

PETRONA VILORIA, PLAINTIFF AND APPELLEE, VS. ESPERANZA AQUINO, DEFENDANT AND APPELLANT.

G.R. No. 8938. October 24, 1914

Ponente: JOHNSON, J.

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JOHNSON, J.:

This was an action to recover the possession of seven parcels of land described in the second paragraph of the complaint. The plaintiff alleged that she was the owner of said parcels of land and was entitled to the possession of the same, together with damages amounting to P50, caused by the illegal possession of the defendant.

The defendant presented a general denial, together with a special defense. In her special defense the defendant alleged that she was the possessor and the real owner of said parcels of land.

After hearing the evidence, the Honorable Dionisio Chanco, judge, rendered a judgment in which he found that the plaintiff was the owner of one-half of said parcels of land, by inheritance, and directed the defendant to deliver the same to her, giving to the defendant the usufruct of one-third part of the said one-half, in accordance with the provisions of article 838 of the Civil Code. From that decision of the lower court the defendant appealed to this court and made several assignments of error.

From an examination of the record brought to this court, it appears that the plaintiff is the mother-in-law of the defendant; that the husband of the defendant was Genaro Corpus, the son of the plaintiff; that Genaro Corpus died in the month of September, 1911, and the present action was commenced on the 29th of June, 1912. The husband of the plaintiff died some time before the commencement of the present action.

During the trial of the cause the plaintiff attempted to prove that said parcels of land had been given to Genaro Corpus as "propter nuptias" by her husband, Alejo Corpus. The plaintiff also presented proof showing that the parcels of land had been given to Genaro Corpus by his grand mother, Cirila Pizario. The record contains no explanation of this conflict in the proof on the part of the plaintiff.

The defendant presented proof for the purpose of showing that said parcels of land had been given to her by her mother at or about the time of her marriage with Genaro Corpus. The fact is, however, that Genaro Corpus and his wife, the defendant, occupied the parcels of land during practically all of their married life. The record also shows that Genaro Corpus, as early as 1906, had made a declaration of ownership of said parcels of land, for the purpose of taxation. While said declaration, of course, did not show that he was the owner, nevertheless, it sustains the proof presented by both parties, plaintiff and defendant, that he was in possession of the same. The lower court, not being able to find from the proof adduced, in what manner Genaro Corpus and the defendant came into the possession of said land, presumed that the parcels of land constituted "bienes gananciales" [conjugal property] and divided the land between the plaintiff and defendant, as above indicated. When it is shown that a husband and wife occupy real property, as owners, during a portion of their married life, and the proof fails to show in what manner they became owners, it is perfectly proper for the courts to presume, in the absence of other proof, that said property was acquired during their married life and therefore constitutes "bienes gananciales." Considering

the property as "bienes gananciales," we find that the division made by the lower court was in accordance with the facts contained in the record and with the law. The judgment of the lower court is therefore hereby affirmed with costs.

Arellano, C. J., Torres, Carson, Moreland, Trent, and Araullo, JJ., concur.

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