

**DALMACIO VINLUAN, AGATON VINLUAN AND CIRIACO VINLUAN,
PETITIONERS, VS. TEODORA MERRERA, REPRESENTED BY HER
GUARDIAN AD LITEM NATALIA MERRERA, RESPONDENT.***G.R. No. L-4949. February 13, 1953*

Ponente: MONTEMAYOR, J.

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On November 20, 1944, respondent TEODORA MERRERA with the assistance of her guardian ad litem Natalia Merrera filed a complaint in the Court of First Instance of Pangasinan against petitioners Dalmacio Vinluan, Agaton Vinluan and Ciriaco Vinluan to declare herself exclusive owner of one-half (½) portion of a fishpond located at Malindong, Binmaley, Pangasinan, with an area of 8,128 sq. m. declared under Tax Declaration No. 46558, and to recover possession of the property belonging to her, including damages for her having been deprived of possession since 1933. The defendants therein claiming to have bought the whole fishpond from PEDRO C. MERRERA moved that their vendor be notified of the complaint by means of summons in accordance with the provisions of Art. 1482 of the Civil Code. Defendants later filed a third party complaint against him. After hearing, the trial court found that one-half (½) of the fishpond in question really belonged to plaintiff Teodora Merrera, having inherited it from her father ARCADIO MERRERA; that the defendants surnamed Vinluan acted in bad faith in buying the fishpond from Pedro C. Merrera fully knowing the rights and interests of plaintiff in the same. The court declared plaintiff the owner of ½ of the fishpond pro indiviso and ordered defendants to deliver possession to her and to pay her damages in the sum of P100.00 yearly from the year 1933. On appeal to the Court of Appeals, said tribunal affirmed the decision of the lower court. The case has been brought here for review of the decision of affirmance.

The facts of the case as found by the Court of Appeals and which are conclusive according to law are as follows. Rufino Merrera, grandfather of respondent Teodora Merrera was the exclusive owner of the whole fishpond in question. Rufino married Dominga Castro and the couple had three children-Pedro, Arcadio and Natalia, all surnamed MERRERA. Rufino died on March 29, 1920. Thereafter, the three children entered into an agreement on the partition of the property left to them, namely, that the two brothers Arcadio and Pedro would divide equally the fishpond while their sister Natalia would get two urban lots left by their father. Arcadio, one of the brothers, died on August 16, 1932, leaving respondent Teodora as his only child.

On June 6, 1929, that is, about nine years after the death of her husband Rufino, Dominga Castro and her son Pedro C. Merrera sold the whole fishpond to one Santiago Fernandez with right to repurchase for the sum of P650.00. The vendors repurchased the fishpond on June 2, 1933 but on the same day Pedro C. Merrera executed a deed of sale of the fishpond in favor of the herein petitioners surnamed Vinluan for P1,000.00. The annual net products of the property is valued at P200.00. The Court of Appeals further found that Arcadio never authorized his brother Pedro to sell his undivided ½ share in the fishpond nor did he make any representation to that effect to any person; that neither did he cede his rights and interests in the fishpond in question; that the defendants had always been residents of the same locality where the Merreras lived and that they actually owned a fishpond

adjoining the fishpond in question, so, they knew the rights and interests the Teodora had on the same; and that when they purchased said fishpond Atty. Celestino Palma advised them to have the property surveyed and registered right away because he had some doubts as to the title of the same.

Under the facts as found by the Court of Appeals and which we accept as conclusive, because there is nothing in the record to show that its conclusions of fact find no support whatsoever in the evidence, the appellant petition for certiorari has no merit. Petitioner invoke the principle of estoppel on the theory that when the entire fishpond was first sold by Dominga Castro and her son Pedro in 1929, Arcadio filed no objection and led the petitioners to believe that he had no interests in the said fishpond and so they bought the said fishpond in 1933 with the understanding that it belonged to the vendor PEDRO C. MERRERA. On at least two grounds, this claim cannot be accepted. In order to established estoppel against Arcadio it must be proven that (1) he was present at the sale of the fishpond in 1929 or that he knew of the said sale and that he cannot only kept silent but led other parties to believe that he had no right or interest in the property sold, and (2) that the vendees were ignorant of the truth or of the facts and were misled into buying the fishpond. These two requisites are lacking in the present case. On the contrary, as found not only by the trial court but also by the Court of Appeals, the petitioners herein were living in the same place as Arcadio and they actually owned a fishpond adjoining the fishpond in question and they knew that $\frac{1}{2}$ of the said fishpond belonged to Arcadio and it was later inherited by his daughter Teodora, the respondent herein.

It is also contended by appellants that the widow Dominga Castro under right of usufruct should be allotted a portion of the products of the fishpond, in which case, the P100.00 found by the court as net yearly product to be given to respondent should be reduced. This claim, if at all meritorious, should not be made by the petitioners but by the proper party.

We deem it unnecessary to pass upon the other points raised in the petition. The decision of the Court of Appeals is hereby affirmed, with costs.

Paras, C. J., Feria, Pablo, Bengzon, Padilla, Tuason, Reyes, Jugo, Bautista Angelo and Labrador, JJ., concur.

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