

BONIFACIO POBRE ET AL., PLAINTIFFS AND APPELLEES, VS. ISMAEL BLANCO, DEFENDANT AND APPELLANT.

G.R. No. 5458. October 05, 1910

Ponente: JOHNSON, J.

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JOHNSON, J.:

On the 13th of July, 1908, Bonifacio Pobre commenced an action in the Court of First Instance of the Province of Ilocos Norte against the defendant, Ismael Blanco, for the purpose of recovering the possession of three parcels of land described in the first paragraph of the complaint, together with the produce of said land, until the termination of the action.

To this complaint the defendant filed a general and special answer. In the special answer the defendant claimed that he, together with others, was the owner of the land in question.

On the 5th of January, 1909, the plaintiff, Bonifacio Pobre, filed an amended complaint, in which Tomasa Blanco, Engracia Blanco, and Teresa Blanco were also made plaintiffs. The amended complaint also contained parcels of land not described in the original complaint.

After hearing the evidence adduced during the trial of the cause, the lower court rendered a decision in favor of the plaintiffs and against the defendant, declaring that the plaintiffs were the owners of the land in question.

After making a motion for a new trial, which was denied and an exception taken to the ruling thereon, the defendant appealed and made several assignments of error.

From an examination of the record brought to this court, the fact is disclosed that the plaintiffs claim the land in question by virtue of inheritance from Victor Blanco and Agustina Abrenica, who were husband and wife, both of whom died some years before the commencement of the present action. During the marriage of Victor Blanco and Agustina Abrenica, there were born to them four daughters, Tomasa, Engracia, Irene and Teresa. Irene was married to the plaintiff, Bonifacio Pobre. Bonifacio Pobre and Irene, during their marriage had three children, called Isidro, Pedro and Prudencia. Irene died before the commencement of the present action. The record does not show the date of her death. Bonifacio Pobre, as plaintiff, represented his three children, Isidro, Pedro and Prudencia. There is nothing in the record which shows by what authority he was representing his minor children. There is nothing to show that he had been appointed by the court as guardian of the estate of such minor children. Without such appointment he was without authority to represent them in this litigation. (Sec. 553, Code of Procedure in Civil Actions.) Bonifacio Pobre admitted during the trial of the cause that his intervention was on behalf of his children.

From the amended answer of the defendant it appears that Antero de los Reyes, Alaide Duque, Estanislao Duque, Miguel Duque, Juana Quebral, Victor Blanco, Doroteo Blanco, Leoncio Blanco, Bernardino Sadumiano, Ismael Blanco, and Victor Blanco were interested parties and were alleged to be the owners of a portion of the land in question. When it appeared of record that there were other persons interested in the land in question who were not

parties to the action, it was the duty of the lower court to suspend the trial until such persons were made parties, either plaintiff or defendant. All persons having an interest in the subject of the action and in obtaining the relief demanded shall be joined as parties, either plaintiff or defendant. If those who are interested with the other plaintiffs shall refuse to join as plaintiffs, then such persons should be made parties defendant. (See sec. 114, Code of Procedure in Civil Actions,)

Under the facts as they appear of record, it is impossible to determine who is entitled to the land in question. The judgment of the lower court is, therefore, hereby reversed and the record is hereby ordered to be returned to the lower court, with direction (if the parties desire to continue the litigation) that all of the persons interested in the land in question be made parties either as plaintiffs or defendants, and without any finding as to costs, it is so ordered,

Arellano, C. J., Torres, Moreland, and Trent, JJ., concur.

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