

**GERTRUDO FLORES, ET AL., PLAINTIFFS AND APPELLEES VS.
ARSENIO ESCUDERO, ET AL., DEFENDANTS AND APPELLANTS.***G. R. No. L- 5302. March 11, 1953*

Ponente: MONTEMAYOR, J.

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The following facts were found by the trial court, based on the stipulation of the parties or on their admissions. In the year 1877 Simeona de Mesa was married to Regino Beltran in San Pablo, Laguna. They have three children named Mariano, Eulalio and Romualda all surnamed Beltran. The husband Regino Beltran left his wife Simeona sometime in 1902, lived somewhere else and never returned to the conjugal home. He died on March 20, 1925 while living separately from his wife. On July 13, 1912, during the lifetime of Regino but while living separately from him, Simeona de Mesa purchased a parcel of land now become a commercial lot in San Pablo City with an area of 146.7 square meters, assessed at P1,253 under tax declaration No. 17047, for P2.150. After the sale, Simeona and sometimes her son Mariano managed the property until she sold it on October 11, 1939 to the defendant couple Arsenio Escudero and Rosario Adap for P2,000. Mariano Beltran, one of the three children of Simeona signed the deed of sale and conveyed whatever right and interest he had in the land to the purchasers.

Romualda Beltran, one of the three children of Simeona and Regino married Ponciano Flores and out of the wedlock were born nine children, the plaintiffs herein. Romualda died on July 20, 1941. Her mother Simeona died sometime in 1943. On May 1, 1949, Ponciano Flores, surviving spouse of Romualda on behalf of his nine children tried to repurchase one-sixth (1/6) of the whole parcel already mentioned which is supposed to be the portion corresponding to their mother Romualda as inheritance from her father Regino, said to have owned ½ of the parcel as his share of the conjugal partnership property. The attempt to buy having failed the plaintiffs brought the present action to recover said one-sixth of the parcel of land already mentioned. At present, or in the year 1949 when the parties made the stipulations the parcel had a market value of P15,000 and had a rental value of P125 a month.

After hearing, the Court of First Instance of Laguna found that the whole parcel having been purchased during the marriage of Simeona and Regino, was conjugal property; that ½ thereof belonged to Regino, and upon his death it was inherited by his three children Mariano, Eulalio and Romualda, so that each one of them was entitled to 1/3; of Regino's ½ or 1/6; of the whole parcel, and that consequently, the plaintiffs, heirs of Romualda, had a right to 1/6; of the parcel as their inheritance from their mother Romualda; and that defendants in buying the land from Simeona did not act in good faith because being relatives of plaintiffs they knew that there were other parties besides herself who had an interest in the property and yet they (defendants) bought the parcel from her alone without getting the signatures or consent of her children, with the exception of Mariano. The trial court declared the sale of the 1/6 of the parcel corresponding to Romualda null and void and ordered the defendants to execute the necessary instrument for the transfer thereof in favor of the plaintiffs, or to pay said plaintiffs P2.500 representing the value of said 1/6, and to pay said plaintiffs as monthly rental the sum of P20.83 (1/6 of P125) from February 19, 1939 up to the time of complete delivery of the 1/6; portion of the parcel. The defendants are

appealing from that decision and in their brief they assign a number of errors.

The main point involved in the appeal in our opinion is, whether or not the land bought by Simeona in 1912 during the lifetime of her husband Regino but while living separately from him was conjugal partnership property. Defendants-appellants claim that it was the exclusive property of Simeona because her husband Regino contributed nothing to its acquisition since he had abandoned her and was living separately from her. We find this contention untenable. The law presumed all property acquired during the marriage regardless of whether the spouses are living together or not, as conjugal property. It is true, that the purchase herein was made exclusively by Simeona but it was not shown that she made the purchase with her own money. In the absence of proof to that effect the law equally presumes that the money came from conjugal funds which may consist of any income from conjugal properties or from the exclusive properties of the spouses or from services, industry, wages or work of the spouses or of either of them. Under the circumstances, and because of the absence of any proof that Simeona kept during the marriage, funds of her own, and that from these came the purchase price of the parcel in 1912, we agree with the trial court that the parcel or lot in question must be considered conjugal property and that Regino was entitled to $\frac{1}{2}$ of it. Upon his death (he died intestate), his $\frac{1}{2}$ share went to his children so that his daughter Romualda inherited $\frac{1}{3}$; of it, that is to say, $\frac{1}{6}$; of the whole parcel, and upon her death this $\frac{1}{6}$ was inherited by her children, the plaintiffs herein.

We also agree with the trial court that plaintiffs are entitled to receive back rentals for $\frac{1}{6}$; of the parcel, that is to say, $\frac{1}{6}$; of P125, this, in 1949. It is unfair to consider P125 as the real monthly rental in 1939 when the defendants took possession of the property. It will be remembered that the parcel was bought by them for only P2,000. The presumption is that that was its market value in 1939. It had a rapid increase until 1949 or ten years later when it acquired a market value of P15,000 as stipulated by the parties. We have taken pains to make calculations and a tabulation of the yearly increase in value of the whole parcel from P2,000 in 1939 to P15,000 in 1949. The difference between the market value in 1949, namely, P15,000 and the market value in 1939 which is P2,000 is P13,000. Spreading this increment over a period of ten years and assuming in the absence of evidence to the contrary that the increase was more or less gradual and uniform, it will appear that there was a yearly increase of P1,300. In other words, while on October 11, 1939 it was worth P2,000; on October 11, 1940, the land had a value of P3,300; on October 11, 1941, it was worth P4,600 until on October 11, 1949 as already stated, it had a marked value of P15,000. The monthly rental in 1949 was P125 or P1,500 a year. This amount of yearly rental is exactly 10 per cent of P15,000, the market value in 1949. Again assuming that the rental for the years from 1939 up to 1949 were in the same proportion of the market value, we find that the yearly rental of the property from October 11, 1939 to October 11, 1940 was P200; from October 11, 1940 to October 11, 1941 it was P330 and so on. From these calculations we find that for the period of ten years up to October 11, 1949, there was a total of P7,850 of monthly rentals. One-sixth of this is P1,308.30, the amount which the plaintiffs are entitled to as rentals for the said period of 10 years. From October 11, 1949, we shall follow the decision of the trial court to the effect that the defendants will pay to the plaintiffs as rentals $\frac{1}{6}$; of P125 every month until the $\frac{1}{6}$; of the parcel is delivered to said plaintiffs or the value of said $\frac{1}{6}$; is paid to them.

We deem it unnecessary to discuss the other errors assigned by the appellants except that as regards prescription, we believe that the present action has not prescribed for the reason that the present suit may be regarded as one to recover real property, for which the period of prescription is ten (10) years.

With the modifications already indicated, the decision appealed from is hereby affirmed, with costs.

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

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