

MARIANO MADAMBA, PLAINTIFF AND APPELLEE, VS. PELAGIA MAGNO ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 3806. February 04, 1908

Ponente: JOHNSON, J.

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JOHNSON, J.:

This action was brought in the Court of First Instance of the Province of Ilocos Norte, by the plaintiff to recover possession of a certain piece or parcel of land which was more particularly described in the first paragraph of the complaint.

The court below, after hearing the evidence, found that the plaintiff was the owner of the land in question and was entitled to the possession of the same. From this decision the defendants appealed to this court.

The theory of the plaintiff is that in the year 1881 one Juan Talon purchased the land in question from one Luciano Magno, the husband of the defendant Pelagia Magno; that the said Juan Talon remained in possession of the said land under said alleged contract of sale from the year 1881 to the early part of the year 1901; that during this period no claim had been made by the defendants against the right of possession of the said Juan Talon; that the said Juan Talon died in the year 1901, leaving as his heirs Dominga Talon, Sabina Talon, Marta Talon, and Lucio Talon; that soon after the death of the said Juan Talon the said heirs, in accordance with the provisions of article 1060 of the Civil Code, extrajudicially divided the estate of the said Juan Talon among themselves by mutual agreement; that by said mutual division the land described in paragraph 1 in the complaint in this cause was given to the said Sabina Talon and Dominga Talon; that on the 13th day of September, 1904, the said Sabina Talon and Dominga Talon, by means of a formal public document, sold and transferred the said land to Mariano Madamba, the plaintiff herein. To maintain the claim of the plaintiff that the inheritance of Juan Talon was mutually divided between his said heirs, the plaintiff presented in evidence Exhibit I, which related the facts concerning the said division. This document was executed on the 7th day of June, 1905. The plaintiff claims that this document was simply a written statement of what had actually been done by the said heirs verbally, in the year 1901.

It appears from the record that soon after the death of Juan Talon his heirs mutually agreed to divide the inheritance, as indicated in said document executed upon the 7th day of June, 1905. This mutual agreement was not reduced to writing at the time it was made; however, each of the heirs entered into the possession of his respective share of the estate. The law did not require this division of the inheritance to be reduced to writing. A verbal mutual agreement between the heirs was sufficient.

Between the time of the division of the inheritance and the time of the execution of said Exhibit I, one of the heirs, Lucio Talon, had died and in the execution of said document on the 7th day of June, 1905, the widow represented the interests of the minor heirs. The defendant claims that the widow of Lucio Talon, under the present Code of Procedure in Civil Actions (sec. 553) had no authority, in the absence of an order of the court, to represent the minors in matters relating to the estate. This contention of the defendants would be tenable, except for the fact that

the said heirs had previously, under the old law, actually divided the said estate. The document of June 7, 1905, was not the only evidence of what had already been done during the lifetime of all the adult heirs of the estate of the said Juan Talon.

There was some evidence adduced during the trial of the cause by the plaintiff attempting to show that the defendant Pelagia Magno had instituted an action before a justice of the peace to recover said land. Whether she did or did not does not clearly appear from the record. It does appear from the record, however, that the plaintiff in this cause was not a party in the cause before the justice of the peace and therefore could in no way be affected by such action.

From all of the evidence brought to this court, we are of the opinion, and so hold, that the plaintiff is entitled to the possession of said land as against the defendants, and therefore the judgment of the court below is hereby affirmed with costs. So ordered

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

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