5 Phil. 742

**[ G.R. No. 2116. March 16, 1906 ]**

**BERNARDINO CACNIO ET AL., PLAINTIFFS AND APPELLANTS, VS. LAZARO BAENS, DEFENDANT AND APPELLEE.**

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

**TORRES, J.:**

The defendant, Lazaro Baens, brought an action in the court of the justice of the peace of Tambobong against the plaintiffs herein for the recovery of several tracts of land, and judgment having been rendered against the said plaintiffs, they appealed to the Court of First Instance. The plaintiffs, now appellants, alleged that they were the absolute owners of their respective building lots in the barrio of Hulong Duhat of the said town of Tambobong and described the boundaries of each particular tract, asked that they be declared to be entitled to the ownership and possession of their respective lots; that they be awarded the sum of 600 dollars damages and the costs of proceedings; and as a special remedy prayed for a preliminary injunction to stop further proceedings in the action for ejectment which had been brought against them, alleging in support of their petition that the land belonging to Bernardino Cacnio had a superficial area of 11 ares 95 centares and 15 square centimeters, and that belonging to Severino de la Cruz had 4 ares 60 centares and 55 square centimeters, which said land they acquired by inheritance from their respective parents, who had been in possession of the same for more than forty years; the defendant, Baens, never having been in possession of the same.

The preliminary injunction prayed for in order to stay the execution of the judgments which might have been entered in the actions in which the plaintiffs, Cacnio and Cruz, were interested, until the final disposition of the other action for title and possession, having been issued, the defendant demurred and in his answer to the complaint, filed immediately thereafter, generally and specifically denied all of the allegations contained therein. The denial of the second paragraph of the complaint was limited to the statement contained in

the same that without just cause the defendant had brought the action, and that in view of the ruling upon the said demurrer, the defendant reproduced his former answer.

Counsel for plaintiffs asked that the fourth paragraph of the complaint be amended so as to read that the plaintiffs acquired the possession and ownership of their respective lands by inheritance from their father, Severino de la. Cruz, and his wife, Bernardina Cacnio, and asked that the inscription of the said land made in favor of the defendant, Haens, be declared null and void.

The defendant stated that he had no objection to the allowance of these amendments, but that he specifically denied each and all of the allegations contained therein.

Counsel for plaintiffs limited himself to impugning in writing the probatory force of the documents presented by the defendant, but did not discuss the materiality of the same. Counsel for defendant, therefore, asked the court to consider the proof presented by him as having been duly allowed. The court reserved his decision upon the question of the admissibility of these documents offered in evidence by the defendant, directed that the case proceed and the evidence be taken; and after hearing the same, judgment was rendered on the 8th day of September, 1903, declaring that the plaintiffs were not entitled to recover the lands claimed by the defendant, and vacating the preliminary injunction theretofore issued in favor of the plaintiffs, who were taxed with the costs.

First of all and for the purpose of this decision, we should state that to the order of the court of the 30th of October, 1903, denying the motion for a new trial, no exception was taken by counsel for plaintiffs as required in paragraph 3, section 497 of the Code of Civil Procedure. We can not, therefore, review the evidence, nor can we draw from the facts proved the necessary conclusions to render a final judgment; as justice and equity require, to quote the law itself.

Consequently this court, following the general provision contained in the first paragraph of above-cited section 497, will only pass upon the question of law decided by the court below.

The plaintiffs brought an action to recover title to certain parcels of land then in their possession. The defendant denied the title and possession which the plaintiffs claimed to the land in controversy. The question then arises, Which of the parties has the better title to the land?

The title deeds presented, by the defendant were issued by the *Direccion General de*

*Administration Civil* on the 25th of October, 1891, to him as the owner of a larger tract of land in which the land in question is included, the defendant having acquired the same by composition with the Government. This deed or patent was recorded in the Registry of Property on the 14th of November, 1891, as found by the court below, and as is admitted in the printed briefs presented to this court and in the record of the documentary proof presented by the defendant. Counsel for plaintiffs denied the validity of the said deed, giving his reasons therefor, but did not deny the fact that the document had been actually recorded, nor did he ask the court to disallow and reject the documentary evidence thus presented. The court, after considering this evidence, dismissed the action, and decided the same in favor of the defendant.

Public instruments, that is to say, those instruments authorized by a notary public or by a competent public official with all the solemnities required by law, are admissible in evidence even against a third party as to the fact which gave rise to their execution and of the date of the latter. (Arts. 1216 and 1218 of the Civil Code.)

In the registry of real estate there should be recorded, according to articles 1 and 2 of the Mortgage Law, among others, all instruments of conveyance of real estate or any interests therein, all instruments relating to the acquisition of such property or property rights owned or administered by the State, and other "entities referred to in number 6, article 2 of the said law.

As has been seen, the deed presented by the defendant to prove his title to the land in question is a public instrument, it having been authorized by the Director of Civil Administration of the Spanish Government, who was the competent official empowered to issue such instrument, and was duly recorded in the Registry of Property in accordance with the law. Consequently it is competent proof and may prejudice third persons who for the purpose of this law are those who did not participate in the execution of the instrument of contract thus recorded. (Arts. 23, 24, 25, 26, and 27 of the Mortgage Law.)

The inscription, therefore, of the instruments in question prejudices the plaintiffs, Cacnio and Cruz, notwithstanding the fact that they did not participate in the proceedings relating to the composition of the said land between the State and the defendant, and in view of the provisions of article 27 of the Mortgage Law there can be no doubt that the said plaintiffs should be considered as third persons, whom the execution of the deed or instrument of the defendant and the inscription thereof in the Registry of Property affected and prejudiced.

It has not been shown that the deed or patent issued by the *Direccion General de Administration Civil* had any substantial defect which would render it null and void, nor has it been proved that the party failed to publish the necessary notice as to the possession of the land to which the said deed refers; and under paragraph 31 of section 334 of the Code of Civil Procedure it must be presumed that this was done in accordance with the law until the contrary is shown.

The defendant having complied with all the requisites and solemnities prescribed by law for the registration of the said deed, and there being no proof of any defect which would render such instrument null and void, it can not be held to be void, and it was so decided by the court below in its judgment.

The question is raised as to whether the parol evidence introduced by the plaintiffs for the purpose of showing that they bad acquired title to the land, the recovery of which is now sought, by extraordinary prescription under article 1959 of the Civil Code was sufficient to overcome and defeat the right of the defendant based upon a deed issued to him by the State and duly recorded in the Registry of Property. The court below in deciding this question held that the deed or patent issued by the *Direccion General de Administracion Civil* showed that the defendant had a better right than the1 plaintiffs to the land in question, and that the latter had no right to claim the ownership thereof. This ruling of the court should, in our opinion, be sustained, and can not in this case be reviewed, according to section 497 of the Code of Civil Procedure.

Further, it should be borne in mind that the court below, in the exercise of its discretion as to the veracity of the witnesses and the manner in which they testified, followed the provision of section 273 *et seq*. of the Code of Civil Procedure, and no valid reason has been assigned to support a finding that the court below committed an error in rendering the decision appealed from.

For the reasons hereinbefore stated we are of the opinion that the judgment of the court below should be affirmed, and the defendant acquitted of the complaint filed by the plaintiffs, with the costs of this instance. After the expiration of twenty days, let judgment be entered in accordance herewith, and let the cause be remanded to the Court of First Instance for execution of the judgment. So ordered.

*Arellano, C. J., Mapa, Johnson, Carson,* and *Willard, JJ.,* concur.

Date created: April 29, 2014