

**EULALIA ESPINO ET AL., PETITIONERS AND APPELLANTS, VS.
DANIEL ESPINO, RESPONDENT AND APPELLEE.***G.R. No. 3609. October 12, 1907*

Ponente: WILLARD, J.

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The appellants filed a petition in the Court of Land Registration asking that the tract of land therein described, situated in the municipality of Orani, in the Province of Bataan, be inscribed in their names as owners. Daniel Espino, as administrator of the property of Tito Espino, deceased, appeared and opposed the petition. Judgment was entered in the court below ordering that the land be inscribed, one-half in the name of the petitioners as owners and the other half in the name of Daniel Espino, the administrator aforesaid. From this judgment the petitioners appealed.

The petitioners based their claim of ownership upon: (1) A deed issued by the Spanish Government in 1894 to Victoriana Quintana; (2) a deed of gift made in 1895 by Victoriana Quintana to her son, Catalino Espino; and (3) the fact that they, the petitioners, are the legal heirs of Catalino Espino.

At the trial the petitioners presented, and there was received in evidence, a deed issued by the Spanish Government on the 14th day of June, 1894, to Victoriana Quintana in proceedings for the adjustment of lands. This deed was duly recorded in the registry of property. At the time the deed was executed, the grantee was a widow, her husband, Tito Espino, having died many years before. By virtue of this deed she became the owner of the property. At the trial in the court below, the appellee sought to overcome the deed by proof that Tito Espino was the owner of the land in his lifetime and had been in possession thereof for many years. Similar attempts were made in the cases of Valenton vs. Murciano (3 Phil. Hep., 537), Cacnio vs. Baens (5 Phil. Kep., 742), and Cansino vs. Valdez (6 Phil. Rep., 320). In the first of these cases the Government sold the land, and in the other two the deed was made as it was in the case at bar, in proceedings taken in accordance with the regulations of 1880. In all of these cases we held that the deed could not be destroyed by such evidence as was offered in this case.

Victoriana Quintana being, therefore, the owner of the land in question in 1894, the next question is whether she, in 1895, transferred it to her son, Catalino Espino. It was proven by the indices still remaining in this court that, on the 21st of June, 1895, she executed a deed of gift in favor of her son Catalino Espino before Isabelo de Silva, a notary public of the Province of Bataan. The protocol of the notary and the records of the registry of property were destroyed during the insurrection. The wife of Catalino Espino, the petitioner, Eulalia Espino, testified that she had seen the first copy of this deed of gift and that it conveyed to her husband this property. It was also proven that this first copy had been lost. Other evidence of a similar nature was presented.

On the 26th of August, 1901, Catalino Espino instituted before the justice of the peace of Samal, in the Province of Bataan, proceedings to obtain a possessory information. In his petition he alleged that he had acquired title to the property by a deed of gift from his mother, Victoriana Quintana; that the records of the notary and of the registry of property had been destroyed, and that the first copy which he had possessed had been lost, and that he,

therefore, had no written evidence of his title. He asked, among other things, that his mother, Victoriana Quintana, be examined under oath as to the fact of this deed of gift. She was also named in the proceedings as an adjoining proprietor. As such she was notified thereof and stated that she had no objection to the granting of the petition of Catalino Espino. In accordance with the prayer of the petitioner, her evidence was, on the 31st of August, 1901, taken by the justice of the peace and she, in her declaration then made, stated that she had executed a deed of gift of the property to her son, Catalino Espino. She was blind at the time and requested that Daniel Espino, her son, the appellee in this case, sign the declaration for her. This was done.

The foregoing facts appear from the possessory information which was offered in evidence. The appellee presented parpl evidence for the purpose of showing that the statements contained in the record made by the justice of the peace were not true and that Victoriana Quintana gave no such testimony before the justice of the peace as his record would indicate. Evidence to support the record was introduced by the petitioners. The justice of the peace was dead, but his clerk, who wrote the deposition of Victoriana Quintana, confirmed what was said in the record of the proceedings. It appears from the evidence, both of the appellants and the appellee, that Daniel Espino was not present when his mother's deposition was given, but it also appears that he, in fact, signed the deposition the next day and did so, we think, with full knowledge of its contents. The evidence is entirely sufficient to prove, and the court below, in fact, so found, that a deed of gift was made by the mother to Catalino Espino, as claimed by the petitioners.

As to the rights of the petitioners as successors to those of Catalino Espino, there is no question.

The judgment of the court below is reversed and the case remanded with instructions to enter judgment ordering the inscription of all the land in question in the name of the petitioners. No costs will be allowed to either party in this court. So ordered.

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

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