

**ROSALIA MANSILUNGAN, PLAINTIFF AND APPELLANT, VS.
SILVESTRE BALAGTAS, ADMINISTRATOR OF THE ESTATE OF MARIA
N. CRUZ, DEFENDANT AND APPELLEE.**

G.R. No. 4208. March 25, 1908

Ponente: CARSON, J.

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CARSON, J.:

REALTY; EVIDENCE OF OWNERSHIP.—From the Court of First Instance of Bulacan. Appellant alleged error in the findings of fact by the trial judge. That the fact that the original defendant exercised the rights of ownership over the property throughout a number of years, and received certain landing tolls for the use, held sufficient to overcome the evidence of the appellant. Judgment for defendant affirmed.

Per Carson, J.

For appellant: Rafael Talma.

For appellee: Vicente Foz.

DECISION

This appeal is based upon alleged errors in the findings of fact by the trial judge, in that he holds that the original defendant is in possession under claim of ownership of the tract of land in question, and that whatever weight should be given the evidence introduced by the plaintiff, the evidence at most tends to establish the right of ownership and possession of her deceased husband in and to the land, and fails to establish any such right in the plaintiff herself.

We think upon a review of all the evidence that the findings of the trial court are supported by the weight of the evidence, and should be sustained.

The possession of the plaintiff and the exercise by her of rights of ownership in the particular land in question throughout a long period of years are clearly established by the duly inscribed expediente posesorio executed in 1893, the receipt through a number of years of peaje (landing toll) from steamers touching at the point where the land is situated; and the rental contract executed by the plaintiff in favor of one H.L. Higgins, in 1902. The pretensions of the plaintiff that the defendant recovered the landing tolls and received the rent under the contract with Higgins by her authority and not under claim of ownership, and that she permitted the defendant to keep this money as an act of charity are not supported by satisfactory evidence, and were properly rejected by the trial court.

It is not necessary to determine whether the particular tract in question is included in the land which the documentary evidence introduced by the plaintiff tends to prove were purchased by her husband, because we think that this documentary evidence clearly established the fact found by the trial judge, that this land was purchased by plaintiff's husband; the oral testimony of the witnesses quoted in appellant's brief to the effect that it

was bought by both husband and wife is not sufficient to maintain a finding to that effect.

We might add that granting that whatever land was purchased, was purchased for husband and wife jointly, there would still be grave doubt whether the evidence of record in this case is sufficient to establish a better right to possession in the vendor, than the right of the original defendant in this action. It is not necessary, however, for us to make a finding upon this point because we are of opinion that the evidence of record fails to establish plaintiff's allegation as to her joint ownership of the land with her husband.

The judgment of the trial court is affirmed with the costs of this instance against the appellant. After twenty days let judgment be entered in accordance herewith and ten days thereafter let the record be returned to the court wherein it originated.

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