

BALTAZAR ALUNEN AND EMMA ALUNEN, PLAINTIFFS AND APPELLANTS, VS. TILAN (PAGAN), DEFENDANT AND APPELLEE.

G.R. No. 44634. November 09, 1938

Ponente: DIAZ, J.

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DIAZ, J.:

By reason of the appeal taken by the plaintiffs from the judgment of the lower court, declaring the defendant the owner of the land described in the complaint, by purchase from Vicenta Sumaoi who, it was held, had inherited the same from her deceased husband Raymundo Baobaoen, the question now to be decided in this instance, taking into account the evidence presented during the trial, is whether or not Vicenta Sumaoi could have validly inherited the land in question from her said deceased husband Raymundo Baobaoen. To this, in fact, may be condensed the questions raised by the appellants by means of the errors attributed by them to the lower court, as follows:

"1. The lower court erred in holding that the defendant acquired a valid title to the property in question.

"2. The lower court erred in assuming that the property in question was given to Vicenta Sumaoi as the money value of her usufruct.

"3. The lower court erred in not declaring the plaintiffs to be the owners of the land in dispute, in not ordering its delivery to them and in not awarding damages to the amount of P500.

"4. The lower court erred in denying the motion for new trial of the plaintiffs."

There is not the least disagreement between the parties as to the following facts: Raymundo Baobaoen died on October 16, 1928. During his first marriage, he had only one child, Ursula Baobaoen, who died on January 30, 1934, leaving her two children Baltazar Alunen and Emma Alunen, the two appellants herein. A few years after Raymundo Baobaoen became a widower, he contracted a second marriage with Vicenta Sumaoi, who died about the year 1930. Before his said second marriage, he was already the owner, and it was so admitted by Vicenta Sumaoi herself during her lifetime, of the lands described in Exhibit A, whose translation from Spanish is Exhibit A-1, as well as of the land now in question, which is no other than that declared for land tax purposes by Vicenta Sumaoi in Exhibit G, on August 1, 1929, as having been inherited by her from her deceased husband Raymundo Baobaoen. Some months before she died, Vicenta Sumaoi sold the land in question to the defendant-appellee who, from the time he purchased it by paying therefor the sum of P500 on account, occupied and continues to occupy it to this date. Neither is there any disagreement between the parties as to the fact that Raymundo Baobaoen and Vicenta Sumaoi had no children during their marriage union.

No competent evidence has been presented during the trial to show that said deceased Vicenta Sumaoi had, during her lifetime, inherited the land sold by her to the defendant-appellee in 1929, Exhibit G not being by its own nature such evidence, because it is but a declaration of ownership executed by Vicenta Sumaoi in compliance with the real estate tax law. It does not appear that Raymundo Baobaoen has left any will at all, or that any court has declared that his widow has succeeded him, as his heiress, to some specific property. The only thing that may be presumed and even admitted in favor of Vicenta Sumaoi is that from the death of her husband Raymundo

Baobaoen, she was entitled during her lifetime to the usufruct of the third portion available for the betterment of Ursula Baobaoen, the mother of the appellants (article 834 of the Civil Code). However, there is no evidence of record that Ursula Baobaoen, in her lifetime, or her surviving children, that is, the herein appellants, after her death, have satisfied Vicenta Sumaoi's hereditary portion as surviving spouse, either by the settlement upon her of a life annuity or the income from some specific property, or by paying her some money by way of compensation for her usufructuary interest, with or without judicial intervention (article 838 of the Civil Code). It is inferred from the foregoing that Vicenta Sumaoi did not inherit and could not have inherited the land in question from her deceased husband Raymundo Baobaoen, and that the same had not been assigned to her by the heirs of Raymundo Baobaoen in payment of her usufructuary rights as the widow of the latter, because it is only when there are neither forced heirs nor brothers and nephews, that a surviving spouse, who has not been separated from the deceased spouse, inherits and succeeds to the entire estate of the latter (articles 807, and 930 to 952 of the Civil Code). Therefore, when Vicenta Sumaoi sold the land in question to the defendant-appellee, she did so without any right or title thereto.

However, the appellee, in purchasing the land in question, did so in the best of faith, and was fully convinced that the person from whom he purchased it was the real owner thereof, and therefore could transmit to him the title thereto. Consequently, his possession from the moment of the purchase up to the date on which he was served with summons in connection with the complaint, was and should be considered as one in good faith (articles 1950 and 433 of the Civil Code), and, under such circumstances, he had a perfect right to keep and enjoy the fruits of said land, at least until he was served with summons in connection with the present case, on November 3, 1934, by virtue of the complaint filed by the plaintiffs against him for the recovery of the possession and ownership thereof (articles 451 and 1945 of the Civil Code).

The evidence shows that when the harvest is good, the land under consideration yields a crop of palay worth P100 annually, and that one-half of said crop belongs to the owner of the land and the other half thereof belongs to the person who cultivated it. Therefore, the plaintiffs-appellants are entitled to an indemnity in the sum of P40 a year, allowing, of course, a reasonable margin for bad harvests, from November 3, 1934, up to the time the land is returned to them by the defendant-appellee.

Wherefore, the judgment appealed from is hereby reversed, declaring the appellants to be the owner of the land in question and sentencing the appellee to pay to said appellants, by way of indemnity, the sum of P40 for every agricultural year counting from November 3, 1934, until the possession of said property has been restored to them; and the appellee is ordered to restore the same to the appellants immediately after this judgment becomes final, with costs to the appellee. So ordered.

Avanceña, C. J., Villa-Real, Abad Santos, Imperial, and Laurel, JJ., concur.

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