

102 Phil. 859

[G. R. No. L-10423. January 21, 1958]

AMADO P. JALANDONI AND PAZ RAMOS, PLAINTIFFS AND APPELLANTS VS. ANGELA MARTIR-GUANZON, IN HER OWN BEHALF AND AS JUDICIAL ADMINISTRATRIX OF THE TESTATE ESTATE OF THE LATE SPOUSES HILARION AND LIGORIA MARTIR, AND ANTONIO GUANZON, DEFENDANTS AND APPELLEES.

D E C I S I O N

REYES, J.B.L., J.:

Appeal by the spouses Amado P. Jalandoni and Paz Ramos from an order of the Court of First Instance of Occidental Negros dismissing their complaint in Civil Case No. 3586 of said court.

It appears that on January 9, 1947, the appellant spouses began a suit (Case No. 573) against the appellees Antonio Guanzon, et al., for partition of lots Nos. 130-A, 130-B and 130-F of the Murcia Cadastre, as well as lots Nos. 1288 and 1376 of the Bogo Cadastre, and for recovery of damages caused by the defendants' unwarranted refusal to recognize plaintiffs' right and partition said lots, as well as to account for and deliver plaintiffs' share in the crops obtained during the agricultural years from 1941-1942 to 1946-1947. By decision of February 22, 1955, the Court of First Instance of Negros Occidental held for plaintiffs and ordered the partition of the lands involved, but denied their claim for damages because of failure to "prove the exact and actual damages suffered by them."

The decision having become final because none of the parties appealed therefrom, the plaintiffs instituted the present action (No. 3586 of the same Court of First Instance) on August 26, 1955, seeking recovery from the defendants of the following amounts: (1) P20,000 as moral and exemplary damages due to suffering, anguish and anxiety occasioned by the defendants' refusal to partition the properties involved in the preceding case; (2) P55,258.20 as share of the products of the property from 1947 (when the preceding case No. 573 was filed) until 1955 when judgment was rendered therein (3) P4,689.54 as land

taxes due and unpaid on the properties involved; and (4) P2,500 for attorneys' fees.

Upon motion of defendants, the court a *quo* dismissed the second complaint for failure to state a cause of action; and after their motion to reconsider was denied, plaintiffs appealed to this Court on points of law.

We find the dismissal to have been correctly entered. Except as concomitant to physical injuries, moral and corrective damages (allegedly due to suffering, anguish and anxiety caused by the refusal of defendants in 1941 to partition the common property) were not recoverable under the Civil Code of 1899 which was the governing law at the time. Recovery of such damages was established for the first time in 1950 by the new Civil Code, and can not be made to apply retroactively to acts that occurred under the prior law in view of the punitive or deterrent character of these damages. The rule is expressly laid down by paragraph 1 of Article 2257 of the new Code:

“Art. 2257. Provisions of this Code which attach a civil sanction or penalty or a deprivation of rights to acts or omissions which were not penalized by the former laws, are not applicable to those who, when said laws were in force may have executed the act or incurred in the omission forbidden or condemned by this Code.

* * * * *

As to the value of the plaintiffs' share in the products of the land during the time that the former action was pending (which are the damages claimed under the second cause of action), their recovery is now barred by the previous judgment. These damages are but the result of the original cause, of action, viz., the continuing refusal by defendants in 1941 to recognize the plaintiffs' right to an interest in the property. In the same way that plaintiffs claimed for their share of the produce from 1941 to 1947, these later damages could have been claimed in the first action, either in the original complaint (for their existence could be anticipated when the first complaint was filed) or else by supplemental pleading. To allow them to be recovered by subsequent suit would be a violation of the rule against multiplicity of suits, and specifically of sections 3 and 4 of Rule 2 of the Rules of Court, against the splitting of causes of action, since these damages spring from the same cause of action that was pleading in the former case No. 573 between the same parties (*Blossom & Co. vs. Manila Gas Corporation*, 55 Phil. 226; *Santos vs. Moir*, 36 Phil. 350; *Pascua vs. Sideco*, 24

Phil 26; Bachrach Motor Co. vs. Icarangal, 68 Phil. 287).

That the former judgment did not touch upon these damages is not material to its conclusive effect: between the same parties, with the same subject matter and cause of action, a final judgment on the merits is conclusive not only on the questions actually contested and determined, but upon all matters that *might have been* litigated and decided in the former suit, i.e., all matters properly belonging to the subject of the controversy and within the scope of the issue (*Peilalosa vs. Tuason*, 22 Phil. 312; *National Bank vs. Barretto*, 52 Phil. 824; *Namarco vs. Macadaeg*, 98 Phil. 185; 52 Off. Gaz., 182; *Miranda vs. Tiangco*, 96 Phil., 526, 51 Off. Gaz., [3] 1366). Hence, the rejection of plaintiffs' claim for damages in Case No. 573 imports denial of those now claimed, since these are a mere continuation of the former.

Anent the land taxes allegedly overdue and unpaid, it is readily apparent that, taxes being due to the government, plaintiffs have no right to compel payment thereof to themselves. The case could be otherwise if plaintiffs had paid the taxes to stave off forfeiture of the common property for tax delinquency; in that event, they could compel contribution. But the complaint does not aver any such tax payment.

Little need be said concerning the claim for attorneys' fees under the fourth cause of action. If they be fees for the lawyer's services in the former case, they are barred from recovery for the reasons already given; if for services in the present case, there is no justification therefor, since no case is made out for the plaintiffs. The order of dismissal appealed from is affirmed. Costs against plaintiffs-appellants. So ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Concepcion, Endencia, and Felix, JJ., concur.