

**TEOFILO SINCO, VICENTA SINCO, PORFIRIA SINCO, ASSISTED BY
PROCESO BARRIOS, ANTONIO SINCO AND PANTALEON SINCO,
PLAINTIFFS AND APPELLANTS, VS. SILVESTRA TEVES AND BRUNO
VICENTE, O...**

G.R. No. 45615. May 25, 1939

Ponente: AVANCENA, C.J.

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AVANCENA, C.J.:

Rafael Sinco y Librado, who died in 1892, left several children, among them, Moises and Regina. The plaintiffs are Teofilo Sinco, son of Moises, and Vicenta Sinco and Porfiria Sinco, Moises' grandchildren. Antonio Sinco and Pantaleon Sinco are children of Regina.

The plaintiffs, alleging that the properties left by Rafael Sinco y Librado belonged pro indiviso to his heirs and that the defendants hold without just title those described in the complaint, which are a part of said properties, ask in this action that the defendants be ordered to return to them the portion of these lands and the products thereof corresponding to them as heirs of Rafael Sinco y Librado.

It is an established fact that in the same year 1892 Rafael Sinco y Librado, while still living, with the concurrence of his heirs, made a partition of his properties among them, allotting to Antonio Sinco, Pantaleon Sinco and Cecilio Sinco, children of Regina, the lands described in the complaint known as "Odiongan" and "Talaptap". This partition appears in a document, Exhibit 3, and that it was made is evidenced by the fact that those who took part in the partition thereafter disposed of the share corresponding to each one of them.

Subsequently, that is, about the year 1910, the plaintiffs Antonio Sinco and Pantaleon Sinco, through their brother Cecilio Sinco, conveyed the part of the properties corresponding to them, namely, the subject matter of the complaint, to the defendants. While the plaintiffs Antonio Sinco and Pantaleon Sinco, admitting having signed the documents which evidence this conveyance, state having done so without knowing the contents thereof, nevertheless, this statement is gratuitous and is contradicted by that of the notary public who ratified these documents. This conveyance was, moreover, ratified by another public document in 1915.

It appears, on the other hand, that the predecessors-in-interest of the defendants, as to the lands referred to in the complaint, have been in possession as owners of these properties since they were assigned to them in the partition of 1892. The defendants continued in the possession thereof, also as owners, since they were conveyed to them in 1910 up to the present.

Finally, the defendants, in the corresponding cadastral case, obtained the certificate of title to these lands in, their names, without the plaintiffs or anyone else having laid claim upon these lands in said case.

From the foregoing it appears that the properties left by Rafael Sinco y Librado were not only already partitioned among the parties interested, but the heirs who have received the part corresponding to each one in the said partition have disposed of their shares one way or another, the children of Regina having conveyed theirs to the

defendants. Moreover, the defendants are in possession as owners of the lands referred to in the complaint, having acquired them from the children of Regina since the year 1910, at least, as the plaintiffs themselves admit in their complaint. More than twenty (20) years having elapsed since the defendants have been in possession as owners of these lands, they have acquired ownership thereof by prescription.

The acts imputed by the plaintiffs to the defendants as indicative of a recognition on their part of the undivided state of the properties left by Rafael Sinco y Librado, do not affect this conclusion. Said acts do not unequivocally show this recognition and, moreover, they were executed in connection with other persons who were not the plaintiffs.

It is not amiss to state that these lands, known as "Odiongan" and "Talaptap", did not have, while they still belonged to Rafael Sinco y Librado, the area which they now have, because there have been added to them other adjoining properties which the defendants had been acquiring from other owners.

In view of these facts, we hold that the appealed judgment should be, as the same is hereby, affirmed in so far as It absolves the defendants from the complaint, with the costs to the appellants. So ordered.

Villa-Real, Imperial, Diaz, Laurel, Concepcion, and Moran, JJ., concur.

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