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[G.R. No. 2720. April 30, 1906]

COMPAÑIA AGRICOLA DE ULTRAMAR, PETITIONER AND APPELLEE, VS. MARCOS DOMINGO ET ,AL., RESPONDENTS AND APPELLANTS.

D E C I S I O N

ARELLANO, C.J.:

La Compañia Agricola de Ultramar, a civil partnership, duly established in accordance with law, solicits the registration in the new registry of land of the hacienda de Mandaloyon, which has been recorded in the old registry since the 22d of June, 1891, by the former owner of the property, the religious order called "Provincia del Santisimo Nombre de Jesus de Agustinos Calzados." The latter entity, on the 7th of February, 1893, sold the land now in question to the applicant, together with two other parcels, in consideration of 1,100,000 pesetas. The deed of conveyance was recorded in the old registry on October 4, 1899; these facts appear from certificates issued by the officer in charge of the registry, which are competent evidence, as are also the copies of the recorded titles whose existence and authenticity are, in accordance with the laws of these Islands, to be established in judicial and extrajudicial proceedings, in the manner and with the requisites with which they have been presented in this case.

La Compañia Agricola de Ultramar is, as appears from the records of the Registry of Property, as to third persons and against third persons, the owner of the hacienda de Mandaloyon—the identity and area of which have not been drawn in issue—just as the religious community, "Provincia del Santisimo Nombre de Jesus de Agustinos Calzados," was before. It is the owner of this property also, as against the Government itself, the representatives of which have been convinced that the chain of title of this extensive property is based upon grants from the Spanish Government.

Oppositions have been made which were from the beginning vague and uncertain, many of them self-contradictory. The testimony of a great many of the contestants is in conflict with

the statements made in their answers, and even the testimony itself is contradictory. This is the finding made by the court below in the decision now on appeal, and we find it to be in accordance with the truth. None of the errors of fact or of law assigned in the appellant's brief have, in fact, been committed by the court in rendering its judgment.

On the part of the contestants no documentary evidence whatever has been presented, nor written proof of any kind whatever, with the exception of tax declarations of recent date made by some of them. The tax declarations are absolutely without effect as proof in favor of the contestants, nor indeed has it been established by official records that such declarations were ever, in fact, presented. The titles which are invoked are all gratuitous, such as inheritance or donation, and even these are but feebly supported by the incoherent and contradictory statements of a few witnesses. In some cases the alleged inheritance appears to have been diverted from ancestors who had left several surviving children, no attempt having been made to describe how this universal title had been converted into an individual title in the hands of the present possessor, as among the various persons each of whom might be entitled to allege the same rights. The titles by gift appear to have passed without consideration from fathers to children and from husbands to wives, and to be of such a character that they might have been prejudicial to the rights of other persons having equal or better claims, and this without the slightest proof as to how these gifts were made; on the contrary in many cases the allegations are contradicted by the very persons claiming the title and by the divergent statements of witnesses whose testimony serves but to destroy the allegations which it was introduced to support.

Finally, title is claimed by prescription of more than thirty years, but this claim is based upon the mere material fact of possession. The mere fact of possession is sufficient against any other person who is unable to exhibit a better title, but as against one in whom the ownership is vested it is not sufficient unless accompanied by the intent to possess as owner. Only thus can it be adverse to the right of possession of the person claiming to be the owner, for there can not be as to the same thing two possessions or two ownerships which are mutually repellant.

To establish ordinary prescription it is necessary to prove adverse possession with title and good faith for the timeTequired by law; in order to establish extraordinary prescription it is sufficient to prove the expiration of the time, provided there has been during that time a continuous and pacific possession. In this case the attempt has been made to prove the fact of continuous possession, but no evidence has been introduced of an intent to possess under claim of ownership.

The fact of continued possession by one person is compatible with the right of possession and the ownership of another person. The possession *de facto* of one may be subordinate to the possession *de jure* of the other, and on large estates under extensive cultivation there are many persons who may use land in the name and with the consent of the owner. Those who have been making use of the property for a long time may easily say that its use is a sign of possession under a claim of ownership without the recognition of the ownership of any other person. Ordinarily there would be no means of demonstrating the contrary except by proving the contract under which the possession originated. Documentary proof of such a contract might not always be forthcoming, as for instance, in the case of tenants at will, and of those who have been permitted by mere tolerance to use the land, or when the material proofs of such contracts have been destroyed; but in such a case as this proof can always be made of the exercise of ownership and the demonstration of the right of possession by the acts of the owner performed upon that of which the other has but the physical custody. Such facts, and weighty ones, are established by the court below by his findings based upon the documentary evidence presented by the applicant as well as upon the ample oral testimony introduced on its behalf; these findings are even supported by the testimony of the contestants themselves, whose testimony, notwithstanding its studied character, has tended, as a result of the cross, to support and corroborate the applicant’s contention that such possession was not adverse but a mere occupation under a lease.

The evidence consists of books of record continuing the contracts of lease, and showing payments of rent; of the general contract of lease of the entire hacienda in favor of two persons who were to deal with all the occupants of the lands as sublessees; of the contract of lease for the working of certain quarries within the estate; of the conveyance of a part of the land for a reservoir and pipe line for the water supply of this city; of proof that part of the land was taken in the exercise of eminent domain for the benefit of the harbor works of this city; of the conveyance at the expense of the municipality of the land within the center of the town under deed for the most prominent buildings, such as the church, the residence of the parish priest, the cemetery, and other public buildings and places; of a petition or application of the municipality itself or of the leading inhabitants thereof for the conveyance of a parcel of land to be used as a public road; of proof of recognition on the part of both public officers and private individuals, among them a considerable number of the contestants themselves, of the ownership, right, possession, and sole possession under claim of title to the hacienda Mandaloyon by the applicant herein, supported by numerous official documents covering a long period of years, beginning from 1862, which, even if not conclusive as against the individual claims of possession on the part of each of the

contestants, as contended by the appellant, are nevertheless competent under the laws which determine the value and weight of such documents as constituting, at least, a foundation in documentary proof for the appellant's title.

Oral evidence was also introduced as to the exercise of acts of ownership by the applicant, as to general representation of ownership, and as to the fact that lands possessed by the contestants are held by them under lease. It was shown that actions had been brought against tenants of the hacienda for breach of contract of lease, the proof of which actions was the public knowledge of the same in the town. Proof was introduced which shows that the relations of landlord and tenant existed as to the occupancy of every part of the hacienda not occupied by the owners themselves. It was shown that the railway company whose line crosses this estate dealt with the applicant as to the land, and with the occupants solely as to the buildings; that some of the contestants have negotiated with the applicant for the purchase of the parcels of land they occupied; and that the former owners of the property had established an office in the most central portion of it for the convenience of their manager.

We find none of the errors complained of in the appellant's brief in the detailed findings based upon the evidence contained in the judgment of the court below, which judgment we accept in its entirety as we consider it to be correct in every particular.

In conclusion the position of the contestants being the same as that of the applicants, if the opposition should prosper in whole or in part it is necessary to treat it as though each contestant had filed a petition for registration of his title; however, as to this aspect of the case we do not find any one of these claims to be of such a character that upon the allegations of proof in the record it can be converted into a title subject to record, as none of the contestants have proven their alleged rights.

The decision on which the judgment appealed is based, to the effect that the Compañia Agricola de Ultramar is the owner of the lands in question to the exclusion of the claims of contestants or any persons holding under them, is hereby affirmed in all its parts, the appellants to pay the costs of this instance.

After the expiration of twenty days judgment will be entered in accordance with this decision, and ten days thereafter the case will be remanded to the. lower court for the execution of the judgment. So ordered.

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

Date created: April 30, 2014