

**BONATO DINGLASAN, FOR HIMSELF AND AS ADMINISTRATOR OF
THE ESTATE OF THE DECEASED JUANA LARDIZABAL; ET AL.
PLAINTIFFS AND APPELLEES VS. MACARIO LARDIZABAL,
REPRESENTED BY HIS GUA...**

G. R. No. 34345. December 05, 1931

Ponente: JOHNSON, J.

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JOHNSON, J.:

This action was commenced in the Court of First Instance of Tuyabas on March 8, 1929. Its purpose was to secure the partition of a parcel of land located in the municipality of Sariaya of said province, with an area of about 19 hectares, more particularly described in the complaint.

The plaintiffs alleged that they were the owners of said land that the defendant was only entitled to one-half thereof in usufruct; and that he was and had been in possession of said land since the year 1924. They prayed that a Judgment be rendered, ordering the partition of said land, and directing the defendant to render an account of the fruits thereof from the year 1924.

The defendant made a general denial, and alleged that said land belonged to him exclusively, or at least, it was conjugal property. He also presented a counterclaim in the sum of P500.00. Because of old age a guardian was appointed for the defendant.

Upon the issue thus presented, the cause was brought on for trial. After hearing the evidence the honorable Francisco Enage, judge, reached the conclusion that the land in question was the exclusive property of the deceased Candida Camacho, and passed to the plaintiffs by inheritance and rendered a Judgment in favor of the plaintiffs, ordering the partition of said land in accordance with the prayer of the complaint, and directing the defendant to render an account of the fruits thereof and to pay the costs. The dispositive part of the decision reads as follows:

"Procede, pues, declarar que el terreno en cuestion es de la propiedad privativa de Candida Gamacho, y, en sa virtud, se decreta la particion de la finca decreta en la demanda de autos, y se ordena al demandado Macario Lardizabal o a bu tutor, rinda cuenta detallada y justificada de sa administracion desde la fecha de la muerte de Candida Camacho hasta la fecha en que se efectue la particion, y entregue a los aque demandantos la parte que debe eorresponderles en dichos fratoe, con las costas al mismo demandano."

From that Judgment the defendant appealed, and now makes several assignments of error.

After a careful examination of the record in relation with the assignments of error, we are fully persuaded that the findings and conclusions of the lower court are correct, and that the judgment appealed from is in accordance with the facts and the law. The same is therefore 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 demanded to the court below.

Street, Villamor, Ostrand and Villa-Real, JJ., concur.
Avanceña, C. J., took no part.

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