

PABLO RALLONZA ET AL., PLAINTIFFS AND APPELLANTS, VS. TEODORO EVANGELISTA ET AL., DEFENDANTS AND APPELLEES.

G.R. No. 4612. March 21, 1910

Ponente: MAPA, J.

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MAPA, J.:

This is a suit for the recovery of land. It is said textually in the complaint, among other things, "that both the plaintiffs and the defendants are so numerous that it is impossible for them to appear at the trial; that the said Pablo Rallonza and Teodoro Evangelista are sufficient to represent the interests of the rest of the plaintiffs and defendants, respectively." And in accordance therewith the trial was continued in the name of the said Rallonza and Evangelista only, though they both represented, as it appears, all the other interested parties, who were very numerous, both plaintiffs and defendants, according to the statement contained in the complaint. After all the evidence had been submitted, the Court of First Instance rendered judgment as follows;

"Pablo Rallonza, and many others not mentioned by name, claim the ownership of the land described in the complaint and situated at the place called Puritac, Paoay, Ilocos Norte, as against Teodoro Evangelista and many others, likewise not mentioned by name, the former alleging that the latter unlawfully occupy the same.

"The defendant denies the charge.

"It appears by the evidence that the original owner of the lands of Puritac and Badio or Salamanca, Paoay, Ilocos Norte, was Felix Duque; that the latter's heirs, whose names or number are not given, covenanted with the Pagdilao family of Badoc, without any stipulation as to who or how many composed the family, to divide the said lands and bring water thereon for irrigation, the same being irrigable; that the actual division that may have been made is not shown, nor among whom it was made; that it is likewise not shown what portions of the lands above mentioned were reserved undivided, and what parcels were not reserved; and that, finally, it is not shown who are the descendants of the descendants of Felix Duque, nor who are those of Pagdilao and their descendants who may have taken part in the work on the irrigation ditches and in the division of the lands.

"Although it appears, by the record, that certain persons belonging either to the Duque family or to the Pagdilao family apparently executed acts of dominion over specific parcels of the said lands, it is certain that it is not possible to determine whether the said persons were or were not the owners, because the real division, which is alleged to have been made, is not known, so that the litigating parties themselves do not know and can not say who are the plaintiffs and who are the defendants, or better said, it is not known who are the owners and which are the properties that pertain to them, neither in general nor in particular.

"Not being able, for the reasons set forth, to determine who is the owner or who are the owners of the lands in question, the court acquits the defendant of the complaint, without special finding of costs."

In view of the premises established in the judgment, and which accord with the weight of the evidence and the allegation made in the complaint that the parties interested in the lands in litigation, both as plaintiffs and as defendants, are very numerous, it is evident that the suit was improperly prosecuted and decided in the name of all the aforesaid interested parties to whom reference is made, under the supposition that the latter were represented

therein by Pablo Rallonza and Teodoro Evangelista, respectively, the only ones who personally appeared in their own right and in representation of the former at the trial.

It appears that the parties proceeded as herein before related because of the provisions of section 118 of the Code of Procedure in Civil Actions. The text of this section is as follows:

"SEC. 118. Numerous parties. - When the subject-matter of the controversy is one of common or general interest to many persons, and the parties are so numerous that it is impracticable to bring them all before the court, one or more may sue or defend for the benefit of all. But in such case any party in interest shall have a right to intervene in protection of his individual interest, and the court shall make sure that the parties actually before it are sufficiently numerous and representative so that all interests concerned are fully protected."

Whatever be the real meaning of those provisions, under the different aspects in which they may be considered, we hold it to be certain and unquestionable that they ought not to and can not apply to actions instituted, as in the present case, for the recovery of property. This class of actions should always be promoted by the interested parties themselves and in the name of all and each one of them, in order that, as stated in section 114 of the aforementioned code of procedure, there may be a determination or complete settlement of the questions in litigation. He who considers himself entitled to a certain property can not be ignorant as to who are his coowners, if he has any; and, knowing them, he can not neglect to make them parties to the suit under the pretext that they are numerous. This sole circumstance does not make their summons and appearance impossible when they are personally known. In such a case, the reason or motive inspiring the provisions of section 118 would be lacking. The representation made by Pablo Rallonza, as plaintiff, and by Teodoro Evangelista, as defendant, can not bind their respective coowners, as regards the results of the trial, inasmuch as it is altogether illegal. The trial, considered from this point of view, was essentially null and void from the beginning.

The judgment appealed from is set aside, and it is ordered that a new trial be held wherein those interested in the lands in question shall be made parties, either as plaintiffs or as defendants. No special ruling is made as to the costs in this instance. So ordered.

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

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