the same be returned to them and that they be paid 6,458 pesos as indemnification for the fruits and earnings of which they had been deprived, and that the defendants pay the costs. The court below made the following findings of fact: (a) That in 1894 when the proceedings relating to the administration of the estate of Juan Urian were commenced, the property involved in this action was included in the inventory then made, at the suggestion of those who instituted the said proceedings, the defendant Onrade having been appointed administrator of the said property (record, pp. 22, 30, 32, and 94); (b) that three or four years prior to the date of the inventory the plaintiffs were in the adverse possession of the said property,, part of which they purchased from Juan Urian, part they inherited from him, and the remainder they purchased from his heirs, they having reported in the old registry of property of the Province of La Laguna the possessory information proceedings instituted by them evidencing their title to the property in question (record, pp. 31, 32, 35, and 103); and (c) that in view of said inscription the plaintiffs brought an action

in the former Court of First Instance of the Province of La Laguna to have the said property excluded from the inventory in question, the record of the case as well as the intestate proceedings having been lost during the last insurrection (record, pp. 22, 32, 37, and 94).

It should be noted that this action has been continued between the plaintiffs and the administrator and receiver Felipe Onrade only, the other defendants Diego Urian and Felix Urian having died. The court below decided that these parties were sufficient for the adjudication of the case without prejudice to the rights of the heirs of the deceased Urian, in accordance with section 122 of the Code of Civil Procedure. The court after hearing the evidence introduced by the parties entered judgment directing (1) that the defendant Felipe Onrade should cease to administer the property, which is the subject of this action, and render an account to the court of his administration in accordance with law; (2) that the said defendant should leave the said property in the possession of the plaintiffs as well as the 2,000 cocoanut trees and the 80 *cavanes* of palay, or pay their value at the market price; (3) that the right is reserved to the person interested to bring an action to recover the ownership of the said property and the indemnification for damages from the proper party; and (4) that each party pay one-half of the costs of proceedings. The bill of exceptions having been presented, it was settled and sent tip to this court where the case was duly submitted.

The errors assigned by the appellant are six in number and they are as follows: "(1) The court below erred in finding that the plaintiffs had acquired the property which is the subject of this action, part by purchase from Juan Urian, part by inheritance from him, and part by purchase from the other heirs of the said Urian; (2) the court below erred in finding that the plaintiffs had inscribed their right in a possessory proceeding recorded in the old Registry of Property of the Province of La. Laguna; (3) the court below erred in finding that the plaintiffs had instituted an action of *terceria*, or an action for the exclusion of said property, in the Court of First Instance of the Province of La Laguna, since abolished, in regard to the property involved in this case; (4) the court below erred in considering the testimony of Esteban Arabes, Sergio Hombrebueno, and Pedro Labares as secondary evidence of the contents of alleged possessory information proceedings of the property described in the complaint j (5) the court below erred in deciding that by reason of the fact that the plaintiffs were in possession of the property in question in the year 1894, and that the defendant came into the possession of the same in that year as receiver, appointed by the court in the proceedings relating to the settlement of the estate of the deceased Juan Urian, the said defendant having continued in possession of the property up to the present time as such judicial administrator, the plaintiffs should be restored to the possession

formerly held by them, thus disregarding entirely the fact that there is no evidence sufficient to establish plaintiffs' title to the said property; (6) the court erred in considering this action as an action for possession and not as an action in which the title of the plaintiff was the subject of adjudication."

This court holds that it can not enter upon a discussion of the first four assignments of error relied upon by the appellant, and that it is bound by the findings of fact contained in the judgment of the court below and to which the said four assignments of error relate, for the reason that it does not appear that the decision of the trial court upon this point is manifestly against the weight, of the evidence. This court can only review the evidence taken at the trial, under section 497, paragraph 3, of the Code of Civil Procedure, where the decision of the court below is plainly and manifestly against the weight of such evidence. As to the last two assignments of error this court is of the opinion that they can not be sustained in view of the findings of fact made by the court below.

The trial court found, as set forth in finding (h), that three or four years prior to the date on which the inventory was made the plaintiffs were in the adverse possession of the property claimed in this action. We think, in view of this finding, that that part of the judgment appealed from wherein it is ordered that the defendant should leave the said property in the possession of the plaintiff, as well as the 2,000 cocoanut trees and the 80 *cavanes* of palay, or pay their value at the market price, is in conformity with the law.

The court below committed no error in disregarding the fact that there was not sufficient proof to establish plaintiffs' title to the said property, since it was sufficient to restore the former condition of affairs as they existed prior to the institution of the intestate proceedings. Inasmuch as the institution of intestate proceedings is not a sufficiently legal reason to deprive an adverse possessor of his possession simply because those who instituted such proceedings desired that the property should be included in the property of the estate of the deceased, or because they think that it should be so included, it is incumbent upon them to introduce sufficient proof to show that the estate is the owner and is entitled to such property. Nor did the court err in considering this action as a mere action for possession and not as an action in which plaintiff's title was at issue, for the reason that in order to ask that the said property be excluded from the inventory of the property of the estate of the deceased it was sufficient for the plaintiffs to show that they were in possession, under claim of ownership, of the property, which, in order to be included in the inventory, had to be taken away from the possession of those who then held the same under a claim of title, there being no statute or principle of law which, under Spanish legislation,

would require evidence of title in order to ask that the property claimed by third persons be excluded from the inventory of the property of the estate of a deceased person. On the contrary, it is a well-settled principle of law that a person can not under a claim of inheritance enter upon the possession of property held by another under claim of title or as usufructuary.

There being no provision of law upon which to base the reversal of the judgment of the court below, we hereby affirm the same, with the costs of this instance against the defendant, Felipe Onrade.

After the expiration of twenty days from the date hereof let judgment be entered in accordance herewith and ten days thereafter the case be remanded to the court below for execution. So ordered.

*Torres, Mapa, Johnson, Carson, Willard, and Tracey, JJ., concur.*

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