

ALEJANDRA CARLOS, PLAINTIFF AND APPELLANT, VS. ANTONIO RAMIL, DEFENDANT AND APPELLEE.

G.R. No. 6736. September 05, 1911

Ponente: MORELAND, J.

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MORELAND, J.:

This is an appeal from a judgment of the Court of First Instance of the Province of Ilocos Norte, the Hon. Dionisio Chanco presiding, declaring that the plaintiff had not made out a cause of action against the defendant and dismissing the complaint upon the merits, with costs.

This is an action to test the title and right to possession of the land described in the complaint.

It appears from the proofs in this case that the lands in question were many years ago owned by one Agustin Carlos, a relative of the plaintiff. Agustin Carlos and his wife, Juliana Carlos, had no children and, so far as the record shows, died leaving no heirs except the plaintiff. Getting old and needing someone to care for them, Carlos and his wife took to live with them a young girl of the neighborhood. She grew up with them, giving them the best of care and doing for them all that could be required of a faithful and dutiful child. In the year 1901 the said daughter was about to marry the defendant in this case, Antonio Ramil. The old people, fearing that the husband would remove the daughter from the house and take her to live with him separately, and feeling that this would deprive them of the only person who would give them the care which they needed in their old age, Agustin Carlos and his wife on the 5th day of April, 1901, after the marriage of said daughter and the defendant, made an agreement with them that if they would remain, living in their house, caring for them as long as they should live, they, Carlos and his wife, would give to the children the real estate described in the complaint in this action.

This agreement, which was duly signed and executed by all the parties thereto, assumes somewhat the appearance of a remunerative donation, and it was upon the theory that it was such that this action was tried and decided by the trial court and upon which the appeal is taken to this court.

A careful examination of the record, however, demonstrates clearly that the instrument in question is not a remunerative donation within the meaning of that term used in the Civil Code, but is rather a contract by which Carlos and his wife transferred to the defendant and his wife the lands described in the complaint upon the consideration that the latter should give to the former the care therein mentioned and prescribed. That contract was fully executed upon the part of the defendant and his wife. They cared for Carlos and his wife as long as they lived, giving them food, clothing and shelter. If the transaction between Carlos and the defendant was a donation it was una donacion con causa onerosa and not una donacion remuneratoria. One of the leading differences between these two classes of donations or gifts is that in the one con causa onerosa the services which form the consideration for the gift have not yet been performed, while in the other they have. At the time of the transaction heretofore referred to none of the services which formed the consideration for the agreement in question had yet been performed. They were all to be performed in the future. Under the provisions of the Civil Code una donacion con causa onerosa is governed by the provisions of said code relative to contracts. That being so, the arguments of

appellant relative to the validity of the instrument in question are entirely inapplicable and beside the point for the reason that they relate solely to a remunerative gift. The judgment is affirmed, with costs.

Torres, Mapa, Johnson, and Carson, JJ., concur.

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