

**ARCADIO ESPIRITU, AS ADMINIS-TRATOR OF THE ESTATE OF
LADISLAWA CUENCA, ANDRES RODRIGUEZ, AS ADMINISTRATOR OF
THE ESTATE OF PURA CUENCA, GRACIA C. MATEO, BELEN
MATEO-SENA, GREGOR...***G.R. No. 50248. June 19, 1985*

Ponente: AQUINO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-50248/>**AQUINO, J.:**

This is a litigation over a parcel of land with an area of 54,799 square meters located at Quirino Avenue, Barrio Pamplona, Las Piñas, Rizal. Its registration in the names of the brothers, Juan C. Cuenca and Jose C. Cuenca, was ordered in 1965 by Judge Pedro C. Navarro of the Court of First Instance of Rizal (OCT No. 4691, Exh. G, W and 11). It was subdivided into Lots 1-A, 1-B and 1-C with areas of 4,000, 11,537 and 39,262 and covered by TCT Nos. 167364, 167365 and 167366 (Exh. X, Y and Z), respectively.

Lot 1-A was transferred in 1969 to the Deep Sea Fishing Industries, Inc. of which the Cuenca brothers are incorporators. Lot 1-C was transferred in 1968 to Rolando R. Cuenca and Manuel A. Cuenca, children of the Cuenca brothers, in a deed of sale with assumption of mortgage (pp. 9-10, RA).

The Cuenca brothers contend that they and their father, Bartolome Cuenca, had acquired the land by prescription. On the other hand, the heirs of the spouses, Candida Chavez and Juan Cuenca y Francisco, contend that they had been in the actual or constructive possession of the land since the death of the said spouses.

Juan died in 1929. Candida died in 1942. She was survived by her seven children named Bartolome, Simon, Marcela, Catalina, Paulina, Ladislawa and Pura. (who are now all dead). Bartolome used to administer the land. He died in 1944. He was supposedly succeeded as administrator by his natural son, Juan.

The heirs of Candida Chavez (now the petitioners) claim that the land was adjudicated to her in August, 1932 by this Court in *Cuenca vs. Ramos*, 57 Phil. 975, unpublished. What was involved in that prewar case was riceland, with four cavaness of seedlings, located at Pulang-Lupa, Las Piñas (Brief, Exh. HH).

Candida and her husband Juan allegedly bought that land orally for P2,000 from his sister, Monica Cuenca (great grandmother of Concepcion Magtibay, half-sister of the Cuenca brothers) shortly before her death in 1913 (Exh. L). The area of the land was not stated. This Court in the said 1932 case rejected the claim of Jose Ramos that he bought in January, 1930 the same Pulang-Lupa land from Concepcion Magtibay.

Leon Casimiro, through his counsel, Arcadio G. Espiritu (now a petitioner in this case representing the deceased Ladislawa Cuenca), was able to establish that he bought in 1936 from Jose Ramos what is now the aforementioned Lot 1-B, with an area of 11,537 square meters. He was adjudged the owner of Lot 1-B in a decision of the Appellate Court in *Casimiro vs. Cuenca*, CA-G. R. No. 47713-R. This Court dismissed the petition for the review of that decision (Res. of April 27, 1981 in G. R. No. 37430, *Cuenca vs. Casimiro*).

That supervening event shows the inconclusiveness of Judge Navarro's decree of registration. It raises doubt as to the identity of the disputed land. Lot 1-B must be excluded from this case. Judge Navarro had dismissed Casimiro's intervention in the land registration case (Exh. H). He had to bring a separate action (Exh. P).

What is being litigated herein are Lots 1-A and 1-C with a total area of 43,262 square meters which were mortgaged to the Development Bank of the Philippines for P3,810,000 (Exh. DD). The debt had already been paid (CB's Manifestation of December 19, 1984).

While the heirs of Candida Chavez and Juan Cuenca claim that the litigated land is the same Pulang-Lupa land in Las Piñas of Monica Cuenca, on the other hand, the evidence of the Cuenca brothers conveys the impression that the Pamplona lot or the disputed property was the lot located in Handulong, Las Piñas with an area of 39,274 square meters.

This is shown in their Exhibits 24 and 25 (D and E). Jose Magtibay in his 1964 affidavit (Exh. 25) attested that the Handulong lot was sold to the Cuenca brothers through their parents Bartolome and Paula Cuenca, Jose said that he inherited the land from his grandmother, Monica Cuenca (Exh. 24). This was the theory adopted by the Cuenca brothers in the land registration case before Judge Navarro.

Jose Magtibay was the brother-in-law of Paula Cuenca and the uncle of Concepcion Magtibay. Paula, a widow, was the common-law wife of Bartolome. Concepcion Magtibay in the 1959 partition of Paula Cuenca's properties sold her interest in the Handulong lot to her half-brothers, the Cuenca brothers (Exh. F).

No Pamplona lot with an area of 54,799 is mentioned in Exhibits 24 and 25. The Pamplona lot was covered by the 1963 Tax Declaration No. 7558 which refers to a lot located in Zapote, Las Piñas (Exh. 20). But the boundaries of the Handulong lot and what is now the Pamplona lot are practically the same. It is evident that when the Handulong lot was surveyed, its area was increased from 39,274 square meters to 54,799 square meters. Its location was changed to Pamplona.

The instant action was filed in 1971 by the heirs of Candida Chavez and Juan Cuenca y Francisco against their grandchildren, the Cuenca brothers (heirs of their son Bartolome), and the transferees of the three lots. They sought the reconveyance of the three lots or the recovery of their fair market value. They averred that the registration was vitiated by fraud.

The Appellate Court, affirming the trial court's decision, dismissed the complaint and ordered the said heirs to pay the defendants P20,000 as damages and P10,000 as attorney's fees. The plaintiffs appealed to this Court.

We hold that the appeal is bereft of merit. Whether the disputed land was acquired by Bartolome from Jose Magtibay or initially held by him, as administrator, in trust for his brother and sisters, the fact is that he had always been in possession of the land. He was succeeded in his possession by his elder son, respondent Juan C. Cuenca.

Petitioners' contention that the Appellate Court erred in holding that the Cuenca brothers had acquired the land by prescription cannot be sustained. The Appellate Court found that Bartolome repudiated the implied trust, if any. He and his sons acquired the land by prescription. Section 41 of the Code of Civil Procedure requires ten years of adverse possession of the land "in whatever way such occupancy may have commenced or continued". It should be remembered that possession for more than thirty years was relied upon by Judge Navarro in ordering in 1965 the registration of the land in the names of the Cuenca brothers.

The Appellate Court found that Bartolome had adversely possessed the land even prior to 1923 and that his possession and that of his sons up to 1971 (when the instant case was filed) had lasted for about half a century

(pp. 11-15, Decision). That factual finding is binding on this Court. The trial court made the same finding. It renders unnecessary the resolution of petitioners' other three assignments of error.

We also find that the imposition of damages of P20,000 and attorney's fees of 10,000 is unwarranted. The action was filed in good faith. There should be no penalty on the right to litigate.

WHEREFORE, the judgment of the Appellate Court is affirmed with the modification that the petitioners should not pay any damages and attorney's fees and that the lot adjudged to Leon Casimiro should be excluded. No costs.

SO ORDERED.

Makasiar, (Chairman), Concepcion, Jr., Cuevas, and Alampay, JJ., concur.

Abad Santos and Escolin, JJ., no part.

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