

DAMASA SEGUI, PLAINTIFF AND APPELLANT, VS. CANDIDO SEGUI, DEFENDANT AND APPELLEE.

G.R. No. 4471. September 09, 1909

Ponente: JOHNSON, J.

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JOHNSON, J.:

The plaintiff commenced an action in the Court of First Instance of the Province of Ilocos Sur, on the 14th day of November, 1906, against the defendant for the purpose of securing a partition of two parcels of land situated in the pueblo of Cabugao of the said province.

The plaintiff and defendant were brother and sister. The plaintiff alleged that the parcels of land had been inherited by them from their father, Nicolas Segui, and that, therefore, the parcels of land should be divided equally.

Upon hearing the evidence, the lower court found that the evidence adduced during the trial of the cause did not show that the plaintiff was entitled to a partition of the property in question. From that decision, the plaintiff appealed and made two assignments of error;

First. That the lower court committed an error in the appreciation of the proof adduced during the trial of the cause; and

Second. That the lower court committed an error in applying the rule of prescription.

From an examination of the record, the following facts seem to be clearly proven:

First. That Nicolas Segui, the father of the present litigants, during his lifetime owned or was in possession of several tracts of land in the various sitios of the pueblo of Cabugao.

Second. That he had several children.

Third. That at the time of the marriage of each child, he gave to each a portion of land, and that the land in question here had been received by the parties to this action from their parent as a marriage gift.

Fourth. It was agreed between the parties during the trial that the defendant had been in possession of his tract of land for a period of twenty years, and the evidence shows that the plaintiff had received the parcel of land which she possessed, prior to the time when the defendant went into possession of his tract. The evidence further shows that the plaintiff had received other parcels of land besides the one which she now possesses, which had been attached and sold for certain debts of herself or her husband. It is admitted that neither of the parties to this action, nor their father, had any documents representing their ownership of said property.

The evidence further shows that at the time of the death of Nicolas Segui and for some time prior thereto he owned no property whatever of any description, and at the time of his death he left no estate. The evidence, in our opinion, shows beyond question, that the land in question had been given by Nicolas Segui as an absolute gift to

the respective parties to this action, and that the same can in no way be considered as a part of a coparcenary estate, and therefore the heirs have no right to a partition of the same. The property in question had become, by virtue of the gift of their father, the absolute property of each. Having arrived at this conclusion, that the parties are not entitled to a partition of the property in question, it is unnecessary to discuss the second assignment of error above mentioned.

For the foregoing reasons, the judgment of the lower court is affirmed, and without any finding as to costs.

Arellano, C. J., Torres, Carson, and Moreland, JJ., concur.

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