

MONICO ADRIAS, ETC., PLAINTIFF AND APPELLEE, VS. GUILLERMO DE LEON, DEFENDANT AND APPELLANT.

G. R. No. 34770. December 05, 1931

Ponente: OSTRAND, J.

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OSTRAND, J.:

This is an appeal from a judgment of the Justice of the Peace of Santa Cruz, Laguna, to whom the case was referred for trial by the Court of First Instance of Laguna, adjudicating the land in litigation to the plaintiff and ordering the defendant to make delivery of the said land to the plaintiff, as well as the 15 cavanese of palay produced by the land every year or the value thereof at the rate of P3.50 a cavan from the year 1923 to date of payment, with costs against the defendant.

On December 23, 1921, Praxedes Egargue and Hipolita Ronquillo, widow and sister, respectively, of the deceased Prudencio Ronquillo, made an extrajudicial partition of the property left by the said deceased, and the parcel of land involved in this case was given to Hipolita Ronquillo. Upon the death of the latter, the plaintiff obtained an appointment from the court as administrator of the estate of Hipolita Ronquillo, and in the same case a plan of partition was filed. The land in question was thereupon adjudicated to the plaintiff Monico Adrias, and the said plan of partition was approved by the court on November 18, 1922, but on August 27, 1924, Praxedes Egargue brought an action, asking the annulment of the partition above said, which was dismissed by the court below on April 14, 1926, and upon appeal, this court dismissed her appeal.

On the other hand, the defendant Guillermo de Leon tried to show that Prudencio Ronquillo, in life and during his sickness, proposed to him the sale of the land in question, but as he had no sufficient funds at the time, he only paid P200.00 on account of the price, although no deed of sale nor any receipt for the amount paid has been issued in his favor, and the defendant from that time took possession, of the land to the time Praxedes Egargue executed the corresponding deed of sale in his favor, January 7, 1923.

Upon trial the court below rendered its judgment as above, and the defendant appealed to this court. Upon appeal the defendant made the following assignments of error:

"I.- The lower court erred in adjudging damages in favor of the plaintiff at the rate of P52.50 a year from the year 1923.

"II.- The lower court also erred in declaring plaintiff the owner of the land in question and in not maintaining the right of the defendant to the possession of the said land."

The assignments of error relate only to facts, and as the evidence is not before U3, we are not in position to pass upon the rulings of the court below.

The appealed judgment is affirmed, with costs against defendant-appellant.

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.

It is so ordered.

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

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