

PEDRO BASES, ET AL., PLAINTIFFS AND APPELLANTS, VS. FLAVIANO PILARTA, ET AL., DEFENDANTS AND APPELLEES.*G.R. No. L-12883. May 31, 1961*

Ponente: DIZON, J.

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Some twenty years before the Philippine-American War, Paulina Pilarta married Lucio Perido, a widower, with whom she had no issue. Lucio had a son named Dionisio by his first marriage. After the death of Lucio and his son—the latter survived by his children named Jose, Rita and Catalina, all surnamed Perido—Paulina contracted a second marriage with Damaso Venus, also a widower, with whom she likewise had no children. By his first wife, however, Damaso had several named Anacleto, Manuela, Faustina and Mariano. His death on March 3, 1929 was followed by that of Anacleto and Mariano. The first was survived by a son, appellant Pedro Bases, while the second left a daughter, appellant Josefina Venus.

The above facts are not disputed.

Appellants filed this action against appellees to recover from them their alleged share in the two parcels of land described in their complaint. They sought to prove during the trial that during the marital life of Lucio Perido and Paulina Pilarta they bought from a Tinguian a parcel of land located at Bio, Lagangilang, Abra, with an area of 32,130 square meters, and that during the marital life of Paulina and her second husband, Damaso Venus, they also bought from a certain Budas an adjoining parcel with an area of 96,794 square meters. These two parcels are the subject of their action.

Appellants also endeavored to prove that sometime in 1921 the spouses Damaso Venus and Paulina Pilarta decided to consolidate the two parcels mentioned above and so they had them surveyed as one lot and subsequently applied for their registration under Act No. 496. Because Damaso was apparently not certain of living for many years more, he agreed to have the application in the name of his wife, in whose favor, after proper proceedings, the property was decreed. As a result, Original Certificate of Title No. RO-10(10) (Exhibit D) was issued on November 26, 1921 in the name of Paulina Pilarta, "married to Damaso Venus".

Upon the other hand, appellee's defense was that the property in question, which is the parcel described in the original certificate of title mentioned above, belonged exclusively to Paulina Pilarta who owned it even prior to her marriage with Lucio Perido; that Paulina was the grandmother of Flaviano Pilarta because the father of the latter was Paulina's nephew; that even before the death of Damaso Venus, Flaviano and his family lived with him and Paulina, and continued to live with her when she became a widow for the second time; that because she was in need of money, Paulina thought of disposing of the property in question and actually offered to sell it to a certain Kapitan Ballao; that when Flaviano came to know about this, he offered to buy it, as in fact he bought it, the corresponding deed of absolute sale Exhibit 3 having been executed on September 10, 1947 before the then Justice of the Peace and later Governor Jose Varela, the deed having been duly registered subsequently; that as a result the Original Certificate of Title in the name of Paulina was cancelled and another was issued in the name of

Flaviano Pilarta, married to Tiburcia Batino (Exhibit 4); that Flaviano then declared the property in his name (Exhibit 6) and had since then been paying the taxes due thereon (Exhibits 5, 5-A to 5-I); that even before the sale Flaviano had been the one working on the land, although at that time only a small portion was under cultivation, the rest having been cleared and improved by him after the sale.

After trial upon the issues stated above, the lower court rendered judgment dismissing the complaint and declaring the property in question to be the conjugal property of appellees—the spouses Flaviano Pilarta and Tiburcia Batino.

Appellants filed with the lower court a motion for reconsideration but the same was denied. Thereafter and within the period provided by law they perfected the appeal now before Us.

In the last paragraph of their record on appeal (p. 62), which is a sort of notice of their intention to appeal, appellants expressly requested that the case be elevated to this Court "together with all exhibits of the plaintiffs and the defendants as well as testimonial evidence of both parties so that said upper court may refer to them to verify the contention of the plaintiffs that the findings and conclusions in the decision on appealed from are contrary to law for they are not supported by the evidence."

The above statement shows that appellants had clearly announced their intention and desire to question, if not all, several of the findings of fact made by the lower court. Indeed, to resolve the questions raised in their first and second assignments of error; to decide whether part of the property in question was conjugal property of the spouses Lucio Perido and Paulina Pilarta, and the remaining part was conjugal property of the spouses Damaso Venus and Paulina Pilarta, or the whole of it belonged exclusively to Paulina, it would be necessary to pass upon or decide several questions of fact, among them the following:

- (a) Whether or not the spouses Lucio Perido and Paulina Pilarta bought a parcel of land during their marriage, and whether or not the spouses Damaso Venus and Paulina Pilarta also bought another parcel during their marriage;
- (b) Whether or not Paulina Pilarta executed the public document Exhibit A with full knowledge of its contents, or she was the victim of fraud in connection therewith;
- (c) Whether or not Flaviano Pilarta knew of the existence of the public document Exhibit A when the deed of sale Exhibit 3 was executed in his favor;
- (d) Whether or not the deed of sale Exhibit 3 is fraudulent, and whether or not the vendees therein paid the consideration for the sale.

As already stated heretofore, appellants and appellees maintain diametrically opposed contentions in relation to the questions stated above.

Consequently, there being both questions of fact and law involved in this appeal, and there being no claim or pretense that the value of the property in question is more than P200,000.00, it is clear that jurisdiction over the case belongs to the Court of Appeals.

Wherefore, it is hereby ordered that the record of this case be certified to the Court of Appeals, there to be disposed of in accordance with law.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Paredes, De Leon, and Natividad, JJ., concur.

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