

JOSEFA LABOT AND ZOSIMO MIRANDA, PETITIONERS, VS. EDUVIGES LIBRADA, RESPONDENT.*G.R. No. 47797. June 20, 1941*

Ponente: LAUREL, J.

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This is a petition for a writ of certiorari to review the decision of the Court of Appeals in Eduviges Librada, plaintiff-appellant, vs. Josefa Labot and Zosimo Miranda, defendants-appellees, CA-G. R. No. 5157.

'Maximino Librada married twice. In the first marriage he had six children, among whom is the respondent herein, Eduviges Librada, while in his second marriage with Nicasia Cervantes, he had no issue. Maximino and Nicasia died in 1929, and 1935, respectively. During the second marriage, the spouses acquired the house and lot which are now the subject of this controversy. The husband, before his death, executed a public instrument by which he conveyed his one-half interest in the house and lot to his wife, Nicasia Cervantes. This was on October 6, 1914. On February 20, 1922, Nicasia Cervantes, by means of a public document, in turn sold and conveyed the house and lot in question to the spouses Josefa Labot and Potenciano Mi randa.

The respondent, Eduviges Librada, one of the children of Maximino Librada by the first marriage, filed on May 26, 1936, in the Court of First Instance of Laguna, a complaint against the herein petitioners, Josefa Labot and Zosimo Miranda, for the recovery of the house and lot. Zosimo Miranda, one of the petitioners herein, is the son of Josefa Labot and Potenciano Miranda. After hearing, the trial court entered judgment for the therein defendants and herein petitioners. On appeal, the Court of Appeals reversed the decision of the Court of First Instance and hold that the conveyance executed on October 6, 1914, by Maximino Librada was in the nature of a donation of his half interest in the property in favor of his wife, Nicasia Cervantes, and, therefore, null and void by virtue of the provisions of article 1334 of the Civil Code, and declared without effect the deed of sale subsequently executed by Nicasia Cervantes in favor of the spouses Josefa Labot and Potenciano Miranda with respect to %one-half of said property and awarded one-twelfth thereof to the herein respondent, Eduviges Librada. Hence, this petition for a writ of certiorari.

Independently of the validity of the deed of donation (Exhibit 2) executed by Maximino Librada in favor of his second wife, Nicasia Cervantes, the uncontroverted fact is that Nicasia Cervantes sold the house and lot in question to the petitioners herein, who since February 20, 1922, the date of the execution of the deed of sale, have been in possession thereof for a period of more than ten years prior to the filing of the complaint against them on July 21, 1936, by the herein respondent. The petitioners relied on the validity of this deed of sale, and ther possession has been under a bona fide claim of ownership. There is here no fiduciary relationship involved. The Court of Appeals, however, decline to extend to them the benefits of acquisitive prescription on the ground, among others, that their possession was not exclusive because the vendor lived with them until her death in 1935. The fact, however, that the vendor lived with the vendees does not necessarily deprive the latter's possession of its hostile character when they are claiming under an instrument purporting to pass the legal title. To constitute exclusive possession, it is not necessary to exclude every one from all entry on the land, and the fact that another

person uses the property concurrently with the claimants by the permission of the latter or in subordination to their claim, does not, in a legal sense, militate against the exclusiveness of their possession. By the execution and delivery of the deed of sale, the entire legal interest in the premises became vested in the grantees, and if the grantor continued in possession afterwards, her possession was not that of owner, but of a tenant of the grantees. She will be regarded as having the premises in subserviency to her grantees, and nothing short of an explicit disclaimer of such relation, and a notorious assertion of right in herself would have been sufficient to change the character of her possession, and render it adverse to the grantees. We are, therefore, of the opinion and so hold that, upon the facts, the petitioners herein have acquired title to the controverted property under the provisions of section 41 of the Code of Civil Procedure.

The writ of certiorari is, therefore, granted and the judgment of the Court of Appeals hereby reversed, without pronouncement as to costs. So ordered.

Avanceña, C. J., Diaz, Moran, and Horrilleno, JJ., concur.

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