

[G.R. No. 2873. January 31, 1907]

FERMINA LEONARDO Y LEGASPI, PETITIONER AND APPELLEE, VS. AMBROSIO SANTIAGO ET AL., RESPONDENTS AND APPELLANTS.

D E C I S I O N

WILLARD, J.:

The appellee, Fermina Leonardo y Legaspi, commenced, in the Court of Land Registration, five separate proceedings for the purpose of securing the inscription of a large number of tracts of land of which she claimed to be the sole owner. These proceedings were numbered in that court 1069, 1070, 1071, 1072, and 1073. In each of said proceedings she produced documentary evidence in support of her contention. In Nos. 1070, 1071, and 1072 such documentary evidence consisted of grants made by the Spanish Government to Nicomedes Santiago, who was then the husband of the petitioner. In No. 1069 such documentary evidence consisted of a deed issued by the Spanish Government to the petitioner, herself, and in No. 1073 such documentary evidence consisted of deeds of the same character, some of them made to Nicomedes Santiago and others made to the petitioner, herself. In each one of the proceedings Ambrosio Santiago, Narciso Santiago, and Manuela Santiago appeared and opposed the granting of the petition on the ground that the property described in these various deeds was acquired by Nicomedes Santiago, and his wife, Fermina, the petitioner, during their marriage; that it was conjugal property and that they, as children of Nicomedes by his first wife, Barbara de los Santos, had an interest therein.

The cases were tried separately in the Court of Land Registration and separate judgments were rendered therein, each one of them being in favor of the petitioner. The respondents duly excepted to each one of the said judgments and moved for a new trial in each one of the said cases, but prepared only one bill of exceptions in view of the fact that the questions presented in all of the cases were exactly the same. That bill of exceptions has been brought to this court, together with the entire record in each one of the five cases, and the case pending here is numbered 2873.

As has been said, the documentary evidence in the case consists of grants made by the Spanish Government in accordance with the regulations of June 25, 1880, as modified by those of August 31, 1888, relating to the adjustment of the titles to public lands of which the applicants had been in possession. The land having been acquired during the marriage, the provisions of article 1407 of the Civil Code are applicable. That article is as follows:

“All the property of the marriage shall be considered as partnership property until it is proven that it belongs exclusively to the husband or to the wife.”

In the case of *Alfonso vs. Natividad*,^[1] No. 2518, April 30, 1906 (4 Off. Gaz., 461), we held that where a deed of land was made to the wife during marriage, and there was no evidence in the case to show the source from which the money proceeded that was used in the purchase of the land, the land was conjugal property; but in this case there was evidence upon that point. The petitioner testified at the trial that she had inherited this land from her father; that he had been in possession of it for some time before his death, which occurred in 1882; that upon his death the land passed to her as his only heir and that she was not married until 1884. The witness, Francisco Vergel de Dios, testified that he knew from public report in the town where all the parties lived that the petitioner had acquired the land in controversy by inheritance from her father. In the will of Nicomedes Santiago, who died in 1897, and to which will an inventory of his property signed by him was attached, this land was not mentioned.

There was also received in evidence in this case a written statement made by Nicomedes Santiago about a month before his death, in which he said that the lands described in the Government grants Nos. 10, 11, 12, and 13, which were issued in his name, did not belong to him, but were the property of his wife, which she had inherited from her deceased father, and that the title was taken in his name as the representative of his wife. This declaration is competent evidence under the provision of section 282 of the Code of Civil Procedure, which is as follows:

“Declaration, act, or omission of deceased person against his interests.—The declaration, act, or omission of a deceased person, having sufficient knowledge of the subject, against his pecuniary interest, is admissible as evidence to that extent against his successor in interest.”

It is evident that the declaration was against the interest of Nicomedes Santiago at the time, for it was a statement that the land did not belong to the conjugal partnership nor to himself individually.

The only evidence presented by the respondents to overcome the testimony of the petitioner was the statement of Narciso Santiago, one of the respondents, to the effect that his father had told him that he had bought some land jointly with the petitioner. By stipulation between the parties it was agreed that the other two respondents would testify in the same way if they had been called.

Upon this evidence the court below found that the plaintiff was the sole owner of the land in controversy. We consider that the only question involved in this case is one of fact. The legal presumption is that the property here in question was property of the conjugal partnership, but that presumption can be overcome by proof. Such proof was presented, which the court must have found sufficient for that purpose. The question here is, not whether this finding is sustained by the preponderance of the evidence, but, is it so plainly and manifestly against the weight of the evidence that it should be reversed? (*De la Rama vs. De la Rama*, 201 U. S., 303.) We can not say that it is plainly and manifestly against the weight of the evidence. The judgments are accordingly affirmed, with the costs of this instance against the appellants. After expiration of twenty days let judgment be entered in accordance herewith and ten days thereafter the case remanded to the court from whence it came for proper action. So ordered.

Arellano, C. J., Torres, Mapa, Carson, and Tracey, JJ., concur.

^[1] 6 Phil. Rep., 240.
