

SEVERO ASUNCION, ET AL., PLAINTIFFS AND APPELLEES, VS. JUAN BENALISA, ET AL., DEFENDANTS AND APPELLANTS.*G.R. No. L-10058. January 31, 1957*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/98cdb61acf96/>**REYES, A., J:**

This case was initiated in the Court of First Instance of Rizal by a complaint filed by the spouses Severo Asuncion and Pascuala Ilustre on August 7, 1950, to recover from the spouses Juan Benalisa and Lucia Suarez certain pieces of real property located in Tanay, Rizal province, which were alleged to have been acquired by the plaintiff Pascuala Ilustre by way of donation propter nuptias made in her favor by the defendant Juan Benalisa on August 26, 1927. Answering the complaint, the defendant spouses admitted having made a donation propter nuptias in favor of the plaintiff Pascuala Ilustre and her first husband, Pablo Benalisa, who was defendant's son, but alleged, by way of special defense, that after the death of the said Pablo Benalisa on June 8, 1929, the plaintiff Pascuala Ilustre came to live with her co-plaintiff Severo Asuncion and that because at one time, some twenty years before this case, these two made an attempt against the life of the defendant Juan Benalisa, the latter had since then refused to comply with the terms of the donation; that defendants had never given the plaintiffs an opportunity to take possession of the property donated; and that such right or interest as plaintiffs may have had in said property was lost because of "their failure to claim the same within the statutory period."

On a date set for the hearing of the case, the parties submitted a stipulation of facts for the approval of the court. Briefly, the stipulation says that on August 27, 1927, the defendants executed the donation in question in favor of plaintiff Pascuala Ilustre and her first husband Pablo Benalisa, that these two were married on the fourth of the following month, and that Pablo Benalisa died on June 28, 1929. Upon the stipulation being approved, the defendants moved for a continuance, and the court, without objection from the plaintiffs, granted the motion and set the case for hearing. But when the day of hearing came, the court, instead of holding a trial, merely ordered the parties to submit a memorandum on the question of whether the donation in question was "still valid and subsisting." Then after the parties had filed their respective memoranda on that question, the court rendered its decision declaring the plaintiffs owners of the property in litigation and ordering that they be given possession thereof. From this decision, the defendants appealed to the Court of Appeals; but that court has certified the appeal here as involving only questions of law.

After going over the record, we find that the decision below has been rendered on an insufficient basis. The action is for the recovery of title to, and possession of, real property alleged to have been donated to one of the plaintiffs. The donation is admitted, but the answer sets up prescription with allegation to the effect that for more than 20 years prior to the institution of the action, the defendants have persistently refused to comply with the terms of the donation and have never allowed the plaintiffs to take possession of the property donated. As plaintiffs' cause of action arose more than 20 years ago when, as alleged in the answer, the defendants refused to comply with the donation and to surrender the property to the plaintiffs, the prescription of said action is, as provided in article 1116 of the new Civil Code, to be governed, not by the provisions of that Code, but by laws previously in force. The law applicable is section 40 of Act No. 190 (Conspecto vs. Fruto, 31 Phil., 144). That section reads:

"Sec. 40.—Period of Prescription as to Real Estate.—An action for recovery of title to, or possession of, real property, or an interest therein, can only be brought within ten years after the cause of such action accrues."

Under this section, the defense of prescription set up by the defendants would defeat plaintiffs' action, if defendants' allegations of fact in support of that defense could be proved. But the court did not receive evidence on those allegations, ruling that prescription did not lie because defendants were holding the property in trust for the plaintiffs and were, therefore, not in adverse possession thereof. The ruling is untenable because from the allegations of the answer it is clear that, from as far back as 20 years ago, the defendants have persistently refused to recognize plaintiffs' claim to the property in dispute and have also prevented the plaintiffs from taking possession thereof. These allegations sufficiently suggest adverse possession as well as positive repudiation of the supposed trust. As to whether the allegations are true or not is a matter that should be determined on the basis of evidence. That evidence is lacking because the lower court, after admitting a partial stipulation of facts, held no trial for the reception of proof.

In the circumstances, justice demands that the defendants be allowed to prove the facts on which their defense of prescription is predicated,

Wherefore, without need of passing at this time upon the other questions raised in the appeal, the decision appealed from is set aside and the case ordered remanded to the court below for further proceedings. Without costs.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Endencia, and Felix, JJ., concur.

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