

[G.R. No. 1771. September 22, 1906]

MARTIN JALANDONI, ADMINISTRATOR OF THE ESTATE OF NICOLAS JALANDONI, PLAINTIFF AND APPELLANT, VS. LIZARRAGA HERMAN OS, DEFENDANTS AND APPELLEES.

D E C I S I O N

WILLARD, J.:

It was admitted by the plaintiff at the trial that the defendants had been in possession of the land in controversy since 1885. In order that the plaintiff may recover them, it is necessary for him to prove that he is the owner of the land, or at least that he has a better right thereto than the defendants.

The only evidence which the plaintiff presented to prove his ownership was a deed executed on the 30th of April, 1872, in which Juan Manzano sold to the plaintiff a tract of land 80 *brazas* along the road from Jaro to Iloilo by 120 *brazas* deep. All of the land described in this deed is not in controversy in this action but substantially the rear half thereof. There is evidence in the case, and the court found, that neither Manzano nor Jalandoni ever took possession of the rear half of this tract—that is, of the land in controversy in this suit—and there is also evidence, and the court so found, to the effect that the tract of land here in litigation was in the possession of the heirs of one Jaboneta for a long time prior to 1885, and until the grantors of the defendants took possession thereof in that year. There is no evidence in the case, other than what is found in the recitals of the deed of 1872, to the effect that Manzano was the owner of the land therein described and, on the contrary, there is a recital in that deed to the effect that his grantors had paid rent for the land therein described. There is evidence in the case to prove, and the court so found, that such grantors had paid rent, that Manzano had paid such rent, and that Jalandoni himself had so paid it up to the year 1882. There is also evidence in the case to show, and the court so found, that the possession which the heirs of Jaboneta had of this land in 1885 they turned over to the grantors of the defendants—that is, the grantors of the defendants by virtue of an

agreement with the heirs of Jaboneta, the persons then in possession, succeeded to that possession.

It can not in any event be said that the findings of fact made by the court below in this case are plainly and manifestly against the weight of evidence and they therefore can not, in accordance with the rule laid down by the Supreme Court of the United States in the case of *Benedicto vs. De la Rama* (201 U. S., 303), be disturbed.

The appellant in his brief suggests that the court below based its decision in favor of the defendants on the statute of limitations, but we do not find any declaration in the decision to that effect.

The plaintiff, under the facts found by the court below, and which, as we have said, can not be disturbed, not having shown that the estate is the owner of the land, or that it has any better right to the possession thereof than the defendants, can not recover.

The judgment of the court below is affirmed, with the costs of this instance against the appellant. After the expiration of twenty days let judgment be entered in accordance herewith and ten days thereafter the cause remanded to the lower court for proper procedure. So ordered.

Arellano, C. J., Torres, Johnson, Carson, and Tracey, JJ., concur.
