

**VALERIANA GUANTIA, ET ALV PLAINTIFFS AND APPELLEES, VS.
ELENA TATOY, ET AL., DEFENDANTS AND APPELLANTS.***G. R. No. L-3244. March 08, 1951*

Ponente: BAUTISTA ANGELO, J.

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This is an appeal from a decision of the Court of First Instance of Antique declaring null and void the sale made by Marcela Checano to Elena Tatoy of a parcel of land belonging to the late Domingo Guantia and ordering Elena Tatoy and her husband to return it to the plaintiffs as exclusive heirs thereof and to pay to them the corresponding damages.

The defendants took the case to the Court of Appeals, but the latter certified it to this Court on the ground that it involves purely questions of law.

The facts of this case are: Domingo Guantia and Marcela Checano were legally married and from their union three children were born, namely Valentina, Jose and Geronimo. Domingo Guantia died in December 1935, without leaving a will, but he was seized of a parcel of land described in original certificate of title No. 5751. Days after Domingo had died, Marcela Checano, in her behalf and in that of her minor children, sold the land with option to repurchase within a period of nine (9) years to Elena Tatoy in consideration of the sum of P160 which she had given even during the lifetime of Domingo to tide him over during his last illness (Exhibit "B"). Thereafter, Marcela Checano, to save her children from hunger and want, got from Elena Tatoy nine (9) cavans and 15 gantas of palay under the express condition that they would be considered as additional price of the land sold. The possession of the land was given to Elena Tatoy on the very day of the sale so that she had enjoyed its products for a period of ten (10) years, or until March 23, 1945, when by agreement of the parties the land was returned to Marcela Checano (Exhibit "C-1"). Notwithstanding this return, however, the plaintiffs herein, minor children of Domingo Guantia, represented by their guardian ad-litem, instituted the present action seeking the annulment of the sale on the ground that Marcela Checano did not have the power and authority to sell the land.

The question now to be determined is whether the sale in question is null and void as found by the lower court and whether the defendants should be made to pay for damages for having allegedly occupied the land in bad faith.

It appears that the land in question was the exclusive property of Domingo Guantia, his title thereto being evidenced by original certificate of title No. 5751, and that upon his death, it passed to his heirs,—the widow and children,—in the proportion assigned to them by law. Domingo Guantia did not leave any will, nor have the heirs instituted any intestate proceedings relative to the distribution of his property, nor has the widow instituted any guardianship proceedings seeking her appointment as guardian of the person and property of her minor children to entitle her to act in their behalf on matters affecting their interest in the property. In the absence of her appointment as guardian as above indicated, she could not legally represent them in the disposition of their property, or of their interest therein, because under the law not only is a mother required to be appointed guardian of her minor children but that she must obtain beforehand an authority from the court to carry out the sale and

secure later its approval. No such steps were taken by the widow in this case and for this reason we agree with the lower court in holding that the sale under consideration is null and void.

We notice however that the lower court has overlooked the fact that Marcela Checano is also an heir of her late husband to the extent of the usufruct assigned to her by law over the property, which usufruct she can transfer, assign or otherwise dispose of as she may please, like any other hereditary property, as she has done in this case, for which reason we opine that the sale may still be considered valid insofar as such usufruct is concerned. But this matter can hardly be considered of any consequence in the light of the circumstances we will presently discuss.

In the first place, we find that the sum of P160, which served as consideration of the sale had been given by Elena Tatoy while Domingo Guantia was still alive to help him defray the expenses of his last illness and in fact part of the money was used to pay for his funeral and burial. It also appears that the widow obtained from said Elena 9 cavans and 15 gantas of palay because of her dire need to save her children from hunger, and this palay as well as the sum of P160 were advanced by Elena with the express understanding- that they would form part of the consideration of the sale of the land in question. In other words, when the sum of P160 was advanced by Elena Tatoy there was already an understanding that the land would be sold by the spouses Guantia to her, which unfortunately Domingo Guantia was not able to carry out, and so the transaction was made after his death apparently in pursuance of that understanding (Exhibit "B"). In spite of this understanding however, and the failure of the widow to repurchase the land as agreed upon, Elena Tatoy agreed to return the land to the plaintiffs if the latter would return the money and the palay their mother had taken for their support. This disinterestedness of Elena is further shown when she willingly returned the property to the plaintiffs upon the expiration of the period agreed upon even if the widow had not returned the money and palay specified in Exhibit "C" (Exhibit "C-1", translation), which to our mind has all the earmarks of an agreement to rescind the sale and to restore the parties to their status quo. All this proves the good faith of Elena Tatoy and her ever readiness to help the Guantia family in its needs and financial difficulties. It is therefore unfair to make her answerable for damages as did the lower court.

Wherefore, the decision appealed from is hereby affirmed with the modification that Elena Tatoy should not be made to pay for damages as a consequence of her possession of the land in question. No pronouncement as to costs.

Paras, Feria, Pablo, Bengzon, Padilla, Tuason, Montemayor, Reyes and Jugo, JJ., concur.

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