

ISIDRO PENSADER ET AL., PLAINTIFFS AND APPELLANTS, VS. ALEJANDRA PENSADER ET AL., DEFENDANTS AND APPELLEES.

G.R. No. 21271. February 07, 1924

Ponente: ROMUALDEZ, J.

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ROMUALDEZ, J.:

In this case the partition is sought of a cocoanut land described in the complaint and which the plaintiffs allege is an undivided inheritance between them and the defendants.

The court absolved the latter from the complaint and the plaintiffs took this appeal, assigning as errors of the lower court the holding that the appellants and appellees have been holding the disputed land in common; the finding that the possession exercised by the appellee Silverio P. Revelar and his predecessors in interest for more than thirty years is adverse to them, and the holding that plaintiffs' action has prescribed; the finding that the deceased Canuto Pensader transferred to Fr. Pablo Pajarillo the title to said land, when as a matter of fact he was commissioned only to see that the realty was distributed among the former's heirs; and finally its failure to permit the plaintiffs to introduce parol evidence concerning certain admissions made by the appellee Alexandra Pensader and her husband and by Vicente Revelar as to her title to the land.

The facts proven are: Canuto Pensader, who was living maritally with Maria Revelar, acquired the land in question from Eulalio Punio. Said Canuto had several brothers whose children, nephews of said Canuto, are the herein plaintiffs and defendant Alexandra Pensader, and died without leaving any forced heir.

In 1892, Canuto Pensader donated one-half of the land in dispute to his paramour Maria Revelar, and the other half to his niece Alejandra Pensader, defendant herein, mother of the other defendant, Silverio P. Revelar. By virtue of this donation and immediately after the death of Canuto Pensader, which occurred at the end of the year 1892, Maria Revelar and Alejandra Pensader, the latter being married with Vicente Revelar, entered upon the possession of the land in question and since then they have been cultivating it until the death of Vicente Revelar, whose heirs, in an extrajudicial partition and in accord with Alejandra Pensader allotted the land to the herein defendant Silverio P. Revelar. Maria Revelar in turn waived her share of the realty in favor of said Silverio P. Revelar, who has been cultivating and improving the same and enjoying its fruits since then. The possession of this Silverio P. Revelar, together with that of his parents and aunt Maria Revelar, dates back to thirty years ago, and is continuous, public, peaceful, and under claim of ownership.

It was not shown that such possession was in common with the plaintiffs. As above stated, the origin of said possession is adverse to such community, namely, the donation, which although it is not established by a sufficient documentary evidence, stands in this case as a circumstance explaining the exclusive character of the possession of Maria Revelar and Alejandra Pensader and that of their common successor in interest Silverio P. Revelar. Besides, it appears that in the year 1905, the plaintiffs made an extrajudicial demand for the partition of this property, but did not obtain it, the defendants having continued in possession and exclusive enjoyment thereof.

These facts, under the circumstances shown by the evidence as a whole, are sufficient to establish the adverse character of the possession which the defendant Silverio P. Revelar and his predecessors in interest had been exercising over the land in question, and, therefore, to justify the holding that the action brought by the plaintiffs has already prescribed.

We do not find in the assignments of error sufficient merit for altering the judgment appealed from. It is, therefore, affirmed with the costs against the appellants. So ordered.

Arautto, C. J., Johnson, Street, Malcolm, Avancena, Ostrand, and Johns, JJ., concur.

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