

CATALINA PAPA PLAINTIFF AND APPELLEE VS. DOMINGA YUBIENGCO ET AL. DEFENDANTS AND APPELLANTS.

G. R. No. 34316. December 04, 1931

Ponente: JOHNSON, J.

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JOHNSON, J.:

This action was instituted in the Court of first Instance of Cavite on the 22nd day of June, 1929. Its purpose was to recover one-third portion of lots Nos. 1890 and 2014 of the Naic Friar lands Estate, situated in the municipality of Naic, province of Cavite. The plaintiff alleged that she was the owner of said portion by purchase from the defendants, and prayed that she be declared to be the owner of said one-third portion of the two lots, and that the Director of Lands be ordered to record the proper transfer and assignment thereof on his books, and to segregate that portion from the two lots Nos. 1890 and 2014.

The defendants denied generally and specifically each and vary allegation of the complaint. As a special defense they alleged that said one-third portion of the two lots was given to plaintiff as security of their indebtedness to her in the sum of P400.00 that from 1911 to 1927 the land had remained In the possession of the plaintiff; that they had paid the plaintiff the sum of P275.00, leaving a balance of P125.00; and that the plaintiff demanded 20% interest not only on the unpaid balance but also on the original indebtedness of P400.00. They also alleged that deed of sale in the possession of the plaintiff had been procured through fraud and without their free consent. They also filed a counterclaim and cross-complaint

The Judge of First Instance of Cavite indorsed the cause to the Justice of the Peace of the Capital for hearing and determination. After hearing the evidence the Justice of the Peace, honorable Lucio S. Miranda, reached the conclusion that the plaintiff was the owner,as purchaser from the defendants, of one-third of said lots Nos. 1890 and 2014, and rendered a Judgment ordering the defendants Dominga Yubiengco and Rufina Peña to deliver said one-third portion of lots Nos. 1890 and 2014 of the Naic Friar Landa Estate to the plaintiff, with costs. The Director of Lands was absolved from the complaint. The defendants' counterclaim and cross-complaint were dismissed.

From that Judgment the defendants, with the exception of the Director of Lands, appealed, and now make several assignments of error.

After a careful, examination of the evidence in relation with the assignments of error, we are of the opinion that the Judgment of the court a quo is in accordance with the facts and the law. Therefore, the same should be and is hereby affirmed, with costs. It is so ordered.

Ten days after the promulgation of this decision final Judgment will be entered, and five days thereafter the record will be remanded to the court below.

Avanceña, C. J., Villamor, Ostrand, and Villa-Real, JJ.. concur.

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