

**RAFAEL ENRIQUEZ ET AL., PLAINTIFFS AND APPELLEES, VS.
FRANCISCO ENRIQUEZ ET AL., DEFENDANTS AND APPELLANTS.***G.R. No. 3474. September 20, 1907*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-3474/>

The plaintiffs brought this action in the Court of First Instance of Manila on the 2d day of June, 1902, asking that a deed made by Antonio Enriquez on the 27th of March, 1883, conveying to the defendant Carmen de la Cavada certain real estate in the city of Manila, be annulled and set aside. Judgment was rendered in the court below to the effect that the plaintiffs were the owners of an undivided half of the said real estate, and that the defendant Carmen de la Cavada should pay to the plaintiffs upward of 13,000 pesos, as rents and profits thereof. Both parties moved for a new trial on the ground of the insufficiency of the evidence, but the plaintiffs in this court have neither assigned as errors the rulings made against them by the lower court nor have they discussed any such rulings in their brief. So much of the decision, therefore, as is adverse to the plaintiffs we can not consider, and the questions to be resolved are those presented by the appeal of the defendants.

The decision of the court below was based upon the following facts, deemed to be established by the evidence, namely, that Antonio Enriquez and Doña Ciriaca Villanueva were legally married prior to the year 1860; that in 1861 the property in question was acquired by Antonio Enriquez; that it thereby became a part of the property belonging to the conjugal partnership; that Doña Ciriaca Villanueva died in 1882; that upon her death an undivided half of the property passed to her heirs, the plaintiffs; that when, in 1883, Antonio Enriquez undertook to convey the entire property to the defendant Doña Carmen de la Cavada he, as a matter of law, conveyed only one half thereof, and that the other half remained and now is the property of the plaintiffs.

The correctness of this decision depends upon the question as to whether Antonio Enriquez and Doña Ciriaca Villanueva were legally married in 1861. The court below found, and the evidence sustains that finding, that a marriage ceremony was duly performed between these persons in 1865, but held that the fact that prior to 1861 they had lived together as husband and wife, had been recognized as such, and had had children who were baptized as the legitimate children of their lawful marriage was sufficient evidence to raise the presumption that they were at that time legally married.

A marriage ceremony having been duly celebrated between these persons in 1865, it is necessary, in order to show that they were legally married before that time, to prove that the same kind of a marriage ceremony had theretofore been celebrated. Although, as held by the Supreme Court of the United States, by the common law of England, a valid marriage might be contracted without the intervention of any ecclesiastical or civil functionary (*Traverse vs. Rheinhardt*, 27 Sup. Ct. Rep., 563, decided April 15, 1907), yet such was never the law in these Islands during the Spanish domination here. During the entire period of that domination no valid marriage could exist unless some ecclesiastical or civil functionary intervened in its celebration, and the intervention of civil functionaries was limited to the short time elapsing between the 8th day of December, 1889, when the Civil Code took effect here, and the 29th day of the same month, when the provisions of Title IV, Book I, of that code were suspended. During the time covered by the lives of Antonio Enriquez and Doña Ciriaca Villanueva no valid marriage between them could be contracted by their mere agreement to live together as husband and wife.

There is proof in this case that a marriage, valid in accordance with the laws then in force in these Islands, was celebrated between these persons in 1865. In order to show that they were before that time husband and wife, it was necessary to prove that a marriage ceremony in which an ecclesiastical functionary intervened was duly celebrated. No proof of any such marriage was offered. As has been said, the fact that prior to 1865 they lived together as husband and wife and had children is not evidence in this case to show that they were married prior to that time. Nor is the fact that in the certificates of baptism of these children it is stated that they were the legitimate children of the lawful marriage of their parents.

The court below said:

"Loss of the record of the first marriage, or some like reason, might have made the second ceremony seem necessary and for that reason it was celebrated."

This consideration is to our minds entirely insufficient to explain the celebration of the second marriage. If the former marriage had taken place, it must have been celebrated before some priest or other officer of the Roman Catholic Church. The law required that a record of such marriages should be kept in the parish registry, and if such marriage in fact had been performed, it probably would have been easy to have obtained a certified copy of such record. No evidence was offered in this case of any attempt to obtain such record or that the records of the church where the ceremony had been performed had been destroyed. In fact, no proof whatever was offered in the case to show the celebration of such prior marriage, except the facts herein before stated, that the parties lived together as husband and wife and had children who were baptized as aforesaid. We hold that this evidence is insufficient to prove in this case a prior marriage, where it appears that a marriage ceremony was duly performed between the parties at a later date; and we therefore hold that Antonio Enriquez and Doña Ciriaca Villanueva were not legally married prior to 1865, and that, therefore, when this property was acquired by Antonio in 1861 it did not become a part of the property belonging to the conjugal partnership, but on the contrary was a part of the capital which he brought to the marriage. Being a part of the capital brought to the marriage by the husband, upon the death of the wife—the husband surviving her—no interest whatever therein passed to her heirs.

The judgment of the court below, which rests solely upon the proposition that at the time of the death of Doña Ciriaca Villanueva one half of this property passed to her heirs, can. not, therefore, be sustained. That judgment is reversed, without costs to either party in this court, and judgment is entered acquitting the defendants of the complaint, with the costs of the first instance against the plaintiffs. So ordered.

Arellano, C. J., Torres, Johnson, and Tracey, JJ., concur.

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