

PETRONA GAMBOA ET AL., PLAINTIFFS AND APPELLEES, VS. MODESTA GAMBOA ET AL., DEFENDANTS AND APPELLANTS.*G.R. No. 29556. December 22, 1928*

Ponente: STREET, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-29556/>**STREET, J.:**

This action was instituted in the Court of First Instance of the Province of Pampanga by various plaintiffs of the surname or connection of Gamboa, for the purpose of enforcing partition of some ten parcels of real property located in the municipality of Santa Ana, in the Province of Pampanga, of which, it is asserted, the plaintiffs are coowners with the defendants Modesta, Pedro and Rafael, of the same name. At the same time the plaintiffs seek to obtain an accounting from Modesta Gamboa of the plaintiffs' shares in the produce taken from the land in the past.

To this complaint Modesta Gamboa answered with a general denial, supplemented by an admission that the single parcel constituting the last item specified in the complaint and identified as tax No. 6247, is in fact common property of herself and the plaintiffs who are her coheirs, and asserting, as to the rest, that she is the owner of the same and has been in adverse possession thereof for more than ten years. The defendants Rafael and Pedro Gamboa answered with a formal general denial, but at the trial they admitted the claim of Modesta Gamboa as owner of the contested properties.

Upon hearing the cause the trial court found in all respects favorably to the contention of the plaintiffs and ordered that partition be made of all the properties among the interested parties in the following proportions: To Petrona, Feliciano, Serapion and Balbina, of the surname Gamboa, and to Mercedes de Jesus, widow of Marcelo Gamboa, one-ninth each; to Andres, Francisco, Juan, Africa and Regino, children of Regino Gamboa, conjointly, another ninth, or the one forty-fifth part each; and to Modesta Gamboa, three-ninths, in view of the fact that Pedro and Rafael had admitted her right. His Honor also ordered that the defendant Modesta Gamboa should account to the plaintiffs for their respective shares of the produce obtained from the property since from the year 1910 upon a basis of an income of P1,400 per annum, and that she should pay the costs. In this partition his Honor ordered that the lot identified as tax No. 6502 should be allotted to Modesta, in view of the fact that she had already sold this lot. From this judgment the defendant Modesta Gamboa appealed.

All of the properties that are the subject of this action once belonged to Juan Gamboa and Ana Mañago, the parents of the first set of Gamboa plaintiffs and of the three defendants of the same name. There is no controversy over the further fact that on August 27, 1897, Juan Gamboa and wife sold all of the properties which are the subject of this action, except the parcel identified by the tax assessment No. 6247, under contract of sale with pacto de retro for two years to one Felipe Javier, the vendors, however, remaining in possession in the character of lessees. The period of redemption allowed in this contract expired without redemption having been effected, and the property consolidated in Javier. But Juan Gamboa, and after his death, his family, continued in possession as tenants under Javier. This arrangement continued until 1910, the year of the death of Ana Mañago, widow of Juan Gamboa. On June 18, 1910, Javier then absolute owner of the properties which he had purchased as above stated,

conveyed the same to the sisters Feliciana and Modesta Gamboa for the price of P1,700, an amount less by the sum of 920 than the price for which he had originally purchased them. Of the stipulated price P600 was paid in cash, proceeding from the sisters Feliciana and Modesta in equal parts. It was agreed that the balance of P1,100 might be paid in four annual installments, subject to an extension of the periods if the purchasers should be unable to meet the payments. To secure these deferred payments the parties declared that a mortgage was created upon the property which was the subject of conveyance. About three years thereafter, or on May 21, 1913, Regino P. Gamboa, brother of the two sisters, paid the sum of P1,100 to Felipe Javier and received from him a document transferring to him all of the interest in the mortgage which had been created in Javier's favor. By this means Regino P. Gamboa was subrogated to the credit and became owner of the debt of P1,100, which had not yet been satisfied by the two women. The proof shows that Modesta Gamboa is a shifty and intelligent woman, always active in a small way in some form or other as of trading; and she says that in course of time she paid off the P1,100 due to her brother Regino. The document by which the transfer of the credit had been made to Regino remained, however, in possession of Regino P. Gamboa until he died in the year 1920, and it remained thereafter in the hands of Regino's widow, by whom it was produced in evidence in this case. Nevertheless, Modesta produced in evidence a document purporting to be a receipt dated May 21, 1913, and signed with the name of Felipe Javier, wherein he states that he had upon that day received P1,100 from Regino P. Gamboa as recited in the document of transfer above referred to, of the same date. The document has been made the subject of criticism as an apparent forgery, and it must be admitted that the name of Felipe Javier signed thereto does not bear much resemblance to his admittedly genuine signature signed to the assignment of the mortgage. But, even supposing that this receipt is not genuine, we have no doubt that the P1,100 had been paid by Modesta to her brother Regino in life; and we see no reason to doubt her good faith. In this connection it will be noted that Regino died in 1920; and his widow testified that, although she subsequently had many financial transactions with Modesta that had been terminated to the satisfaction of both parties, no payment of the amount stated had ever been made to her by Modesta. We may add that no claim has ever been made by anybody that the credit acquired by Regino had not been satisfied. It is incredible that, if this debt had remained unpaid, no step should have been taken by Regino's widow to collect the same after his death. No doubt she was well aware that, as Modesta claims, the debt had been paid. This conclusion is made more secure by the fact now to be noted.

On December 11, 1922, Modesta Gamboa and her sister Feliciana entered into a written partition of the parcels of property which had been purchased by them from Javier. In this partition Feliciana was content with a much smaller portion than Modesta, and this is explained by the fact that Feliciana had never advanced more than P300 upon the purchase of the property, which amount had been paid by her at the time the property was acquired; while Modesta had not only made her first payment of P300 but had satisfied the unpaid installments by taking up the mortgage credit from her brother Regino in the manner already described. This circumstance is fully set out in the document now referred to and in connection with this point it is declared in said document that the deferred installments had been "totally paid by the other purchaser, Modesta Gamboa." From this it may be inferred that the payment of the P1,100 by Modesta to Regino was a matter of common knowledge in the family. And at any rate we believe that such payment had been made.

The proof shows that ever since the property in question was conveyed by Javier to the Gamboa sisters in 1910, the same has been continuously in the possession of Modesta, except for the two years 1912 and 1913 when, by some arrangement or other, one of her brothers had charge as manager. During this period Modesta exercised all the rights of ownership, accounting of course to Feliciana for the latter's share of the produce during the term of their ownership.

The case for the plaintiffs proceeds upon the idea that the purchase effected by Feliciana and Modesta Gamboa in 1910 from Javier was a redemption from the sale with pacto de retro which had taken place thirteen years

previously; and some oral testimony was given for the plaintiffs tending to show that the right of her brothers and sisters had been admitted at various times by Modesta Gamboa. This theory of the case, in our opinion, is untenable. The sale of the property by Javier to the two sisters in 1910 was an unconditional transfer of title to them, inasmuch as Javier had been undisputed owner of the property for fully eleven years. Of course if it had really been agreed that the sisters were purchasing the property in a trust character, that agreement might have been enforced, but the nature of the title held by the sisters and the unconvincing character of the proof of trusteeship refute this theory. We attribute little importance to the form in which the property was assessed for taxation, in view of the explanation which Modesta gives of the obstructions which she encountered in straightening that matter out. The situation, as we see it, is that Modesta Gamboa, during the period in which she has been part owner of the property and during the later period in which she has held title in her own name, has been surrounded by kinsfolk who were anxious to insinuate themselves into a coownership of the property, and this litigation was undoubtedly promoted chiefly by her brother Serapion Gamboa. But it is noteworthy that at least two brothers have admitted her title.

The trial judge seems to have entertained the idea that the case must turn upon the character of the possession exercised by Modesta Gamboa during the period allowed by law for prescription; and he assumed that it was necessary for her to show adverse possession during that period. This idea is not of correct application, because Modesta Gamboa, either conjointly with her sister Feliciano or exclusively in her own right, has held the legal title since 1910; and the fact that her brothers and sisters may have questioned her right during the ten years next preceding the institution of this action does not have the effect of impairing her right.

From what has been said it follows that the judgment appealed from must be modified to the end that the defendants be absolved from the complaint, except as to the lot identified as tax No. 6247, as to which lot alone partition, if not made by mutual agreement within the period of thirty days from the return of this record to the lower court, shall be effected in the manner prescribed by law. So ordered, without express pronouncement as to costs.

Avanceña, C. J., Johnson, Malcolm, Ostrand, Johns, and Villa-Real, JJ., concur.

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.