

**JOSE DE LA CRUZ., ET AL., PLAINTIFFS AND APPELLANTS, VS.
TELESFORO DE LA CRUZ, DEFENDANT AND APPELLEE.***G.R. No. 11105. June 30, 1959*

Ponente: PADILLA, J.

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Jose, Jesus, Pablo and Maria all surnamed de la Cruz are the children of the late Silvestre de la Cruz, the first two begotten by his first spouse Librada Albines and the last two begotten by his second spouse Fernanda Manzanilla. On 1 August 1912 Silvestre de la Cruz died intestate in Bugasong, Antique. Proceedings for the administration and settlement of his estate was commenced in the Court of First Instance of Antique (Sp. proc. No. 995), which was terminated by an agreement entered into by the heirs on 30 December 1922 that partitioned the properties of the state among them (Exhibit C). The project of partition signed by them was submitted to, and approved by, the probate court. Among the properties adjudicated to the widow (second spouse) Fernanda Manzanilla was a parcel of sugar cane land situated at barrio La Rioja, Patnongon, Antique, containing an area of 27,980 sq. m. more or less (Exhibit C-3) described in paragraph 3 of the plaintiffs' complaint. On 26 March 1940 Fernanda Manzanilla sold the aforesaid parcel of land to Telesforo de la Cruz (Exhibit 3). On 15 October 1945 Fernanda Manzanilla died (Exhibit D). On 27 December 1951 Telesforo de la Cruz sold the same parcel of land by way of pacto de retro to Felix Busayong (Exhibit 2) and on 30 March 1954 he repurchased it.

On 1 October 1955 the four children of Silvestre de la Cruz, the last joined by her husband Jose B. Barcelo, brought an action against Telesforo de la Cruz in the Court of First Instance of Antique to recover possession and ownership of the parcel of land sold to him by their step-mother and mother on the ground that the vendor being a mere usufructuary thereof, the vendee's right thereto terminated upon the vendor's death on 15 October 1945. They also prayed that the defendant be ordered to pay them the same of P2,350, the amount they would have realized from the sale of the share in the produce of the land from 1946 to the date of the filing of the complaint, P5,700 as moral and exemplary damages, and P600 as attorney's fee; and to return to them the excess of the principal and interest of the consideration in the contract (Exhibit 3), as provided for in the Usury Law. They further prayed for other just and equitable relief.

The defendant moved to dismiss the plaintiff's complaint on the ground that their cause of action is barred by the statute of limitations. After the denial by the Court of his motion to dismiss, the defendant answered the complaint pleading that the plaintiffs have no cause of action against him because he acquired the parcel of land in question by way of absolute sale and for a valuable consideration on 26 March 1940, from Fernanda Manzanilla, the plaintiffs' step-mother and mother, she being the owner thereof; that since then he has been in actual, open, public, peaceful, continuous and adverse possession under a claim of ownership; and that for that reason he has acquired title thereto by prescription. Claiming that as a result of the plaintiffs' frivolous claim he has suffered moral damages, the defendant prayed that the plaintiffs be ordered to pay him P10,000 as moral damages, P500 as attorney's fee, and the costs of the suit. The plaintiffs controverted his counterclaim.

After trial, the Court rendered judgment holding that Fernanda Manzanilla, as owner of the parcel of land in

question, having conveyed it unto the defendant by way of absolute sale on 26 March 1940, and the latter having been in possession thereof since then as owner, the defendant has acquired title thereto by prescription; dismissing the plaintiff's complaint; and ordering the plaintiffs to pay the defendant the sum of P124.09 as actual and moral damages and the costs of the suit. The plaintiffs have appealed to this Court on purely questions of law.

The trial court found that the appellee—

* * * purchased the property from Fernanda Manzanilla on March 26, 1940 (Exhibit 3). Since that time up to the filing of the complaint on October 1, 1955, the plaintiff possessed the land through his tenants, received the produce thereof» paid the taxes of the property, and assessed it in his name. On December 27, 1951, the property was sold a retro to Felix Busayong by the defendant and the land remained in the possession of Felix Busayong until it was redeemed by the defendant on March 30, 1954 (Exhibit 2). From the time the property was redeemed, the defendant repossessed the land up to the present time. * * *.

* * * There is abundant evidence that since the property was sold by the late Fernanda Manzanilla to the defendant the latter has possessed the land in the concept of an owner. * * *.

and held that—

* * * Section 41 of the Code of Civil Procedure which was then the law in force at the time the sale was made makes no distinction as to the manner the possession has commenced. In other words, a person who possessed a land for ten years continuously, publicly and in the concept of an owner acquired the land by prescription even though he has no title to the same. This Section 41 of Act No. 190 states partly as follows:

"* * * In whatever way the possession may have commenced or continued."

Plaintiffs' claim that the defendant has only acquired whatever right the late Fernanda Manzanilla has on the land is belied by the deed of sale that the late Fernanda Manzanilla has executed fa favor of the defendant. Beading attentively the deed of sale, Exhibit 3, it appears that Fernanda Manzanilla maintained to be the owner of the property that she has sold. The deed recites in part:

***** to that parcel of land of my absolute ownership which it was acquired by us during the life of my deceased husband * *

and—

* * * that the defendant has possessed the property in litigation for a period sufficient to acquire it by prescription, whatever right the plaintiffs might have over the property has long prescribed at the time the action was instituted.

The appellee's possession of the parcel of land having been actual, open, public, peaceful and continuous under a claim of title exclusive of any other right and adverse to all claimants, since 26 March 1940, he has acquired title thereto.

The judgment appealed from is affirmed, without pronouncement as to costs.

Paras, C. J. Bengzon, Montemayor, Bautista Angelo, Labrador, Concepcion, Endencia, and Barrera, JJ., concur.

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