

6 Phil. 264

[ G.R. No. 2790. May 05, 1906 ]

**CIRIACA MILLAN, PLAINTIFF AND APPELLEE, VS. FLORENCIA MILLAN ET AL.,  
DEFENDANTS AND APPELLANTS.**

**D E C I S I O N**

**ARELLANO, C.J.:**

The plaintiff, Oiriaca Millan, was the legitimate aunt of the defendant, Florencia Millan, who is sued in this action with the two children of her deceased sister.

Ciriaca Millan had three brothers, one of whom was Francisco Millan, who died leaving two daughters, Florencia and the mother of the other two defendants, Carmen and Manuel Perez.

Ciriaca Millan sued her nephews in the justice court of this city for 600 pesos, Philippine currency, rent received by them from a certain house in the district of Trozo of the city of Manila. The justice of the peace decided the case by dismissing the action of the plaintiff, who appealed from the order of the justice to the Court of First Instance wherein she reproduced her original complaint in the following terms, asking: (1) That she be declared to be entitled to three-fourths of the rent received from the property in question, No. 227 Calle Magdalena, Trozo, district of Binondo, the boundaries of which are described in the complaint; (2) that the property in question be ordered distributed between the parties to the action according to their respective rights; and (3) that the defendants be directed to pay the costs of both instances.

The defendants on their part admitted the following facts: (1) That the land in controversy was properly described in the complaint; (2) that the plaintiff was in fact a joint owner with the defendants of this undivided property; and (3) that the plaintiff was entitled to a three-fourths interest in the property, the remaining one-fourth belonging to the defendants, but the defendants by way of counterclaim alleged that there was due them from the plaintiff

the rent received from the property before Florencia Millan, the principal defendant, entered upon the administration of the same and at the same time filed the following cross complaint, alleging (1) that the plaintiff and the defendants were the joint owners of another tract of land in the district of Tondo described in said cross complaint, with which description the adverse party agreed; (2) that their respective interests in the property are exactly in the same proportion as their interests in the other property, that is to say three-fourths, thereof belonging to Ciriaca Millan and one-fourth to Florencia Millan and her nephew and niece, Manuel and Carmen Perez, and (3) that Ciriaca Millan had continuously administered the property to the time of the filing of the cross complaint, she having received all the rent due from the same, but failing, however, to pay to the defendants any part thereof. In view of this the defendants, after announcing that they did not object to the partition prayed for by the plaintiff, provided a partition should also be made of the property in Tondo referred to in the cross complaint and that the plaintiff render an account of her administration of the two properties, asked the court that they be acquitted of the complaint and that a partition of the two tracts be ordered and an accounting made of the earnings of the two properties.

The court found that the plaintiff was entitled to three-fourths of the property described in the complaint as situated in Trozo, district of Binondo, city of Manila; that she was the absolute owner of the property in Tondo, also a district of the city of Manila, and that the defendants had no interest therein and were not therefore entitled to a partition of the same. The court further found that the plaintiff was entitled to recover from the defendant three-fourths of the rent due from the said property since the 1st day of August, 1904, the date when the complaint was filed in the justice court, at the rate of 10 pesos, Philippine currency, per month, and entered judgment accordingly in favor of the plaintiff, Ciriaca Millan for the possession of three-fourths of the property described in the complaint as being situated in Trozo, district of Binondo, city of Manila, and for the sum of 67.50 pesos, and for the further sum of 7.50 pesos payable monthly beginning with the month of May, 1905, such payments to continue until the property should be divided between the plaintiff and the defendants either by agreement or by an order of the court, and the costs of the action. The cross complaint of the defendants was dismissed by the court. The above referred to judgment is dated the 28th of April, 1905.

The defendants excepted to the said judgment and made a motion for a new trial, which motion was denied, the aforesaid exception allowed, and the bill of exceptions settled and sent to this court, where the appeal was argued and this is the decision of this court upon such appeal.

As to the property in Trogo, there is no dispute.

As to the property in Tondo, however, it appears that the same formerly belonged to Arcadio Santiago, the uncle of the plaintiff. Francisco Millan, also a nephew of Arcadio Santiago, died before the lafcter and according to the plaintiff's contention the children of a nephew who died before his uncle can not participate in the estate of such uncle with the surviving nephews, and consequently that the defendants, claiming as they do through Francisco Millan whose death preceded that of his uncle, can not participate with Ciriaca Millan, the surviving niece of Arcadio Santiago. This relationship between the parties was established by the testimony of Florencia Millan who on cross-examination testified that her father was Francisco Millan, the brother of Ciriaca Millan, the latter two being therefore the nephew and niece of Arcadio Santiago to whom the property in Tondo belonged. Florencia herself, while testifying in regard to the Tondo property, and in answer to a question by her attorney stated that the said property was not occupied by her, but by Ciriaca Millan, and that she, the witness, was the administratrix of the property; that she was one of the heirs, she having been so informed by Ciriaca Millan, herself, when the witness, who is now 60 years old, was about 11 or 12 years of age; that Ciriaca has never given her any part of the rent from the said property; and that she has never made any claim therefor, for the reason that she was in charge of the Trozo property. In answer to the question "How do you come to have a share in the Tondo property?" she said, "For the reason that the owner of the property was my father's uncle, and the uncle of the plaintiff also." Asked again "Is it not true that when the father (Arcadia Santiago) died, Francisco was already dead?" She answered "Yes, sir."

Ciriaca Millan testified as follows: "Q. What interest have the defendants in the Trozo property?—A. I know that they are my brother's children, and as } understand it they have a share in the property, but it must be borne in mind, sir, that when the father died there were two cousins of mine named Millan still living. Q. Then you have never denied to them their share in the Tondo property?—A. No, sir; never. They are my brother's children. Q. You have never had any doubt then as to the rights of the defendants?—A. My cousins have received from me many things in advance of their share in this property, and subsequently brought an action in court against me, but I won the case. Q. Who are the administrators of the Tondo property?—A. My sisters administered the property during their lifetime. Q. And who administered it after their death?—A. I did. Q. And who administered the Trozo property?—A. Paula Gonzalez. Q. And who is Paula Gonzalez?—A. She is my niece. I have always taken care of her, and when she died I inherited the property. Q. After the death of Paula Gonzalez who administered the Trozo property?— A. After that, as I needed nothing

and bothered little about it, I told them to take the property and collect the rent for their own benefit. I was then living in the provinces, had no need for the money, and told them to take all the rent for themselves, but now that I am aged I need it and asked them to return the money, but they have refused to do so. Q. When did you ask them to return part of the rent to you?—A. When I came back from the provinces, very poor. Q. When was that?—A. About five years ago. Q. Is it not true that when you had the administration of the Tondo property you did not pay to Mr. Perez's children their corresponding share?—A. No, sir. Q. Is it not true that when you administered the Trozo property you did not pay to the children of Gabino Perez their share of the rent?—A. I don't know anything about that." By the court: "Q. Did you pay to Florencia Millan the rent from the Trozo property?—A. Yes, sir; to her alone." Attorney Cue: "Q. And the rents from the Tondo property—have you paid any part thereof to the defendants?— A. No, sir. Q. Haven't the defendants made demand upon you for the ;rent from the Tondo property?—A. No, sir." Cross-examination by Attorney Miranda: "Q. When did you leave Manila for the provinces?—A. After the earthquake of 1863, Q. And when you left, Florencia Millan took charge of the Trozo property, did she?—A. No, sir. Q. When did you turn over to Florencia Millan the Trozo property?—A, In 1872, Q. What did you say to Florencia Millan when you turned the property over to her?— A. Florencia came to me and said that she was very poor, and as I could not take care of them I turned it over to her and said 'Here you are; take it and keep the rent. Q. Then you allowed her to collect the rent because you did not need it at that time?—A. Yes, sir; as long as I had no need of it Q. And when you returned from the provinces after the war between Filipinos and Americans you needed part of the money and asked them for it?— A. I asked them for all the money, because I had absolutely nothing at that time. Q. What did Florencia Millan say to you?—A. She said she needed the money." By the court; "It is agreed by and between the parties that the rent from the Trozo property was 10 pesos per month."

The question relating to the Tondo property is not sufficiently elucidated in the decision by the trial judge, who considered it very hard to hold that the children of a nephew who died before his uncle could not participate in the estate of such uncle with the surviving nephews, but that such was the law. The court, however, found that the plaintiff had been in the quiet and peaceful possession of the property for more than thirty years.

If the children of a nephew who died before his uncle should have a right to participate in an inheritance with the surviving nephews, their rights would not be affected by a possession of more than thirty years on the part of such surviving nephews, because the property, being undivided, is not subject to prescription.

There is no doubt, however, that the children of a nephew who died before his uncle can not participate in the latter's estate with a surviving niece. The law so provides and this court has so held in the case of *Rafaela Pavia et al. vs. Bibiana de la Rosa et al.*<sup>[1]</sup>

But the fact of the matter is that although the children of a nephew who died before his uncle were never in possession of the inheritance, nor had any legal title thereto, the surviving niece, however, always understood and believed that as children of a deceased brother of hers they had as much right to the inheritance as she had, and that the same should be divided between them. The question arises whether if under the law they could not participate in the inheritance with the surviving niece they could so participate as a matter of fact on account of their misconception of their respective rights.

We hold that where there is title it may be supported by error in good faith, but where there is no title it is idle to speak of errors committed in good faith, for good faith alone confers no title. Truth should always prevail over a false belief. An error based upon the act of another may aid a title by prescription; for instance, if a person buys property from another believing him to be the owner of the same and it is discovered later that he was not such owner, the purchaser may acquire the property by prescription, but an error based upon one's own act can not be the basis of prescription. Law 14, title 29, *Partida* 3, enacted prior to the Civil Code, reads as follows: "A person who holds personal property as his own, which he has acquired by purchase, gift, or by some other lawful means, and subsequently finds that he was wrongfully in possession of the same, can not acquire title to such property even though he holds the same for three years." "Nor even for forty years," says the glossator, "for the reason that an error as to the nature of one's own act can not be considered."

So that, although the plaintiff in this case believed that the defendants were entitled to a share of the property which she possessed as a matter of fact and as a matter of law, and the defendants believed that they were so entitled, yet if this was not, and could not be, actually so, truth should prevail over such mistaken belief, and the truth is that in fact and in law the plaintiff is entitled to the possession of the property to the exclusion of the defendants. Otherwise these defendants, who were never in possession and had no right to the property and no title thereto would invoke such mistaken belief under which they as well as the plaintiff labored—that is to say, they would invoke as a title an error both of fact and law.

The judgment of the court below being in accordance with the law, the same is hereby affirmed in all respects, with the costs of this instance against the appellants. After the

expiration of twenty days from the date hereof let judgment be entered in accordance herewith and ten days thereafter the record be remanded to the court below for execution. So ordered.

*Johnson, Carson, and Willard, JJ., concur.*

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<sup>[1]</sup> Not reported.

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