

**GAUDENCIO TABOTABO, ADMINISTRATOR OF THE ESTATE OF THE
DECEASED DIEGO TABOTABO, PLAINTIFF AND APPELLANT, VS.
GREGORIA MOLERO, DEFENDANT AND APPELLEE.**

G.R. No. 6886. March 29, 1912

Ponente: MAPA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-6886/>

MAPA, J.:

The land involved in this case is situate, as stated in the complaint, in the sitio of Guintugan of the municipality of Tuburan, Province of Cebu; it has an area of 2 cavanos, 10 gantas and 8 chupas of seed corn, and is bounded on the north by the land of Mauricio Esmero, on the east by that of Francisco Estrella, on the south by that of Mauricio Esmero, and on the west by that of Dionisio Pasigan and Mauricio Esmero. It is alleged in the complaint that the land in question belongs to the estate of the deceased Diego Tabotabo, administered by the plaintiff, and that the defendant seized the said land, without any right or title thereto, and has unlawfully detained the same since the year 1904, profiting by the product of the 2,686 coconut trees planted thereon, and refused to return the property to the plaintiff, notwithstanding the reiterated requests so to do which were made upon her; and that the defendant, by her said unlawful possession, had caused the aforementioned estate damages and losses in the amount of P4,000. It is therefore, prayed in the complaint that the defendant be sentenced to restore to the plaintiff, in his capacity of administrator of the said estate, the land in dispute, to pay the indemnity mentioned of P4,000, and the costs of the trial.

The defendant, in her answer to the complaint, denied that the land in controversy belongs to the estate of Diego Tabotabo, or that she had seized the same without having just and legitimate title thereto, and alleged that she was then in possession of only one-half of the said land, inasmuch as the other half had been unlawfully detained by one Jose Veloso, since the year 1909.

It is to be noted that the defendant is the widow of the deceased Diego Tabotabo, by his second marriage, his first wife having been one Teodosia Oliva.

During the course of the trial, the defendant presented a motion to the court asking for the dismissal of the case on the grounds that, in the special probate proceedings relative to the estate of the deceased Fausto Tabotabo, a son of her husband Diego, she had filed a motion whereby she requested that various property specified therein be adjudicated to her as her share of the property of the conjugal partnership which existed between herself and the said Diego Tabotabo, and that, since the land here in question was a part of that property, any ruling whatsoever that might be made on the said motion would necessarily affect the rights in controversy in the present case.

The court denied the said motion for the dismissal of this case, but, at the same time, ordered that the motion presented by the defendant in the special proceedings aforementioned be made a part of the present trial record. The hearing of both cases was, therefore, had at one and the same time and were jointly decided in the same judgment.

The dispositive part of that judgment is as follows:

"For all of the foregoing reasons, the court absolves the defendant from the complaint and the costs of the trial and orders that a duplicate of this judgment be attached to the record of the special probate proceedings had in connection with the estate of the deceased Diego Tabotabo, as a ruling on the motion of Gregorio Molero, of the date of June 15, 1908, whereby a separation is requested of one-half of the property above mentioned, and, therefore, it is finally ordered that one-half of the aforementioned property be adjudicated in ownership, use, enjoyment and possession, to Gregoria Molero."

The plaintiff appealed from that judgment to this court.

After an examination of the evidence, we believe that it is preponderatingly in favor of the plaintiff, in so far as it concerns the land described and claimed in the complaint. The only issue raised with regard to that land is as to whether it belonged to the conjugal partnership between the defendant and Diego Tabotabo, or whether it was exclusively owned by the latter, as contended by the plaintiff. Now, besides the documentary evidence presented by Gaudencio Tabotabo, which tends to prove that the said land belonged exclusively to Diego Tabotabo, there is the testimony of the defendant herself that corroborates the fact of such exclusive ownership. She explicitly and positively testified that the land in dispute was acquired by the latter during his first marriage, although the improvements thereon (the coconut trees) were made during his marriage with her, the defendant. According to this, the acquisition of the said land was made prior to the latter's marriage to Diego Tabotabo who, therefore, was the owner of the same and brought it to the said marriage as property of his own. This being so, it is evident that the said land was the separate and exclusive property of Diego Tabotabo, pursuant to article 1396 of the Civil Code, which provides as follows:

"Property belonging to each of the spouses.

"1. That brought to the marriage as his or her own * * *."

The improvements made on the said land, consisting, as they do, of groves of coconut-trees, also belong by right of accession to the owner of the land, that is, to Diego Tabotabo.

"Ownership of property gives a right by accession to all that is produced thereby or which is united to or incorporated therein naturally or artificially." (Art. 353, Civil Code.)

In accordance with this principle, article 358 of the same code expressly declares that—

"Whatever is constructed, planted, or sown on another's property, and the improvements or repairs made thereon, belongs to the owner of the same * * *."

The provision just above quoted has an exception in the case of conjugal partnership property, when the same consists of buildings, for the second paragraph of article 1404 provides that "buildings constructed during the marriage, on land belonging to one of the spouses, shall also belong to the partnership, but the value of the land shall be paid to the spouse owning the same." However, this exception is limited only to buildings and does not apply to crops, such as are concerned in this case, with respect to which the general rule governs, viz, that what is accessory belongs to what is principal and is for the benefit of the owner of the latter.

The foregoing statements have reference to the ownership of the actual improvements or crops, which lies with the owner of the land whereon the latter are, who, in the present case, is Diego Tabotabo; for, as regards the disbursements or expenses made to produce the said improvements, such expenditures are of the nature of partnership property and the conjugal partnership must, therefore, be reimbursed for them. (First paragraph of art. 1404, above cited.) But, since in the case at bar the sole issue is the ownership of the land in question and its improvements, and the liquidation of the conjugal partnership between the defendant and Diego Tabotabo is not concerned, there is no reason for our making any finding whatever with respect to the said expenses.

Likewise, as the present suit was not brought for the liquidation of the conjugal partnership, it would be improper in this decision to adjudicate any part whatever of the property held by such partnership, to the defendant as her share of the same, as is done in the judgment appealed from, with respect to the property specified in the motion presented by the said defendant in the special proceedings concerning the estate left by Fausto Tabotabo, a son of Diego who was the predecessor in interest of the estate represented by the plaintiff. It appears that the trial judge only took into account that the property referred to was acquired during the marriage of Diego Tabotabo with the defendant. This fact, however, is not sufficient in itself to determine a priori the real and actual share of each one of the spouses in the said property, especially as the trial disclosed the probability of the existence of debts which perhaps may affect the property in question. It is possible that those debts may be personal ones encumbering Diego Tabotabo's own private property, and that the conjugal partnership may not be liable for them; but this question can not be incidentally decided here. The proper procedure for that purpose would be that whereby a liquidation of the conjugal partnership would have to be made and which might well be the special proceedings in the matter of the estate of Diego Tabotabo. Without there first being a liquidation of the said partnership, which must be made subject to the provisions of articles 1418 to 1431 of the Civil Code, it can not be known whether or not there are any net assets or, therefore, any property divisible between the spouses, as conjugal property, nor what is the exact amount of the share that may belong to each of the latter. As it does not appear that such a liquidation was effected, it follows that the adjudication in a final manner made in behalf of the defendant, of a certain part of the property declared to be conjugal property in the judgment appealed from, is at least premature.

The judgment appealed from is set aside, in so far as it orders the adjudication to the defendant of one-half of the said property, as conjugal partnership property, the right being reserved to the parties to bring such action or actions, in due legal manner and form, as may be proper in this matter; and the said judgment is reversed in the part thereof which absolves the defendant from the complaint, who is hereby sentenced to restore to the plaintiff, in his capacity of administrator of the estate of Diego Tabotabo, such part of the land claimed in the complaint as is in the possession of the said defendant, without obligation on the latter's part, however, to restore the products collected from the said land, which, as a possessor in good faith, she has legitimately acquired. No special condemnation is made of the costs of either instance. So ordered.

Arellano, C. J., Torres, Johnson, Carson, and Trent, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.