

95 Phil. 614

[G.R. No. L-6636. August 02, 1954]

DAMASO CABUYAO, PLAINTIFF AND APPELLANT, VS. DOMINGO CAAGBAY, ET AL., DEFENDANTS AND APPELLEES.

D E C I S I O N

CONCEPCION, J.:

This is an appeal from an order of the Court of First Instance of Quezon dismissing civil case No. 5308 of said court.

It appears that said case was instituted on April 9, 1952. In the original complaint, plaintiff-appellant Damaso Cabuyao alleged that he is the "lone compulsory heir" of the spouses Prudencio Cabuyao and Dominga Caagbay, who died leaving the eleven (11) parcels of land therein described, and that, although plaintiff had adjudicated said properties to himself pursuant to section 1 of Rule 74 of the Rules of Court, the corresponding transfer certificates of title could not be issued in his name because the original owner's duplicate certificates were being withheld by the defendants, Domingo Caagbay and Eugenio Caagbay, who had also taken possession of said parcels of land, and would continue unlawfully using the same and committing acts of dispossession thereof, unless enjoined by the court. Hence, he prayed that a writ of preliminary injunction be issued against the defendants and that, thereafter, judgment be rendered; (a) sentencing them to vacate said lands, to turn them over to the plaintiff, and to indemnify him in the sum of P4,000; (b) "removing clouds and quieting title of the plaintiff" over said properties; and (c) ordering the defendants to surrender to him or to the Register of Deeds the aforesaid owner's duplicate certificates of title and, should they fail to do so, to order the cancellation thereof and the issuance of the corresponding transfer certificates of title in favor of the plaintiff.

On April 21, 1952, defendants filed a motion to dismiss for lack of "jurisdiction over the subject-matter," the original complaint being entitled "Unlawful Entry and Detainer." By an order, dated April 29, 1952, plaintiff was required to file an amended complaint, stating

therein the date on which the defendants had seized the properties in dispute and their grounds therefor.

On April 30, 1952, plaintiff moved for the admission of an amended complaint, which excluded Eugenio Caagbay as party defendant, and included, as such, Vicente, Ireneo, Antonio, Emilio, Aurea and Feliza, all surnamed Caagbay. Stating that plaintiff's counsel was "converting this simple case into a complicated one", the court, by an order dated June 4, 1952, granted plaintiff another five (5) days within which "to file an amended complaint, in accordance with section 3, Rule 17 of the Rules of Court," setting forth the data required in the order of April 29, 1952. In compliance therewith, plaintiff filed, on June 12, 1952, an amended complaint, which the defendants sought to be dismissed upon the ground that "plaintiff has no legal capacity to sue," there being no allegation that "plaintiff had been judicially declared lone compulsory heir" of the deceased spouses Prudencio Cabuyao and Dominga Caagbay. On motion of the defendants', dated July 5, 1952, the court issued, on July 22, 1952, an order dismissing the case, with costs against the plaintiff, for the reason that, "under the facts and circumstances of this case, as disclosed by the pleadings, no action can be maintained until a judicial declaration of heirship has been legally secured."

Soon later, or on August 1, 1952, plaintiff moved for the reconsideration of said order of July 22, 1952, and for the admission of another amended complaint thereto attached. In this pleading, plaintiff alleged that he owns the parcels of land above-mentioned, having acquired the same by inheritance from his parents, Prudencio Cabuyao and Dominga Caagbay, who died on April 8, 1919 and August 14, 1944, respectively; that despite the above mentioned extrajudicial adjudication of said properties? made by plaintiff in his favor, as the "only issue and/or successor" of his aforementioned parents, pursuant to section 1 of Rule 74 of the Rules of Court, the corresponding transfer certificates of title could not be issued in his name, the owner's duplicate of the original certificates of title having been taken by the defendants, who are nephews and nieces of the deceased Dominga Caagbay, except defendant Domingo Caagbay, who is her brother; that, upon the death of Dominga Caagbay on August 14, 1944, the defendants took possession of the lands' in dispute and have continuously enjoyed the fruits and rents thereof, aggregating P4,000; and that the defendants will continue unlawfully exercising and/or claiming ownership over said properties and violating plaintiff's dominical rights, unless a writ of injunction be issued against them.

The prayer in the last amended complaint reads:

“WHEREFORE, it is hereby respectfully asked that a preliminary injunction be issued against the defendants, their representatives, tenants, or any other person receiving instructions from them or acting in their behalf prohibiting them from re-entering the lands above-described or collecting the fruits thereof, for which purpose plaintiff is willing and ready to file corresponding bond, and, after due hearing, judgment be rendered:

(a) removing clouds and quieting the title of the plaintiff over the properties in question and ordering the defendants to vacate and reconstitute said properties to the herein plaintiff;

(b) ordering said defendants, jointly and severally to pay the herein plaintiff the amount of Four Thousand Pesos (P4,000.00) as damages;

(c) ordering the defendants to surrender to the Register of Deeds of the province, or to herein plaintiff the titles of the lands above-described and, in case of failure to do so to order the cancellation of said titles and to issue corresponding duplicates in the name of the herein plaintiff, upon payment of the corresponding fees; and to pay costs of this suit.

Plaintiff, prays for any other relief or remedy just and equitable in the premises.”

Attached to said pleading was plaintiff’s affidavit of extrajudicial adjudication (Exhibit A), as well as the documents appended thereto, namely: the death certificate of Prudencio Cabuyao (Annex A); the certificate of burial of Dominga Caagbay (Annex B); and the baptismal certificate of plaintiff Damaso Cabuyao (Annex C). In said Exhibit A, plaintiff declared that he was born in Tayabas on December 13, 1896, “the only child or heir of the spouses Prudencio Cabuyao and Dominga Caagbay,” both deceased, and that said spouses owned the real properties in question, and left no debts whatsoever, and prayed that the corresponding transfer certificates of title be issued in his name. It appears from Annex A, that Prudencio Cabuyao, married to Dominga Caagbay, died on April 8, 1919 and was buried in Tayabas, Quezon, the next day. Annex B shows that Dominga Caagbay, widow of Prudencio Cabuyao, was buried in Tayabas, Quezon, on August 5, 1944. Annex C, states that Damaso Cabuyao, the legitimate son of Prudencio Cabuyao and Dominga Caagbay, who were lawfully married, was born on December 10, 1896, and was christened by the parish priest of San Miguel Arcangel, Tayabas, province of Quezon, on December 13, 1896.

Defendants objected to said motion for reconsideration and to the admission of the amended complaint and, on August 6, 1952, the court issued the following:

ORDER

“After considering plaintiff’s motion for the reconsideration of the order of July 22, 1952, and the admission of the amended complaint thereto attached and defendant’s opposition thereto, this Court has arrived at the conclusion that said motion should be, as it is hereby, denied for lack of merit. As stated in the order of the reconsideration of which is prayed, it is impossible for plaintiff to maintain the action in this case because he and the party defendants alleged to be the heir of the same decedents and there has been no showing that they have been judicially declared as heir of the deceased. Once the question of who are the heirs is determined, it may not be necessary for the plaintiff to file the complaint in this case.” (Amended Record on Appeal, pp. 49-50.)

Plaintiff has appealed to this Court, and now he contends:

- “1. That the court below erred in sustaining the motion to dismiss dated July 15, 1952.
- II. That the court below erred in holding that ‘in this case no action can be maintained until a judicial declaration of heirship has been legally secured.
- III. That the court below erred in denying the motion for reconsideration dated July 21, 1952, and in not giving due course to the second amended complaint.” (Brief for appellant, p. 3.)

In the pleadings in question, it is alleged and, in the orders and briefs before us, it is not denied, that the lands in dispute belongs originally to the spouses Prudencio Cabuyao and Dominga Caagbay, who were legally married; that plaintiff Damaso Cabuyao is their “lone” legitimate child; and that the defendants are nephews and nieces of Dominga Caagbay, except of Defendant Domingo Caagbay, who is her brother. The only question for determination before us is whether, under the foregoing facts, which, for purpose of this appeal, must be assumed to be true, plaintiff has a cause of action to recover the properties in dispute and to quiet his alleged title thereto. The defendants maintain, and the lower

court held, that plaintiff's alleged right to succeed the deceased must be settled by a judicial declaration to such effect before said cause of action could be asserted in his favor. This view is, however, in conflict with the law and with a rule well established in our jurisprudence. Section 1 of Rule 74 of the Rules of Court reads:

"If the decedent left no debts and the heirs and legatees are all of age, or the minors are represented by their judicial guardians, the parties may, without securing letters of administration, divide the estate among themselves as they see fit by means of a public instrument filed in the office of the register of deeds, and should they disagree, they may do as in an ordinary action of partition. *If there is only one heir or one legatee, he may adjudicate to himself the entire estate by means of an affidavit filed in the office of the register of deeds.* It shall be presumed that the decedent left no debts if no creditor files a petition for letters of administration within two years after the death of the decedent." (Italics supplied.)

Pursuant thereto, plaintiff's affidavit of extrajudicial adjudication in his favor sufficed to settle the estate in question, if the following conditions are present, namely: (a) that the decedents left no debts and (b) that the heirs and legatees are all of age, or the minors are represented by their judicial guardians. The presence of the first requirement is presumed, no creditor having filed a petition for letters of administration within two (2) years after the death of the decedents. The allegations of the original and the amended complaints—which, for the purpose of this appeal, should be regarded as true—show that plaintiff is the sole heir of the decedent, that he is of age, and that the second requirement is, likewise, present. Hence, plaintiff can not be denied the full force and effect of the provision above quoted.

Moreover, the Spanish Civil Code, which was in force when the events material to the issue before us took place, provided:

"ART. 657. The rights to the succession of a person are transmitted *from the moment of his death.*

"ART. 661. Heirs succeed to all the rights and obligations of the decedent *by the mere fact of his death*"

Thus, as early as 1904, this Court entertained, in the case of *Mijares vs. Nery* (3 Phil., 195), the action of an acknowledged natural child to recover property belonging to his deceased father—who had not been survived by any legitimate descendant—notwithstanding the absence of a previous declaration of heirship in favor of the plaintiff, although the latter's claim did not prosper for it was predicated upon the theory that the defendant—as illegitimate children of the deceased pursuant to the laws of Toro, which were in force at the time of their birth—had no right to succeed their common father, and such pretense was not sustained, the latter having died after the promulgation of the Civil Code of Spain, under the provisions of which said defendants were, likewise, acknowledged natural children, and, as such, had the same rights as the plaintiff.

The right to assert a cause of action as an alleged heir, although he has not been judicially declared to be so, has been acknowledged in a number of subsequent cases.

“The property of the deceased, both real and personal, became the *property of the heir by the mere fact of death* of his predecessor in interest, and he could deal with it in precisely the same way in which the deceased could have dealt with it, subject only to the limitations which by law or by contract were imposed upon the deceased himself. * * *” (*Suiliong & Co. vs. Marine Insurance Co., Ltd. et al.*, 12 Phil., 13, 19.)

“Claro Quizon died in 1902. It was proven at the trial that the present plaintiffs are the next of kin and heirs, but it is said by the appellant that they are not entitled to maintain this action because there is no evidence that any proceedings have been taken in court for the settlement of the estate of Glaro Quison, and that, without such settlement, the heirs can not maintain this action. There is nothing in this point. As well by the Civil Code as by the Code of Procedure, the title to property owned by a person who dies intestate passes at once to his heirs. Such transmission is, under the present law, subject to the claim of administration and the property may be taken from the heirs for the purposes of paying debts and expenses, but *this does not prevent the immediate passage of the title*, upon the death of the intestate, from himself to his heirs. Without some showing that a judicial administrator had been appointed in proceedings to settle the estate of Claro Quison, the right of the plaintiffs to maintain this action is established.” (*Quison vs. Salud*, 12 Phil., 109, 113-114.)

“It is alleged in the complaint that the plaintiff, Silvestra Lubrico, is an only child, and therefore the sole general heir of the original owners of the property, and no proof was offered at the trial to show that there was any other descendant entitled to succeed besides the plaintiff, who, on her part, has shown herself to be the legitimate daughter of the late Guillermo Lubrico and Venancia Jaro.

If heirs succeed the deceased by their own right and operation of law in all his rights and obligation by the mere fact of his death, it is unquestionable that the plaintiff, in fact and in law, succeeded her parents and *acquired the ownership of the land referred to in the said title, by the mere fact of their death.* (Arts 440, 657, 658, 659, and 661, Civil Code.)

Even in the event that there should be a coheir or a coheir of the parcel of land in question, once the right of the plaintiff, and consequently her personality, has been proven the defendant has no right to dispute them, x x x.” (Lubrico vs. Arbado, 12 Phil., 391, 396-397.)

“There is no legal precept or established rule which imposes the necessity of a previous legal declaration regarding their status as heirs to an intestate estate on those who, being of age and with legal capacity, consider themselves the legal heirs of a person, in order that they may maintain an action arising out of a right which belonged to their ancestor.” (Hernandez vs. Padua, *syllabus* 14 Phil., 194.)

See, also, Inocencio vs. Gat-Pandan, 14 Phil., 491; Sy Joe Lieng vs. Sy Quia, 16 Phil, 137; Aliasas vs. Alcantara, 16 Phil., 489; Irlanda vs. Pitargue, 22 Phil., 383; Castillo vs. Castillo, 23 Phil., 364; Nable Jose vs. Uson, 27 Phil., 73; Beltran vs. Soriano, 32 Phil., 66; Bona vs. Briones, 38 Phil., 276; Uy Coque vs. Navas L. Sioca, 45 Phil., 430; Fule vs. Fule, 46 Phil., 317; Orozco vs. Garcia, 50 Phil., 149; Gibbs vs. Gov’t of the P. I., 59 Phil., 293; Mendoza Vda. de Bonnevie vs. Cecilio Vda. de Pardo, 59 Phil., 486; Lorenzo vs. Posadas, 64 Phil., 353; Gov’t. vs. Serafica, 33 Off. Gaz., 334; De Vera vs. Galauran, 67 Phil., 213; and Cuevas vs. Abesamis, 71 Phil., 147.

In view of the foregoing, the order appealed from is hereby reversed, and let the record of this case be, as it is hereby, remanded to the court of origin for further proceedings not inconsistent with this decision, with costs against the defendants-appellees. It is so ordered.

Paras, C. J., Pablo, Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador and

Reyes, J. B. L., JJ., concur.

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