

**PRIMITIVA LETUNO, AS GUARDIAN OF HER MINOR CHILDREN
CELERINO AND ANASTACIO VILLANUEVA, PLAINTIFF AND
APPELLEE, VS. MANUEL RODRIGUEZ ET AL., DEFENDANTS AND
APPELLANTS.**

G. R. No. 34045. December 05, 1931

Ponente: MALCOLM, J.

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MALCOLM, J.:

In this case the defendants and appellants appeal from a judgment of the Court of First Instance of Rizal reading:

EN VIRTUD DE LAS CONSIDERACIONES EXPUESTAS, se dicta sentencia declarando (a) definitivo el interdicto prohibitorio litorado contra los demandados (b) de la propiedad de los demandantes el terreno en cuestion. Y Be ordena al Heciatrador de Titulos de la provincia de Ri- zal que cancele el certificado de titulo Ho. 11852 y en su lugar ae expidiera otro a nombre de Celerino y Anastacio Villanueva, con laa costas a cargo del danandado Manuel Rodriguez.

and here assign as errors the following :

- The lower court erred in not holding that the minors acquired no right over the land under the donation of March 16, 1925, as it was never perfected for the reason that the donees' mother, as such, could not validly accept the do na ti on in their behalf.
- The lower court erred in admitting and considering suspicious hearsay and opinion evidence of defendants' knowledge of the donation.
- The lower court erred in holding that defendants had previous knowledge of the donation.
- The lower court erred in not holding that the defendants had each acquired a valid title.

In his lifetime Juan Cruz Sanchez was the owner of a parcel of land situated in the municipality of Caloocan, Rizal, amidst what was known as the Hacienda de Maysilo. On March 16, 1925, the said Juan Cruz Sanchez donated this land to his grandnephews Celerino Villanueva and Anastacio Villanueva. This was done in a public document. In the same document, Frimitiva leturio, a widow and the mother of the minors Celerino Villanueva and Anastacio Villanueva, accepted the donation in their names. Exactly two weeks later, on March 30, 1925, the same Juan Cruz Sanchez sold the same property which he had donated to his grandnephews to Manuel Rodriguez, this likewise in a public document executed, before the same notary who, acknowledged the deed of donation. On November 6, 1926, Manuel Rodriguez, in turn, sold the land to one Juliana Caiña. At about the same time, Rodriguez was unsuccessful in a certiorari proceeding filed in this Court under No. 26615.

It will be noticed that the first error assigned challenges the legal right of the donees' mother, as such, to accept validly the donation in their behalf. In the first place, it should be noted that, so far as we are aware, this question is presented for the first time on appeal. However, going into the merits of the question, it is noticeable that article 626 of the Civil Code provides that, "Persons who cannot enter into contracts cannot accept conditional or

onerous donations without the intervention of their lawful representatives. Before us we have not a conditional or onerous donation, but a pure donation. Accordingly, the decision of this Court in the case of *Di Siock Jian v. Sy Lioc Suy*, 1922, 43 Phil. 562, would not be controlling, although in opposition thereto there could be noted, if necessary, the decision of this Court in the case of *Laureta vs. Mata and Magno*, 1923, 44 Phil. 668. For two reasons, therefore, failure to present the question in the trial court and the legal, right of the mother, a widow, to accept a pure donation on behalf of her children, we rule against the appellants on this error.

The second and third errors assigned go to matters peculiarly within the discretionary powers lodged in the trial Judge. We think that his Honor was right in looking with suspicion on the transfers of the land to the prejudice of the minors, nothing in the Torrens system starts in the way of doing justice to them and in protecting their rights, the fourth error relating to the merits of the appeal is expressly overruled.

Judgment will be affirmed, with the costs of this instance against the appellants.

Ten days from the publication of this decision, judgment will be entered, and five days thereafter, the record will be remanded to the court below.

Avanceña, Street, Romualdez, and Imperial, JJ., concur.

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