

ISIDORA GACRAMA ET AL., PLAINTIFFS AND APPELLEES, VS MARIA LOZADA ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 3834. January 13, 1908

Ponente: JOHNSON, J.

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JOHNSON, J.:

On the 9th day of May, 1906, the plaintiffs presented a complaint in the Court of First Instance of the Province of Cebu against the defendants for the purpose of recovering a certain house alleged to have been constructed by the plaintiff, Isidora Gacrama, and for the purpose of recovering of said defendants the sum of 200 as damages.

To the complaint of the plaintiffs the defendants filed a general denial.

After hearing the evidence adduced during the trial of said cause, the judge of the court below rendered a decision in favor of the plaintiffs and against the defendants, declaring that the said house was the property of the plaintiffs, and that the defendants should deliver the possession of the same to the said plaintiffs and also that the defendants should pay to the plaintiffs the sum of 20 per month, commencing with the month of May, 1905, and continuing to the date of the decision, the 18th day of August, 1906, and to pay the costs.

From this decision the defendants duly appealed, after having made a motion for a new trial in the court below.

The plaintiffs claim that the house in question was constructed by them, and that they paid for the materials and labor that entered into the construction of said house.

The contention of the defendants is that they constructed the house and paid for the labor and material that entered into said construction.

Certain witnesses were examined who had performed labor upon the said house in its construction. They testified that the plaintiff, Isidora, paid for a part of the material that entered into the construction of the house, as well as for a part of the labor; that sometimes the laborers were paid by the plaintiff Isidora and sometimes by the defendant Maria, and sometimes by one of the other defendants; that the defendants also paid for part of the material.

To support the claim that the house belonged to the defendants, they presented a number of receipts as evidence, during the trial, to show that the said Maria Lozada had paid to the owner of the land on which the said house was located a monthly rental for the use and occupation of the said land. The defendant also presented a license obtained from the secretary of the municipality of Cebu showing that the said Maria Lozada had been granted permission to build the house in question. The defendants also presented a tax receipt for the year 1905, which shows that the defendant, Maria Lozada, paid the taxes upon said house during that year.

From an examination of all of the evidence adduced during the trial we are persuaded that there is a great preponderance of evidence in favor of the contention of the defendants and appellants. The evidence presented by the plaintiffs was not sufficient to show that they were entitled to be declared to be the owners of said house. The

judgment of the lower court is, therefore, hereby reversed, and without any finding as to costs, it is so ordered.

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

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