

ALIPIA DURLAO, PLAINTIFF AND APPELLANT, VS. CANDIDO POBRE II, DEFENDANT AND APPELLEE.

G.R. No. 4066. October 06, 1908

Ponente: WILLARD, J.

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WILLARD, J.:

The plaintiff, claiming to be the owner of a tract of land of 166 square meters in extent, brought this action against the defendant in the Court of First Instance of the Province of Ilocos Norte to recover the possession thereof. The defendant in his answer alleged, first, that the land which he possessed in the locality described in the complaint was not the same land as that described therein. In the second paragraph he alleged that the land which he thus possessed was his exclusive property and that he had been in the occupation thereof for many years. Judgment was entered in favor of the defendant and the plaintiff has appealed.

The first assignment of error relates to the sufficiency of the answer, the appellant claiming that, in view of the fact that it contains no general or special denial of the facts stated in the complaint, it was an admission of the truth of those facts. It is true that there is no specific denial of the truth of the allegations of the complaint, but the second paragraph of the answer is an implied denial. In effect the plaintiff alleged that she was the owner of the land occupied by the defendant. The defendant in his answer alleged that he was the exclusive owner of this land. This necessarily amounted to a denial that the plaintiff was the owner.

The plaintiff claimed that Maria Valenzuela sold the land in question to her in 1901, and presented a deed therefor which purported to be signed by the said Maria Valenzuela. It was proven that Maria Valenzuela sold or pledged the land to the defendant in 1902 and that the defendant has been in the possession thereof since that time. He has maintained and won two judicial actions relating thereto, one against Maria Valenzuela and the other against Manuel Echiverri and Cipriano Echiverri, the sons of the plaintiff. In the last action the then defendants relied upon the same deed which was presented by the plaintiff in this case, namely, the deed from Maria Valenzuela to their mother Alipia Dumlao. In that case the court held that the deed never was signed by Maria Valenzuela. The same court made the same ruling in this case, saying, among other things, that the signature of Maria Valenzuela which appears at the bottom of the document was entirely different from her signature as it appears where she signed her name to her testimony in court. The appellant has not seen fit to bring here the last signature above mentioned, and we have no opportunity of making a comparison for the purpose of determining the genuineness of the signature to the first document. We, therefore, can not say that the evidence presented in the court below did not justify the finding therein made in relation to said signature:

The judgment appealed from is affirmed, with the costs of this instance against the appellant. So ordered.

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

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