

34 Phil. 576

[G.R. No. 10922. July 15, 1916]

LIBORIA BIRONDO ET AL., PLAINTIFFS AND APPELLANTS, VS. FELICIANA MIER ET AL., DEFENDANTS AND APPELLEES.

D E C I S I O N

ARELLANO, C.J.:

The plaintiffs herein are Liboria Birondo and three of her nephews, children of her deceased sister Hermenegilda, and three nieces, daughters of her sister Justina, also deceased, and Bonifacio Birondo. The defendants are Feliciano Mier, widow of Rufino, also a son of Bonifacio Birondo, now deceased, and ten surviving children of these spouses, and, finally, one Simeon Sanchez.

Plaintiffs sue for a parcel of land measuring 33 ares in extent, situated and bounded as described in the complaint; a wooden house erected on the land worth P200; seven coconut trees planted on the land which yield an annual revenue of P24, and three groves of bamboo trees planted on another piece of land belonging to Isaac Lanauan which are worth P30 and can produce a revenue of P15 per annum.

Plaintiffs allege that they held this property in common until the year 1905, when defendants appropriated it to themselves.

Defendants deny all these allegations. The evidence introduced by plaintiffs is almost entirely parol. Toward the end of the trial, it occurred to counsel for Liboria Birondo to have her present her documentary evidence, and she did so. This evidence, translated, reads as follows:

“In the casa tribunal (court house) of the pueblo of Argao, on July 15, 1869, before the *gobernadorcillo* * * * there appeared Maria Algonos, 70 to 80 years of age and Don Bonifacio Birondo, *cabeza de barangay* (headman of the ward) * *

*. Maria Algonos testified as follows: In the place called Tolic, district of Argao, there is a ruined house, the floor and walls of which are of wood. It used to belong to Custodio Algonos, a younger brother of mine who died without succession, without heirs. I have sold this house, together with its kitchen, to Don Bonifacio for the sum of 20 pesos, which I have received. The land on which the house and kitchen stand *is not included* in the sale of this house, as it did not belong to the deceased; only said house and kitchen have been sold. The reason for making this sale is to devote the proceeds to the holding of a mass for the soul of the deceased. I am the vendor, as I am the sole survivor among my brothers and sisters.

“Don Bonifacio testified that he purchased the said house and kitchen for 20 pesos * * *.”

This document was admitted by both parties.

The first thing demanded in the complaint is the parcel of land on which the house stands, or stood. The only title invoked by plaintiffs is that they inherited this land from their father and grandfather, respectively. And as Bonifacio Birondo could not have devised it to them at his death, since he bought nothing but the house and kitchen, and the land did not belong even to the original owner of the house, the result is that all, absolutely all the testimony given by plaintiffs and their witnesses is false; their action is highly reprehensible; they have taken up the time of the courts with a brazen claim that is without any foundation; the evidence relied upon to support it proves the very opposite of what it was intended to prove, and it should have been examined before it was presented to the courts; and the sanction contained in paragraph 3 of section 497 of the Code of Civil Procedure might be applied to this case.

The second thing demanded by the plaintiffs is the house purchased from Bonifacio Birondo. The trial court said:

“The evidence also shows that said house, when it was sold many years ago (forty-two) to the father of the present litigants, was an empty ruin worth about 20 pesos.

“The evidence adduced has not shown how that house, which was apparently

sold, not as a house, but rather as building materials from a house no longer serviceable, could now be worth ₱200 as alleged in the complaint.” (Bill of Ex., p. 5.)

Defendants’ counsel asked witness Mateo Saguilon the question:

“Who destroyed the house there?”

“Court. According to your document it was a ruin when it was bought by plaintiffs’ father.

“A. One Simeon.

“Q. Simeon Sanchez?—A. Yes, sir.”

The witness for the defense, Juan Birondo, on cross-examination :

“Q. And the house is actually not the one that was destroyed by your nephew, Simeon Sanchez, but another house?—A. It is the same house; it was destroyed before when a coconut tree fell on it, and Feliciano (the defendant) repaired it.

“Q. Is it true that it was your nephew Simeon Sanchez who destroyed the house in 1905?—A. The house just went to pieces by itself and Feliciano gathered up the materials; it was not destroyed by my nephew Simeon.”

It is said that the seven coconut trees, the third thing demanded, were planted on the land supposed to have belonged to the estate left by Bonifacio Birondo. But the land did not belong to Bonifacio Birondo, nor even to the original owner of the house, Canuto Algonos, who sold it to Birondo. As the plantings were made on another’s land, and it is not known who is their present owner, nor whether they were planted in good or in bad faith, pursuant to articles 358, 359, 361, 362, 363 and 364 of the Civil Code, no decision relative thereto can be rendered until a hearing shall have been accorded to whomsoever is entitled, as the case may be, to the ownership of these plantings, made by someone on his land.

The three groves of bamboo, the fourth thing demanded, are said to be planted on land

belonging to Isaac Lanauan. For an identical reason no decision can be made in respect thereto. It is not known to whom the owner of the land gave authority (if such were given) to plant the bamboo, whether to plaintiffs, to defendants, or to a third person; consequently it is not known to whom these groves of bamboo belong. Without hearing the owner of the land, at least as a witness, no decision whatever on this point can be made.

As a ground that embraces all the petitions of the complaint, it is to be noted that an attempt was made to base the present action for recovery of possession on a partition and adjudication alleged to have been made in plaintiffs' behalf.

“The court,” says the judgment appealed from, “does not believe that the evidence establishes plaintiffs' theory that a partition was made to the three sisters, of this empty ruined house * * *. In any case, plaintiffs have in no wise established the allegations contained in their complaint to the effect that they owned the house, the lot and the three groves of cana espina * * *.” (Bill of Ex., p. 6.)

The judgment appealed from is affirmed, with the costs against appellants. So ordered.

Torres, Johnson, Trent, and Araullo, JJ., concur.

Moreland, J., concurs in the result.