

VIVENCIA LAGUNA, PETITIONER AND APPELLANT, VS. AMBROSIA LEVANTINO, CLEMENTE LEVANTINO AND HIS WIFE EUSE BIA BARROGA, RESPONDENTS AND APPELLEES.*G.R. No. 47386. April 18, 1941*

Ponente: MORAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-47386/>**MORAN, J.:**

On May 6, 1925, one Justo Laguna, absolute owner in his lifetime of two parcels of land described in appellant's petition for certiorari, died intestate and was survived by two children, Bonifacio and Vivencia, his third son Pantaleon having died before him leaving a daughter named Andrea who also died before him leaving a son named Esteban Laguna Fabie. Bonifacio, in turn, died intestate on May 28, 1929, without descendant and was survived only by his wife, Ambrosia Levantino. A month after the death of Bonifacio, his surviving spouse, Ambrosia Levantino, and the heirs of the deceased Justo—Vivencia and Esteban Laguna Fabie—agreed to divide extrajudicially the respective properties of the two deceased, and to this effect executed two deeds of partition, the first, Exhibit A, by Vivencia and Esteban Laguna Fabie, purporting to divide the properties left by the deceased Justo; and, the second, Exhibit B, by Ambrosia Levantino and Vivencia Laguna, purporting to divide the properties left by the deceased Bonifacio. The two parcels of land aforesaid and which constitute the sole subject of the present litigation, were erroneously included in the second deed of partition, Vivencia Laguna then of the belief that said parcels were conjugal property of the deceased Bonifacio and his spouse. Six years thereafter, Vivencia Laguna, discovering the error, instituted an action in the Court of First Instance of Pangasinan for the recovery of the portion erroneously assigned to Ambrosia Levantino. Judgment was rendered declaring, inter alia, the partition null and void and adjudging the two parcels of land to be the exclusive properties of the petitioner Vivencia Laguna. Respondent Ambrosia Levantino appealed to the Court of Appeals which reversed the judgment of the trial court, holding that the deceased Bonifacio Laguna, who had declared the two parcels of land in question for tax purposes since 1914, had acquired a perfect title thereto by prescription; that petitioner's action for the rescission of the partition has prescribed; and that petitioner is in estoppel she having signed the deed of partition.

From the undisputed facts of the case, Bonifacio Laguna's possession of the two parcels in question during the lifetime of his father Justo, appears no more than in the character of trustee. And it is a well-settled rule that possession of a trustee is, in law, possession of the cestui que trust and, therefore, it cannot be a good ground for title by prescription. The only instance in which the possession of a trustee may be deemed adverse to the cestui que trust is when the former makes an open repudiation of the trust by unequivocal acts made known to the latter. It has been held that the trustee may claim title by prescription founded on adverse possession, where it appears (a) that he has performed unequivocal acts of repudiation amounting to an ouster of the cestui que trust; (b) that such positive acts of repudiation have been made known to the cestui que trust; and (c) that the evidence thereon should be clear and conclusive. Acts which may be adverse to strangers may not be sufficiently adverse to the cestui que trust. A mere silent possession of the trustee unaccompanied with acts amounting to an ouster of the

cestui que trust cannot be construed as an adverse possession. Mere perception of rents and profits by the trustee, and erecting fences and building adapted for the cultivation of the land held in trust, are not equivalent to unequivocal acts of ouster of the cestui que trust. (*Cortes et al. v. Oliva*, 83 Phil., 480; *Bargayo v. Camumot*, 40 Phil., 857; *Espeidel v. Henrice*, 120 U. S. 377). In the instant case, the sole fact of Bonifacio's having declared the lands in his name for tax purposes, constitutes no such unequivocal act of repudiation amounting to an ouster of his father, Justo Laguna, and cannot thus constitute adverse possession as basis for title by prescription.

From what has been said, it follows that the two parcels of land in question were of the exclusive ownership of Justo Laguna in his lifetime, and upon his death, should pass to his heirs, Vivencia Laguna, Esteban Laguna Pabie and the heirs, of Bonifacio Laguna. The partition subsequently made upon the erroneous assumption that the two parcels of land were of the conjugal partnership of the deceased Bonifacio Laguna and his wife Ambrosia Levantino, and assigning to her a property to which she had absolutely no right, is a contract without consideration and is void. (Art. 1081 Civil Code; *De Torres v. De Torres*, 28 Phil., 49). The Court of Appeals, held, however, that, as six years had already elapsed from the date of the execution of the deed of partition, the action instituted by the petitioner for the rescission of the partition on the ground of lesion had prescribed, under article 1076 of the Civil Code. But, as correctly ruled by the trial court, the action is not really one of rescission, which presupposes a valid partition, but, one of revindication, ignoring a void partition, and as such, prescribes in ten years. Such partition as respect Ambrosia Levantino who has no right to inherit from Justo Laguna is legally non-existing (7 Manresa, 726) and may be completely ignored.

The Court of Appeals also ruled that the petitioner, in having signed the deed of partition, is now estopped in impugning its validity. Suffice it to say that, as a general rule, acquiescence through innocent mistake cannot constitute a basis for estoppel. (21 C. J., 1125).

The judgment of the Court of Appeals is reversed and that of the Court of First Instance of Pangasinan, affirmed, with costs against respondents.

Diaz, and Horrilleno, JJ., concur.

Imperial and Laurel, JJ., concur in the result.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.