

CORNELIO ARROYO, PLAINTIFF AND APPELLEE, VS. WENCESLAO CALDOZA, CALIXTA BALDERIAN, PASCUAL BALDERIAN, AGATON TOLOSA AND BEBIANO LUBAN, DEFENDANTS AND APPELLANTS.

G.R. No. L-17454. July 31, 1963

Ponente: DIZON, J.

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DIZON, J.:

Appeal taken by Wenceslao Caldoza, Calixta Balderian, Pascual Balderian, Agaton Tolosa and Bebianio Luban from the judgment on the pleadings rendered by the Court of First Instance of Leyte in Civil Case No. 2477 "declaring the plaintiff the true owner and possessor of the land described in the second paragraph of the complaint, ordering the defendants to respect plaintiff's ownership and possession thereof, and to pay P200.00 attorney's fees and the costs".

Appellee Cornelio Arroyo filed an action in the Court of First Instance of Leyte to recover from appellants a parcel of land located in the municipality of Dagami, Leyte, and more particularly described in the second paragraph of his complaint, plus damages.

Appellants' answer to the complaint (paragraphs II and III thereof) states the following:

II.

"That the defendants have no knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs two and three of the complaint. The truth of the matter is that the defendants have not occupied or taken any property belonging to the plaintiff. They took possession and ownership only of the land belonging to them, which properties were possessed and owned originally by their predecessors-in-interest, who were the parents of the defendants. The plaintiff did not make any demand mentioned in paragraph three of the complaint, knowing that he is not the owner of the lands occupied by the defendants."

III.

"That the defendants have no knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph four of the complaint, the truth of the matter is that defendants did not occupy any land belonging to the plaintiff and as such he has no cause of action against the defendants for actual and/or moral damages * *".

Appellee moved for a judgment on the pleadings on the ground that appellants' answer did not tender an issue.

Acting on said motion, the Court rendered the judgment appealed from. Hence, this appeal.

The paragraphs of the answer reproduced above are sufficient, in our opinion, to raise the issue of ownership and possession over the land described in the complaint. In other words, it appears clearly from the allegations thereof that the appellants denied appellees claim of ownership and previous possession, and clearly asserted their own claim.

Wherefore, the decision appealed from is set aside and the record of this case is remanded below for further proceedings. With costs.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Barrera, Paredes, Regala and Makalintal, JJ. concur.

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