

PAULA DIRILO, PLAINTIFF AND APPELLEE, VS. INOCENCIO ROPERES ET AL., DEFENDANTS AND APPELLANTS.*G.R. No. 6622. March 15, 1912*

Ponente: TRENT, J.

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This action involves the ownership of a small coconut plantation in the Province of Tayabas and the fruits thereof since 1905. The trial court found that the plaintiff and her minor brothers and sisters (whom she represents) are the owners pro indiviso of this plantation, and entitled to the possession of the same, together with a reasonable amount, which was fixed at P100, for its use and occupation.

There is no question about the location and description of the land in dispute. Both parties claim to have derived their title from the same person, Agata Botocave. The plaintiffs claim that this land was purchased from the said Agata Botocave on January 15, 1895, by their deceased father. The defendant, Marciana Dirilo, claims that she bought this property from the same person in the year 1894. The plaintiffs presented a private document evidencing the purchase made by their father. The defendant Marciana presented no document of her alleged purchase, but claims that her contract was a verbal one only. The private document is attacked by the defendants as false in that the signature of Felis Dirilo, one of the subscribing witnesses, is not genuine. In support of this proposition, one Stevers was called as a handwriting expert and testified that he had been district auditor in the Government service since April 1, 1908; that during that time it had been necessary for him at various times to identify signatures on money orders and registered mails; that he had not made any special study of the science of chirography; and that he is not skilled in this art. He testified to certain peculiarities in the signatures to the document presented by the plaintiffs as compared with the body of the document, and especially with regard to the signature of Felis Dirilo, and stated that in his opinion the signature of Felis Dirilo was signed by the same person who wrote the body of the document. It is admitted that the document is not in the handwriting of Felis Dirilo, but it does not follow that the signature of the said Felis Dirilo is a forgery. Apparently, Mr. Stevers did not note that the first name of Dirilo is spelled in the body of the document F-e-l-i-x, while in the signature it is spelled F-e-l-i-s. It is hardly probable that if the same person wrote the document and signed this name thereto he would have made this mistake in the spelling of "Felis." And furthermore, the sons of the vendor, who signed the document at the time it was executed, testified positively that the said document was executed in due form and that all the signatures thereto are genuine.

Mr. Stevers did not qualify as a handwriting expert. He admitted that he had made no special study as such and that he was not skilled in this art. In order to render one a competent witness as an expert to the genuineness of a signature, he must have been educated in the business about which he testifies or he must have acquired actual skill and knowledge of the subject. It is not enough that he has sometimes compared signatures of other persons when disagreements as to their genuineness had arisen in the course of business. (*Goldstein vs. Black et al.*, 50 Cal., 462; *Heacock vs. State*, 13 Tex. Court of App., 97; *State vs. Tompkins*, 71 Mo., 618.)

Jose Dirilo, father of the plaintiffs, purchased the land in question in 1895 and immediately entered into the

possession. He remained in possession until the year 1902, when he mortgaged this land to one Pablo Roses and left Pagbilao, where the land is located, and never returned. About 1909, sometimes after the death of Jose" Dirilo, his children, the plaintiffs, returned to Pagbilao and found the defendants in possession of the land. They immediately demanded the return of this land, but the defendants refused to comply with this demand. Pablo Roses had had possession of the land about a year when he mortgaged it to one Jose Dirilo, a cousin of the deceased father of the plaintiffs. This Jose Dirilo remained in possession until about 1905, when the defendant Marciana Dirilo, who is a sister of the deceased father of the plaintiffs, claimed that this land belonged to the undivided estate of their (Marciana and Jose Dirilo's) parents, and upon this claim secured possession of the same; but on the trial of this case in the court below she claimed to have purchased this property, as we have said, from Agata Botocave. The defendants well knew that this land belonged to the heirs of the deceased Jose Dirilo and that they had no interest whatever in said land. They also knew that the products from this small hacienda had long before 1909 fully paid the amount for which it was originally mortgaged. So it cannot be said that they have been possessors in good faith since demand was made upon them for the return of the land. They must, therefore, account for the products since that year. The amount fixed by the court at P100 is fully supported by the evidence.

The judgment appealed from is therefore affirmed in all of its parts, with costs against the appellants.

Arellano, C. J., Torres, Mapa, Johnson, Carson, and Moreland, JJ., concur.

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