

PEDRO VERGARA ET AL., PLAINTIFFS AND APPELLEES, VS. MARIANO LACIAPAG, DEFENDANT AND APPELLANT.

G.R. No. 8630. November 20, 1914

Ponente: JOHNSON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-8630/>

JOHNSON, J.:

This was an action commenced in the Court of First Instance of the Province of La Union, by the plaintiffs against the defendant, for the purpose of recovering the possession of and damages for the illegal possession of a small parcel of land located in the barrio of Santa Teresa, town of Tubao, Province of La Union, and which is described by metes and bounds in the first paragraph of the complaint. The plaintiffs allege that the defendant illegally and forcibly took possession of said parcel of land in the month of October, 1904, and that by reason of said illegal possession on the part of the defendant, they have suffered damages in the amount of P350.

After hearing the evidence, the honorable Richard Campbell, judge, found that the defendant had illegally dispossessed the plaintiffs of their possession of the property in question and rendered a judgment, adjudging the possession of the land in question to the plaintiffs, with costs against the defendant. The lower court made no finding whatever concerning the damages prayed for by the plaintiffs. From that judgment the defendant appealed to this court and made the following assignments of error:

"I. The lower court erred in setting aside its judgment of August 4, 1911, and ordering that the case be reopened.

"II. The lower court erred in rendering judgment in favor of the plaintiffs and against the defendant, by adjudicating the possession of the land to the former on the ground that the instrument of gift executed propter nuptias on June 18, 1876, by Hermenegildo Laciapag in favor of Vicente Laciapag, was valid.

"III. The lower court erred in holding that the gift made by Hermenegildo Laciapag to the defendant Mariano Laciapag in a public document was null and void."

From an examination of the record, the following facts seem to be proven, beyond question:

First. That for a long time prior to the 18th day of June, 1876, the land in question had belonged to Hermenegildo Laciapag and his wife.

Second. That during the marriage of the said Hermenegildo Laciapag with his wife, they had three children, to wit, Mariano Laciapag, Froilan Laciapag, and Vicente Laciapag.

Third. That upon the marriage of each of the said children, Hermenegildo Laciapag and his wife, by a "donation propter nuptias," gave to each of them a certain parcel of land; that Vicente was married on the 18th day of June, 1876, to Vicenta Madarang; that during the marriage of Vicente Laciapag and Vicenta Madarang there was born to them one child, the said plaintiff, Juana Laciapag; that Vicente Laciapag and his wife entered upon the possession of the land in question and occupied the same up to 1898 or 1899, when Vicente Laciapag died, leaving his wife and his daughter, the said Juana Laciapag, surviving him; that after the death of Vicente

Laciapag, his wife, desiring to return to her parents, turned the possession of the land in question over to her father-in-law, Hermenegildo Laciapag and her child, Juana; that later Juana Laciapag was married to the plaintiff Modesto Surio; that upon the marriage of Juana Laciapag and Modesto Surio, her grandfather, Hermenegildo Laciapag, delivered the land to her and to her husband; that upon the 22d day of July, 1904, the said Juana Laciapag and her husband, Modesto Surio, together with Vicenta Madarang, sold the land in question to the plaintiff, Pedro Vergara, by means of a private document and delivered the possession of the said land to the vendee; that the vendee, Pedro Vergara, took possession of the land in the month of June, 1904, and continued in the possession thereof until the month of October of the same year, when the defendant Mariano Laciapag appeared and compelled Pedro Vergara to cede to him one-half of the land in question ; that later, or some time in the year 1907, the defendant, Mariano Laciapag, by force and threats took possession of the other one-half of the land and ousted the said Pedro Vergara from the possession thereof.

With reference to the first assignment of error, it appears from the record that on the 4th day of August, 1911, after having heard the evidence, the lower court rendered a judgment in favor of the defendant and against the plaintiffs, and adjudged the right of possession of the land in question to the defendant, taxing the costs against the plaintiffs. Immediately the plaintiffs made a motion for a rehearing, which was granted by the lower court on the 7th day of August, 1911. At the close of the rehearing, and on the 19th day of March, 1912, the lower court rendered a new decision in which he decided that the land in question belonged to the plaintiffs and ordered the defendant to deliver the possession of the same to them, with costs against the defendant. The defendant-appellant, as his first assignment of error, says that the lower court committed an error in granting the new trial. In reply to that argument, the appellees allege that no error was committed and cite the provisions of sections 145 and 146 of the Code of Procedure in Civil Actions. Said section 145 provides the circumstances under which a new trial may be granted. Section 146 provides the method of procedure in applications for a new trial. Section 146 provides that the overruling or granting of a motion for a new trial shall not be the ground of an exception, but shall be deemed to have been an act of discretion on the part of the judge, within the meaning of the second sentence of section 141. Said section 146 further provides, however, that if the motion for a new trial was made on the ground that the evidence was insufficient to justify the decision, an exception may be taken to the order overruling such motion, and such exception may be reviewed by the Supreme Court as in other cases. An examination of the record fails to disclose the fact that the defendant appellant made any exception to the ruling of the lower court granting a new trial. We have frequently decided that no objection to the procedure in the lower court will be considered here unless an objection or exception was made or taken in the lower court. The only exception to this rule is one where the jurisdiction of the lower court is involved. The defendant-appellant not having laid a foundation for his first assignment of error it can not be considered here. (*Andrews vs. Morente*, 9 Phil. Rep., 634; *Guerrero vs. Singson*, 19 Phil. Rep., 122.)

We think that the second and third assignments of error may be discussed together. The appellant attempts by said assignments of error, to show that the appellees are not the owners, in fact, of the parcel of land in question. That may be true. The question of ownership, however, was not the question presented to the lower court. The only question presented was whether or not the plaintiffs were entitled to the possession as against the defendant. The lower court found from the evidence, that the defendant had by force deprived the plaintiffs of the possession of the property. If that is true, then the plaintiffs are entitled to be repossessed of the same, even though the defendant is, in fact, the owner.

If the defendant had any right or title to the possession of the land in question, at the time he dispossessed the plaintiffs, or at any other time, it was his duty to commence an action in the courts for the purpose of establishing that right. He had no right, even though he was the real owner of the property in question, to forcibly take possession of the land and eject the occupants. The arbitrary use of might exercised by the defendant, under the

mere shadow of right, cannot be tolerated by the courts. (*Tambunting vs. City of Manila*, 5 Phil. Rep., 590.) Parties in the peaceable and quiet possession of land cannot be ejected, except by judicial proceedings. If the possessor is forcibly ejected, he may be replaced in possession of the property in a proper action brought for that purpose. (*Villar vs. City of Manila*, 6 Phil Rep., 655.) A tenant even, who has been unlawfully and forcibly ejected from the possession of land by his landlord, without judicial proceedings, is entitled to be repossessed of the property in a proper action brought for that purpose.

The appellant, in the second assignment of error, alleges that the donation of Hermenegildo Laciapag and his wife to Vicente Laciapag, on the occasion of his marriage with Vicenta Madarang, on the 18th of June, 1876, was void, for the reason that it had not been executed in accordance with the laws in force at that time. (Title 4, Law 9, of the Fifth Partida.) The appellee admits that perhaps said donation did not comply with all the requisites of a donation required by the law at that time. The donor, however, permitted the donee and his wife to enter into possession of the property on the day of their marriage and to continue to live there and occupy the same as owners, until the year 1898 or 1899, when Vicente Laciapag died, and the possession of the property was returned to the donor, for the reason that Vicente's wife desired to return to her parents. In 1904 the possession of the property was returned to Juana Laciapag, on the occasion of her marriage to Modesto Surio. The return of the property by the donor to the surviving successor of Vicente Laciapag (Juana Laciapag) would seem to be a clear additional ratification of the original donation. Admitting that the donation of the 18th of June, 1876, had not complied absolutely with the formal requisites under the law, it would seem, from the fact that the donor permitted the donee to continue in the possession of said parcel of land for a period of twenty-three or twenty-four years, and that he later recognized the rights of the legitimate successor of the donee (1904), that he intended and did, in fact, give the title of the land in question to Vicente Laciapag. It will be remembered that Juana Laciapag and her husband, Modesto Surio, and the wife of Vicente Laciapag, Vicenta Madarang, sold the land in question to the plaintiff, Pedro Vergara and delivered the possession to him in the month of June, 1904. It will be remembered also that three years later (1907) the defendant, by force and intimidation, deprived the said Pedro Vergara of his possession of the property in question. The record shows that a period of about thirty-one years elapsed after the original donation to Vicente Laciapag before the defendant attempted to recover, by force, the possession of the land. Even granting that the defendant had a right to raise the question of ownership in an action solely for the possession of property, by one who had been forcibly ejected from the same, we are of the opinion that, even upon that theory, considering all of the facts in the record, that the judgment of the court below should be affirmed.

In the third assignment of error the appellant alleges that the lower court committed an error in deciding that the donation made by Hermenegildo Laciapag to the defendant in February, 1907, was void. If the appellant believed that the land belonged to him, he should have brought an ordinary action for the purpose of settling that question. He had no right to forcibly possess himself of the land. If Hermenegildo Laciapag had, in fact, given the land in question thirty-one years before to Vicente Laciapag, he certainly had nothing to donate to the defendant in 1907, concerning the land in question. We believe that we have answered the contention of the appellant in the argument relating to the second assignment of error.

After carefully considering the facts presented to the lower court, and the law applicable thereto, we are of the opinion that no error was committed by the lower court. The judgment of the lower court is, therefore, hereby affirmed, with costs.

Arellano, C. J., Torres and Araullo, JJ., concur.

Moreland, J., concurs in the result.

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.