

**PAULINA CRISTOBAL ET AL., PLAINTIFFS AND APPELLEES, VS.
MARCELINO GOMEZ, DEFENDANT AND APPELLANT.***G.R. No. 27014. October 05, 1927*

Ponente: STREET, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-27014/>**STREET, J.:**

This action was instituted in the Court of First Instance of the Province of Cavite by Paulina Cristobal, Luis Gomez, fJosefa Gomez, Paciencia Gomez and Jose Gomez, for the purpose of recovering from Marcelino Gomez two parcels of land located in the sitio of Jabay, municipality of Bacoor, Province of Cavite, and a lot located in the town of Bacoor, Cavite,—all more particularly described in the second paragraph of the complaint, and for the purpose of compelling the defendant to pay to the plaintiffs the income received by him from said property since 1918. To the complaint the defendant answered with a general denial and two special defenses not necessary to be here recounted other than to indicate that he claimed to be owner in his own right, of all of the property which is the subject of the action. Upon hearing the cause the trial court found that the property in question belongs to the plaintiffs, as coowners, and he therefore ordered the defendant to surrender the property to them and execute an appropriate deed of transfer as well as to pay the costs of the proceeding. From this judgment the defendant appealed.

The property with which this action is concerned formerly belonged to Epifanio Gomez, deceased husband of the plaintiff Paulina Cristobal and father of the four Gomez children who are joined with their mother Paulina in the complaint. On December 13, 1891, Epifanio Gomez sold this property under contract of sale with pacto de retro to Luis R. Yangco, redeemable in five years, for the sum of P2,500, the vendor remaining in possession in the character of lessee. The period expressed in this agreement passed without redemption, with the result that the property consolidated in Yangco, who, nevertheless, many years later conceded to the vendor the privilege of repurchasing. Gomez was without means to effect the repurchase of the property himself, and he therefore found it necessary to apply to a kinsman, Bibiano Bañas, for assistance. Bañas hesitated to lend Gomez the money upon his own sole credit; but told him that he would let him have the money if his brother Marcelino Gomez and his sister Telesfora Gomez would make themselves responsible for the loan. Epifanio therefore consulted with his brother and sister and they agreed to assist him in getting back his property. Accordingly, in the latter part of July, 1907, Bibiano Bañas was called in consultation, at the home of Telesfora Gomez in Manila, with Epifanio Gomez and Marcelino Gomez. These four being present upon that occasion, an agreement was reached, which was, in substance, that Bibiano Bañas should advance the sum of P7,000, upon the personal credit of Marcelino and Telesfora Gomez, and that this money should be used to repurchase the property in the names of Marcelino Gomez and Telesfora Gomez, who should hold and administer the property until the capital advanced by Bañas should be paid off, after which the property would be returned to Epifanio Gomez. This agreement was carried into effect by the execution of the Exhibits A and D of the plaintiffs, and though executed two days apart, these documents, as the trial court found, really constitute parts of one transaction. By the Exhibit A, executed on August 12, 1907, Marcelino Gomez and Telesfora Gomez created a "private partnership in participation" for the purpose of redeeming the property which their brother Epifanio had sold to Yangco. It was therein agreed that the

capital of this partnership should consist of P7,000, of which Marcelino Gomez was to supply the amount of P1,500, and Telesfora Gomez the sum of P5,500. It was further agreed that all the property to be redeemed should be placed in the name of the two, namely, Maiv celino Gomez and Telesfora Gomez, and that Marcelino Gomez should be its manager. Among the provisions in this agreement of major importance, to the present decision, we find the following:

"(h) That all the income, rent, and produce of the aforesaid property of Epifanio Gomez shall be applied exclusively to the amortization of the capital employed by the two parties, that is to say, Don Marcelino Gomez and Doña Telesfora Gomez, with its corresponding interest and other incidental expenses.

" (i) As soon as the capital employed, with its interest and other incidental expenses, shall have been covered, said properties shall be returned to our brother' Epifanio Gomez or to his legitimate children, with the direct intervention, however, of both parties, namely, Don Marcelino Gomez and Doña Telesfora Gomez, or one of them.

"(j) In order that the property of Epifanio Gomez may be returned, it is made essential that he shall manifest good behavior in the opinion of Don Marcelino Gomez and Doña Telesfora Gomez jointly."

By the Exhibit D, executed on July 10, 1907, Luis R. Yangco conveyed to Marcelino Gomez and Telesfora Gomez the three pieces of property which he had obtained from Epifanio Gomez. Though this conveyance recites a consideration of P5,000, the amount really paid to Yangco upon this occasion was P6,700, consisting of the sum of P5,000, which was needed to redeem the property from Yangco, the further sum of P1,500 necessary to pay a loan which Epifanio Gomez had obtained from Gregoria Yangco, sister of Luis R. Yangco, and finally the sum of P200 which Yangco exacted as a present for his manager. The payment of these sums left P300 of the capital which Bañas had advanced, and this balance was left with Marcelino Gomez to pay the expenses of documentation and to make certain needed repairs upon the property.

A little more than a year after the transaction abovementioned had been consummated, Epifanio Gomez died, leaving a widow, Paulina Cristobal, and the four children who are coplaintiffs with their mother in this action. Marcelino Gomez meanwhile entered into possession of the property,—a possession which he subsequently maintained until his death, which occurred after this action had been tried in the court below. During this period of about twenty years Marcelino Gomez improved the larger parcel by extending the salt beds constructed upon it and by converting them from the Filipino form to the Chinese style. During the same period the three parcels of property quintupled in value, being now worth about P50,000, according to the estimate made by Marcelino Gomez himself.

Less than a year after the death of Epifanio Gomez, his sister Telesfora became desirous of freeing herself from the responsibility which she had assumed to Bibiano Bañas. Accordingly, on September 10, 1909, with the consent of Bañas, the document Exhibit E was prepared and executed by Telesfora and Marcelino Gomez. By this instrument Telesfora conveyed to Marcelino her interest and share in the three properties previously redeemed from Yangco. The conveyance recites a consideration of the sum of P6,096, paid in the act. Nevertheless, no money passed, and the real consideration of the conveyance, as admitted by Marcelino Gomez himself, was that Marcelino should assume the obligation which Telesfora had contracted with Bañas by reason of the loan of P7,000 made by the latter upon the occasion of the redemption of the property from Yangco. The amount of this obligation was estimated at P6,096, and the consideration mentioned in the Exhibit E was therefore fixed in this amount. At the time that Exhibit E was executed the same parties, Marcelino Gomez and Telesfora Gomez, executed the document Exhibit 13 of the defendant, whereby they declared dissolved the partnership that had been created by the Exhibit A; and Telesfora Gomez again declared that she conveyed to Marcelino Gomez the three

parcels in question for the same consideration recited in the Exhibit E,

As long as both Telesfora and Marcelino Gomez had been personally answerable to Bañas for the loan of P7,000, he had been content to look to their personal responsibility for reimbursement; but now that the loan was being novated, with Marcelino as the sole debtor, Bañas required him to execute a contract of sale of the three parcels, with pacto de retro, for the purpose of securing the indebtedness (Exhibit 14 of the defendant). This instrument was executed on September 10, 1909, contemporaneously with the execution of the documents by which Telesfora conveyed her interest in the property to Marcelino and by which the partnership was declared dissolved. In the instrument Exhibit 14 it is declared that Marcelino Gomez sells the property to Bañas for the sum of P8,500, with pacto de retro, redeemable within the period of five years, extendible for whatever time Bañas may consider convenient. At the same time, and by the same instrument, Bañas leased the property to the vendor Gomez for the period fixed for repurchase at a semiannual rental of P510, taxes to be paid by the lessee. The period of repurchase fixed in this contract passed without redemption having been effected, but by an instrument dated June 26, 1915, Bañas conceded to Gomez the right to repurchase, without any definite limit of time, conditioned upon the payment of the rent. Finally, on April 1, 1918, Marcelino Gomez paid to Bañas the sum of P7,575.92 in full satisfaction of the entire claim and received from Bañas a reconveyance of the three parcels, thus closing the documentary history of the property so far as concerns this litigation. Reflection upon the foregoing transactions leaves no room for doubt as to the fact that Bañas held the property under the contract of sale with pacto de retro (Exhibit 14) as a mere security for his loan. This inference is borne out by the fact that partial payments on the capital had been accepted by him and that he voluntarily extended the period of redemption indefinitely after the property had nominally consolidated.

The defendant Gomez says that the money used by him to redeem the property in the end was money of his own which he had obtained from the sale of a lithographic plant. Assuming that this is true, it must nevertheless be remembered that the properties in question, especially the salt beds, were productive of considerable income; and Gomez admitted at the trial that he had obtained enough from the property to reimburse him for all outlays. It is therefore evident that the Bañas loan has been fully liquidated from the income of the property, or the equivalent, and that the purpose of the original trust had been fully accomplished before this action was brought.

The proof shows that Epifanio Gomez was in financial straits from the time of the Philippine revolution until his death; and in the early years of the present century he had from time to time informally hypothecated several of these salt beds to different creditors to secure petty loans, and this notwithstanding the fact that the property had previously been sold under contract of sale with pacto de retro to Luis R. Yangco. The fact that these loans had been made was known to Marcelino and Telesfora Gomez when they entered into the partnership arrangement to get back the property from Yangco. Marcelino Gomez, as manager, was therefore confronted with the necessity of paying off these small debts, with the result that he finally paid out upon the property a total of around 10,000, including of course the debt to Bañas of P7,000. For these and all other expenses incident to the property he has, upon his own statement, been fully reimbursed.

The facts sketched above exhibit the dominant features of the case, and reflection upon their import conducts us to the conclusion that the trial court committed no error in holding that the defendant Marcelino. Gomez must surrender the property involved in this lawsuit; and he being now dead, the same obligation devolves on his heirs. The so-called partnership agreement (Exhibit A) between Marcelino Gomez and his sister created a trust for the express purpose of rescuing the property of Epifanio Gomez; and now that that purpose has been accomplished, the property should be returned to his legitimate children, as provided in paragraph (i) of the agreement. This bilateral contract was fully binding on both the contracting parties; and the trial court did not err in declaring that, under the second paragraph of article 1257 of the Civil Code, the successors of Epifanio Gomez are entitled to

demand fulfilment of the trust. In *Martinez vs. Graño*, (42 Phil., 35), we held that a person who, before consolidation of property in the purchaser under a contract of sale with pacto de retro, agrees with the vendors to buy the property and administer it till all debts constituting an incumbrance thereon shall be paid, after which the property shall be turned back to the original owner, is bound by such agreement; and upon buying in the property under these circumstances such person becomes in effect a trustee and is bound to administer the property in this character. The same rule is applicable in the case before us.

But it is claimed for the appellant that the trust agreement (Exhibit A) was kept secret from Epifanio Gomez and that, having no knowledge of it, he could not have accepted it before the stipulation was revoked. This contention is contradicted in fact by the testimony of Bibiano Bañas, who says that Epifanio Gomez was present when the arrangement for the repurchase of the property from Yangco was discussed and that he assented thereto. Moreover, Bañas states that after the agreement had been executed, he told Epifanio Gomez in the presence of his brother and sister that he should be well pleased as the object he had in view had been accomplished, meaning that the property was recovered. But even supposing that Epifanio Gomez may never have seen the Exhibit A, we have no doubt that he understood the nature of the arrangement and his assent thereto was a sufficient acceptance. This being true, it was not competent for the parties to the trust agreement thereafter to dissolve the partnership and destroy the beneficial right of Epifanio Gomez in the property. The effect of Exhibits E and 13 was merely to eliminate Telesfora Gomez from responsibility in the performance of the trust and to clothe Marcelino Gomez alone with the obligations that had been created by Exhibit A.

Much energy has been expended by the attorneys for the appellant in attempting to demonstrate that, if Epifanio Gomez at any time had any right in the property by virtue of the Exhibit A, such right could only be derived from the aspect of Exhibit A as a donation, and that, inasmuch as the donation was never accepted by Epifanio Gomez in a public document, his supposed interest therein is unenforceable. But this, in our opinion, is not a tenable hypothesis. The partnership agreement should not be viewed in the light of an intended donation, but as an express trust.

Much stress is placed in the appellant's brief upon paragraph (j) of the partnership agreement which, it is claimed, makes it a condition precedent to the return of the property to Epifanio Gomez that he should exhibit good behavior in the opinion of Marcelino and Telesfora Gomez; and it is claimed that Epifanio Gomez violated this condition by two kinds of misbehavior before his death, namely, first, by selling different salt lots to various persons, and secondly, by attending cockfights, an activity distasteful to his brother and sister. This feature of the case is fully discussed and the contention of the appellant refuted in the appealed decision. But a few words may be here added upon this aspect of the case. The trust agreement provides that after the capital employed and other expenses shall have been covered, the property shall be returned to Epifanio Gomez or his legitimate children. This contemplated the action to be taken when the debt should be fully liquidated, something that did not occur in this case until 1918. But Epifanio Gomez died in 1908. It is evident that misbehavior on the part of Epifanio Gomez during the year or more that he lived after the trust agreement was made could not be attributed as a ground of forfeiture to his legitimate children ten years later, especially as no step had ever been taken in the life of Epifanio Gomez to defeat his rights under the trust on account of his alleged misbehavior.

Again, it is contended for the appellant that inasmuch as the property consolidated in Bañas in the year 1915 under the contract of sale with pacto de retro to him, the subsequent repurchase of the property by Marcelino Gomez in 1918 vested an indefeasible title in the latter free from the original trust. But it is obvious that the purchase effected in 1918 was really a repurchase, consequent upon the extension of the time of redemption by Bañas, and Gomez must be considered to be holding in the same right as before, that is, subject to the trust in favor of Epifanio Gomez.

Lastly, it is urged that Gomez has the benefit of prescription in his favor, having been in possession more than ten years under the deed by which he acquired the sole right from his sister in 1909. This contention would be valid if the defendant had really been holding adversely under a claim of title exclusive of any other right and adverse to all other claimants; but, as we have already demonstrated, he was merely a trustee in possession under a continuing and subsisting trust. Prescription is not effective in favor of such a holder (Code of Civil Procedure, sec. 38). Moreover, even supposing that the statute of limitations might have begun to run in the defendant's favor when he recovered the property from Bafias in 1918, the ten years allowed by law had not been completed when this action was instituted; and in this connection the minority of one or more of the plaintiffs during this period may be disregarded.

A point unconnected with the other issues in the case is raised by the fourth assignment of error in the appellant's brief. This has reference to the title to parcel C, the lot located in Bacoar. There can be no doubt that the ownership of this piece of property was originally vested in Epifanio Gomez by virtue of a composition title from the Government; and said title has never passed from him except by virtue of the contract of sale of 1891 in favor of Luis R. Yangco. Nevertheless, the defendant has submitted in evidence a notarial document emitted on December 31, 1904, by Epifanio Gomez, in the character of notary public, wherein he certifies that Marcelino Gomez had requested him to draw up a notarial act showing the properties of which Marcelino Gomez was known to be the true owner: upon which follows an enumeration of properties possessed by Marcelino Gomez. Among these we find the lot in Bacoar, being the parcel C described in the complaint. The appellant relies upon this instrument as proving title in Marcelino Gomez, and it is contended that Epifanio Gomez and his successors are estopped from claiming said lot. This contention is untenable. It is true that we have here the written admission of Epifanio Gomez that this lot belonged to his brother Marcelino; and if this admission had ever been acted upon by any third person purchasing from Marcelino Gomez, Epifanio Gomez would have been estopped from asserting ownership in himself. Nevertheless, it is clear enough that the real title at the time that declaration was made was in Epifanio Gomez; and it is obvious that in creating this document Epifanio Gomez, in collusion with his brother Marcelino, was merely laying the basis of a scheme to defeat Yangco's rights under his contract of purchase of 1891, or perhaps to defeat other creditors of Epifanio Gomez,—a plot which, in view of subsequent occurrences, they did not attempt to carry into effect. No estoppel can be invoked by Marcelino Gomez or his successors, based upon this document, for the reason that he was not misled by the false statement contained therein.

In conclusion we note that the trial court did not determine the extent of the proportional interest in the property pertaining to the different plaintiffs, and no issue has been made with respect to the extent of their several rights. The solution of this point, if any contention should arise among them in the future, depends upon the character of the property in relation to the spouses Epifanio Gomez and Paulina Cristobal, that is, whether it was conjugal property or the individual property of Epifanio Gomez. In the dispositive paragraph of the appealed decision the court ordered Marcelino Gomez to execute a deed conveying the three parcels in question to the plaintiffs; but, the defendant being now dead, and the exact extent of the several interests pertaining to the plaintiffs not being determined, it will be sufficient for us to declare, as we now do, that the plaintiffs are the owners of the property in question, and to require the successors in interest of the defendant to deliver the property to the plaintiffs.

The appealed judgment will therefore be modified by incorporating therein a declaration of ownership in favor of the plaintiffs and by eliminating the requirement for the specific execution of a conveyance. In other respects the judgment is affirmed. So ordered, with costs against the appellant.

Avanceña, C. J., Johnson, Malcolm, Villamor, Ostrand, and Romualdez, JJ., concur.

JOHNS, J., with whom concurs VILLA-REAL, J., dissenting:

Paulina Cristobal is the widow, and the other plaintiffs are her children and those of Epifanio Gomez, her deceased husband, and the defendant is the brother of Epifanio Gomez. As stated in the majority opinion on December 31, 1891, the deceased brother sold the property in question under pacto de retro to Luis R. Yangco with the right to redeem in five years. The deceased brother, not having the money with which to redeem the property, applied to Bibiano Bafias for assistance, who agreed to do so on condition that the defendant and his sister would become personally responsible for the loan, and on July, 1907, the property was thus redeemed upon the terms and conditions stated in the majority opinion, and pursuant to that agreement, the 7,000 thus advanced by Bibiano Bañas was used to repurchase the property in the name of the defendant and his sister Telesfora Gomez.

The record is conclusive that Epifanio Gomez was a man of dissolute habits and more or less a spendthrift. That he was squandering his property, and was very unreliable in money matters, and that on several occasions the defendant and his sister had been forced to come to his relief to protect the good name of the family, and that it was for such reason that the conditions specified were imposed in the agreement of July, 1907. It also appears that the sister, desiring to be released of her financial responsibility, conveyed any interest which she may have had to the defendant. That later the title to the property consolidated in Yangco's with, whom the contract of pacto de retro was made, and that thereafter it was conveyed to the defendant. The record is also conclusive that the defendant was a thrifty, prudent, business man, and that under his management and by close personal attention to the business, he eventually paid for the property, and that a portion of the purchase price was paid out of his own money, and that it was through his personal attention and the investment of his own money, that he was enabled to acquire title and pay for the property.

The legal effect of the majority opinion is to penalize the defendant for his thrift and prudent business methods, and to take the property away from him without any compensation for his twenty years of long and faithful service upon the theory that he acquired the title in trust, and at all times held it in trust for the use and benefit of his deceased brother and his heirs. There is no evidence that the defendant acted as trustee or that he ever recognized a trust, or that during the whole period of twenty years he ever rendered any accounting or that any one ever requested him to make an accounting. The evidence is conclusive that at all times he acted, dealt with and treated the property as his own, upon which he spent his own time, his own money, and improved the property, so as to give it a commercial value. Because he did that and the property now has increased in value, it is taken away from him without any compensation for his services, and he is denied the fruits of twenty years of his labor in giving it a commercial value.

This is one of many cases which come before this court growing out of the increase in the value of property, and which would never appear in court, if there was not an increase in value. The very fact that during the whole period of twenty years, the defendant was never called upon or required to make an accounting, and that at all times he considered, dealt with, and treated the property as his own, is conclusive evidence that he never held the title in trust for any one.

The judgment of the lower court should be reversed.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.