

VIVENCIA D. CASIANO, PLAINTIFF AND APPELLANT, VS. SIMONA SAMANIEGO, DEFENDANT AND APPELLEE.

G.R. No. 8919. March 19, 1915

Ponente: CARSON, J.

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CARSON, J.:

This action was instituted to recover from defendant one deposit book of the Monte de Piedad, a title deed to a piece of land described as lot No. 20, block 16, of the district of Malate, Manila, and another title deed to a piece of land described as lot 67, block 16, of the district of Malate, Manila.

The defendant answered the complaint alleging that the deeds of the property referred to were her own property; that the deposit book issued by the Monte de Piedad was at the disposition of plaintiff upon the condition that the latter pay to her the amount of her interest claimed therein ; and a counterclaim was set up for the recovery of a certain bed or the price thereof, valued at P50.

The dispositive part of the judgment was as follows:

"Let judgment be entered ordering the defendant, Simona Samaniego, to deliver the deposit book of the Monte de Piedad to the plaintiff, Vivericia D. Casiano, and decreeing that said plaintiff is not entitled to participate in the lands described in the complaint or to the possession of the title deeds thereof.

"Defendant's counterclaim is dismissed."

From this judgment the plaintiff has appealed. The only question before this court relates to the title deeds of the property in question.

The complaint does not alleged that plaintiff is the owner of the property in question, and strictly speaking the action appears to have been one for the possession of the deeds only, yet plaintiff could have no claim to the title deeds unless she were the owner of the land or had some interest therein, and the trial court appears to have treated the action, without objection, as one instituted to establish ownership in the property in question, as well as to recover the title deeds thereof.

The record shows that the defendant is the widow of Mariano Casiano, deceased, and that plaintiff is his daughter and only child by a former marriage; and that in the distribution of the estate of Mariano Casiano the property now in question was not included.

The deeds to he property in question show that they were executed in favor of defendant, and defendant testified that they were "purchased by her mother for herself" and that the purchase price was paid with money furnished by her mother. From the testimony of Carmen Antonio it appears that the property described in Exhibit A was in fact sold to defendant's mother.

On page 19 of the record we find the following:

"Q. To whom did you sell that property?—A. To Da. Cristina Galang (mother of defendant).

"Q. With the money of the defendant?—A. Yes, sir.

"Q. Whose name appeared in the deeds executed by you?—A. It happened so: At first when we had these dealings and the money was passed, when the money was first delivered in the month of February, 1904, the last money that I took was P100, in the month of April, 1904. I took sick then with rheumatism, so the document was never executed in that year, 1904. Then on the 21st of January, 1905, the document was executed to her, because the mother was already dead at that time.

"Q. Who paid you the amount for the property you have sold to Da. Samaniego?—A. The mother of the defendant here."

Among other exhibits the plaintiff offered the following:

A certified copy of a letter received by the city Assessor on December 11, 1905, in which Mariano D. Casiano stated that the land embraced in lot 67, block 16, had passed to him by purchase, and requested that it be assessed in his name. (Exhibit C, page 44.)

As a matter of fact the title to this land never passed to him; the grantee expressly set forth in the deed was his wife, the defendant in this action.

The following exhibits were offered by plaintiff:

Certified copies of reports on file in the city assessor's office showing that the land embraced in lot 67, block 16, was assessed in the name of Mariano D. Casiano for the years 1910, 1909, 1908, 1907, 1906. (See Exhibits D, E, F, G, H, I, pp. 45-50 of the record.)

A certified copy of an inspector's report for 1910, on file in the city assessor's office, relating to lot 20, block 16, in which the name of Mariano D. Casiano appears as the owner. (See Exhibit L, p. 53 of record.)

A tax declaration made in November, 1905, relating to lot 20, block 16, in the name of Mariano Casiano. (See Exhibit M, between pp. 55 and 56.)

Plaintiff rests her claim of ownership to the property in question on these tax reports, assessment declarations and so forth, and also on the general presumption that property acquired during the existence of the conjugal partnership should be considered as community property unless the contrary appears by affirmative evidence. But evidence of the kind relied upon by the plaintiff is by no means conclusive as to ownership of real estate, and the mere fact that the husband appears to have treated the land in question as his own when making his declarations of property for tax purposes, is not sufficient to overcome the evidence showing that the title deeds were executed in favor of his wife, and that the lands in question were purchased for her, with her own funds.

Plaintiff's attorney cites article 1407 of the Civil Code, and various decisions of this court and the supreme court of Spain in support of the general doctrine, that all property acquired during the existence of the conjugal partnership is to be considered as community property until it is shown to belong exclusively to the husband or wife.

We do not question the correctness of the doctrine contended for, but we think it is sufficient to say that the legal presumption established by article 1407 of the Civil Code has been overcome by the evidence of record. There is nothing in the record which would justify us in disturbing the findings of the trial judge as to the credibility of the witnesses called by the defense, and if we believe the defendant herself there can be no doubt that the land in question was purchased for the wife with her own separate funds.

The title deeds, supported by the evidence of record, make it clear that plaintiff has no title to or interest in the land in question, or in the title deeds thereto.

Twenty days hereafter let judgment be entered affirming the judgment entered in the court below, with the costs of this instance against the appellant, and ten days thereafter let the record be returned to the court from whence it came. So ordered.

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

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