

MANUEL MESIA, PLAINTIFF AND APPELLANT, VS. PLACIDO MAZO AND RESTITUTA MORANA, DEFENDANTS AND APPELLEES.

G.R. No. 3597. September 24, 1907

Ponente: JOHNSON, J.

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JOHNSON, J.:

On the 25th day of April, 1904, the plaintiff commenced an action in the Court of First Instance of the Province of Romblon against the defendants to recover the possession of a certain piece of land described in the complaint, and to recover the sum of P224 as damages for the unlawful detention of the same.

On the 16th day of May, 1904, the defendants answered the complaint, denying all and each of the allegations of the said complaint and for a special answer alleged that the defendant Restituta Morana was the exclusive owner of the said property and that she had inherited the same from her ancestors; that Placido Mazo was the husband of the defendant Restituta Morana.

After hearing the evidence adduced during the trial of the cause, the Hon. A. S. Crossfield, then presiding as judge in the Court of First Instance of said province, found the following facts:

"1. That the defendant Restituía Morana was the owner and in possession of the land in question by inheritance from her ancestors prior to 1893, and that in 1893 she hypothecated the land for a consideration to one Miguelita Machete; that subsequently, in 1903, she redeemed said land from said hypothecation and returned to the occupancy and possession of the same.

"2. That the plaintiff knew all about the hypothecation of the land in question by the said defendant Restituta Morana, to the said Miguelita Machete, who was a member of her (Machete's) family, and that his (plaintiff's) registry of possessory title and declaration of ownership subsequently gave him no right to the land; that he did not purchase the land from Tomasa Marflele, as alleged, or from anyone else having authority to sell the same.

"3. That the defendant Placido Mazo is the husband of the defendant Restituta Morana, and is only interested in such land as such."

Upon these facts the said judge rendered a judgment in favor of the defendants, assessing the costs against the plaintiff.

From this judgment of the lower court the plaintiff, after making a motion for a new trial in the lower court, appealed to this court and made the following assignment of errors:

"1. That the lower court erred in writing and announcing his decision in the English language.

"2. That the lower court erred in declaring that the transaction between the said Miguelita Machete and the defendant Restituta Morana was a mortgage and not a sale.

"3. That the lower court erred in declaring that the land in question was repurchased by the defendant Restituta Morana.

"4. That the lower court erred in declaring that Restituía Morana is the owner of the land in question."

With reference to the first assignment of error above quoted, this court has frequently decided that it was error for a lower court to write and render its decision without translation into the Spanish language, but that this error was not sufficient, in view of the provisions of section 503 of the Code of Procedure in Civil Actions, to permit the judgment to be reversed on that ground alone; and, more-over, under the provisions of Act No. 1123 ' of the Philippine Commission, there is an express provision that under certain conditions no part of the proceedings need be translated into the Spanish language except on appeal, when the English briefs shall be accompanied by translations in the Spanish language. (Gaspar v.s. Molina, 5 Phil. Rep., 197.)

With reference to the second assignment of error above noted, upon an examination of the evidence, we find that there was a large preponderance of evidence in favor of the finding of the lower court.

Upon the third assignment' of error above noted, the evidence discloses also a preponderance of proof in favor of the finding of the lower court.

With reference to the fourth assignment of error above noted, we are satisfied that the evidence clearly shows that the said Restituía Morana was the owner of the land described in the judgment of the lower court, and therefore the judgment of the lower court is hereby affirmed, with costs. So ordered.

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

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