

MACARIO MALLARI, ET AL., PLAINTIFFS AND APPELLANTS, VS. MACARIA SUÑGA, ET AL., DEFENDANTS AND APPELLEES.

G.R. No. L-5043. December 17, 1952

Ponente: PARAS, C.J.

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PARAS, C.J.:

On October 20, 1948, the plaintiffs filed in the Court of First Instance of Pampanga a complaint against defendants for the partition of a parcel of land situated in barrio Batasan, municipality of Macabebe, province of Pampanga, containing an area of about 19,527 square meters, and for the liquidation and accounting of the fruits thereof from 1940. On November 23, 1948, the plaintiffs filed an amended complaint for partition and reconveyance and for liquidation and accounting. In this amended complaint the land is admitted to be lot No. 50 of cadastral case No. 21, G. L. R. O. No. 981 of the Court of First Instance of Pampanga.

The defendants, who had already filed a motion to dismiss the original complaint, also moved to dismiss the amended complaint on the grounds that there is no cause of action and that the same is barred by a prior judgment and by the statute of limitations. On July 19, 1949, the Court of First Instance of Pampanga issued an order dismissing the complaint on the grounds that the land had previously been judicially adjudicated in favor of the defendants and that plaintiffs' right of action, if any, has prescribed. From this order the plaintiffs have appealed.

It appears from the amended complaint that lot No. 50 was awarded to the spouses Francisco Bartolo and Macaria Suñga in cadastral case No. 21, G. L. R. O. No. 981 of the Court of First Instance of Pampanga, by decision of January 22, 1930; that on March 29, 1930, said court ordered the issuance of the corresponding decree of registration; that in said cadastral case Francisco Bartolo (predecessor in interest of the defendants) claimed ownership of the lot through purchase from Jose Meneses; that since the year 1929, the defendants have been in possession of the land, enjoying the fruits thereof exclusively, without giving the plaintiffs any share thereof. Assuming, therefore, that the plaintiffs had once been co-owners of the land, the defendants have acquired title by prescription over the property by reason of their adverse and exclusive possession from the year 1929, or very much longer than ten years before the filing of the complaint on October 20, 1948. (*Bargayo vs. Camumot*, 40 Phil., 857; *Solla vs. Ascueta et al.*, 49 Phil., 333.)

The appealed order is therefore hereby affirmed, without costs. So ordered.

Pablo, Bengzon, Padilla, Tuason, Montemayor, Jugo, Bautista Angelo, and Labrador, JJ., concur.

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