

**EUSTAQUIA CASTILLO WITH HER HUSBAND, VICTORIANO CASTRO,
PLAINTIFFS AND APPELLANTS, VS. AMBROSIO CASTILLO,
DEFENDANT AND APPELLEE.***G.R. No. 5648. December 17, 1910*

Ponente: ARELLANO, C.J.

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Eustaquia Castillo brought this action against Ambrosio Castillo for the recovery of a piece of land situated in Cabulalaan (formerly Bato) of the municipality of Cabugao, Ilocos Sur, the area and boundaries of which are set forth in the complaint. The plaintiff alleged that the land passed into the possession of the defendant in 1898 by virtue of a verbal contract of lease under which the latter was to pay the former, as rental, one-half of the crops produced thereon. The complaint further alleged that the defendant paid the rental up to 1905, since which date he discontinued to do so; that the latter, in the years 1906, 1907, and 1908, harvested 6 uyones of unhulled rice and 6 bales of tobacco, and that the value of plaintiff's one-half share of these products was P60; and concluded by asking that the defendant restore the land to the plaintiff and deliver to him 3 uyones of unhulled rice and 3 bales of tobacco, or pay him P60, and that the costs be assessed against the defendant.

The defendant admitted that he owned a piece of land in the place mentioned, but that it was not of the same area and boundaries as those stated by the plaintiff, but had the boundaries and area which he in turn specified. The defendant claimed that the said land was his and had been in his possession for the past thirty years. Subsequently, however, the parties came to an agreement with respect to the identity of the land.

After the production of both oral and documentary evidence, the Court of First Instance of Ilocos Sur decided the suit by absolving the defendant, without special finding as to costs.

The plaintiffs appealed, with right to a review of the evidence; and we find the following facts to have been proved:

- The origin of the title to the land in question. - The defendant himself states that the original owner of the property was Rafael Castillo, who died without leaving either descendants or ascendants, and that on this account his brother, Manuel Castillo, was the sole heir.
- The conveyance of the land at the death of Manuel Castillo. - Three witnesses testified with respect thereto - Venancia Castillo, Alejo Castillo, and Vicenta Castillo.

Venancia Castillo is the daughter of Manuel Castillo, and was married in second wedlock to Pascual Castillo. Pascual Castillo, as appears from the record, by his first wife had two children, the defendant, Ambrosio Castilla, and Vicenta Castillo, previously referred to. The plaintiff, Eustaquia Castillo, was born of his second marriage with Venancia Castillo. So that Eustaquia, the plaintiff, and Ambrosio, the defendant, are children of the same father, Pascual, although of different mothers.

Although Manuel Castillo had other children besides Venancia, namely, Adriano, Martin, Agapita, and Luis,

yet, in the partition of his property, the land in question, inherited by him from Rafael, as aforesaid, fell to Venancia's share. This was testified to by Alejo Castillo, before mentioned, one of the sharers in that partition, in representation of his mother, Agapita, and the said Vicenta Castillo, a sister by the same father and mother of the defendant Ambrosio. No reason has been advanced for doubting their testimony, and still less has any proof been submitted whereby that testimony could be rejected.

- The possession of the title of ownership. - The title of ownership to the land, originally obtained by Rafael Castillo, was held by Venancia Castillo, after the death of her father Manuel, and it was Venancia's daughter, the plaintiff Eustaquia Castillo, who presented it at the trial as proof of her right of dominion.

- The conveyance of Venancia's property to her daughter Eustaquia. - This is proved by the same three witnesses, Venancia, Alejo, and Vicenta Castillo, and also by Victoriano Castro. When the latter married Eustaquia Castillo, his wife received from her mother Venancia the said land as a gift propter nuptias.

- The character of the land at the time that Venancia married Pascual Castillo. - This was stated explicitly in the testimony of Vicenta Castillo, the sister, by the same father and mother, of the defendant Ambrosio Castillo. This witness testified that her mother had brought that property on her marriage with Pascual Castillo; so that it belonged to the private or paraphernal property of the wife, in which her husband, Pascual Castillo, could have no share, and this fact was positively affirmed in her testimony by the daughter of Pascual Castillo.

- The possession of the land since the death of Manuel Castillo. - This was established by the same three witnesses, particularly by one of them, Alejo Castillo, who, moreover, testified that for about five years the property had been mortgaged to him by his aunt, Venancia, until she canceled the mortgage when she intended giving the land to her daughter Eustaquia at the time the latter contracted marriage with Victoriano Castro.

- The reason why the land was in the possession of the defendant. - This was stated by the same witnesses, and also by Victoriano Castro, who was not even cross-questioned by the opposing party. They uniformly testified that, at the very beginning of the marriage of Victoriano Castro with Eustaquia Castillo, the former leased the land to Ambrosio Castillo, at a certain annual rental, and that this lessee continued paying the rental, except during the last three years. Thus it was that the' lessor sued the lessee for the payment of the said unpaid rent, as confirmed by a certified copy of the defendant's answer to the complaint, presented for the purpose, the plaintiff's Exhibit C, corroborated by the defendant in the following terms:

"Q. Do you remember whether there was ever any litigation between the same parties, over this same land today in dispute? - A. Yes, sir; before this suit for the recovery of possession was started, this same woman Eustaquia sued me for the rental of the land in question, and therefore the land which is the subject of the present litigation is the same as that concerned in the previous suit, with the exception of a few differences which were settled in an agreement between the parties made the other day at the hearing of this case."

In the said answer the defendant said:

"3. That he is the owner of the land concerned in this case, and as such owner he has been in the possession and enjoyment of the same, without any interruption on the part of anyone, since February, 1884, when it was given to him propter nuptias."

But in the present suit the defendant endeavored to prove his ownership by the following witnesses:

Silvestre Castillo, who testified that the disputed land belonged to the defendant "because he had inherited it from his first wife, Procesa Castillo, who also had inherited it from her father, Adriano Castillo."

Angel Castillo, a brother of the defendant, who testified that the said land belonged to the latter "because it was conveyed to the defendant by Manuel Castillo, our father's cousin, in consideration of the defendant's having

contributed toward the payment of a debt which the said Manuel had contracted with a mestizo of Vigan and on account of which this same land, together with some other parcels of land, had been mortgaged."

And Tomasa Secretario, the second wife of the defendant, who testified as follows:

"Q. Do you know the land in question? - A. Yes, sir; I know it because it was given to us at the time of our marriage, for the defendant is my husband.

"Q. Do you know this document, Exhibit A of the defendant? - A. That is the document which they gave us in support of the gifts received when I was married, and they told me that it contained the land in question, but I do not know how to read."

This Exhibit A, which the defendant presented as proof of his ownership, is written in the local vernacular and its translation, which was admitted at the trial, reads as follows:

"By these presents is made to appear that which I am able to give to my son Ambrosio Castillo on his marriage with Tomasa Secretario, and which is as follows:

- "1. A parcel of rice land in the sitio named Bugnay, etc.
- "2. A parcel of rice land in the sitio of Balay-oac, etc.
- "3. A parcel of rice land in the sitio called Binulalaan,
- "4. A parcel of vegetable garden land, etc.
- "5. Three carabaos, etc,
- "6. One cow calf, etc.
- "7. Two horses, etc.
- "8. One peso, in cash."

This document was signed on the 23d of February, 1884, by Pascual Castillo; and by others of the Castillo family with a cross, because they did not know how to write their names.

No land whatever situated in Cabulalaan (formerly Bato) which is, according to the litigating parties, the subject of the dispute, appears to have been given.

And although the land in question had been given in a clear and precise manner, such a gift would not constitute a title in favor of the defendant, for the simple reason that, as the land had been brought by Venancia Castillo to her marriage with Pascual Castillo, the husband could not dispose of a thing which was the private and exclusive property of his wife and which was acquired prior to the marriage.

The three assignments of error alleged in this appeal by the appellants are admissible.

The judgment appealed from is reversed, without special finding as to costs, and the trial court shall render judgment in strict accordance with the petition of the complaint. So ordered.

Torres, Johnson, Moreland, and Trent, JJ., concur.

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