

BASILIA F. VDA. DE ZALDARRIAGA, IN HER CAPACITY AS JUDICIAL AD-MINISTRATRIX OF THE INTESTATE ESTATE OF HER LATE HUSBAND, JOSE ZALDARRIAGA, PLAINTIFF-APPELLEE, VS. PEDRO ZALDARRI...

G.R. No. L-21888. June 26, 1967

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

The parties in this case are co-owners of a parcel of land the assessed value of which is P137,800.00.* Plaintiff represents the late Jose Zaldarriaga who owns an undivided 1/8 share according to the transfer certificates of title. Defendants own the remaining 7/8 shares and are the ones in possession of the land. During the 34 years that they have been in possession, defendants cultivated a certain portion (7/8) of the entire land. The remaining 1/8 portion is uncultivated. Plaintiff would like to have her specific portion of the property and has demanded an accounting of the produce thereof, rentals, profits, etc., all in all amounting to P202,302.00.

After trial, the Court of First Instance upheld her right to one-eight (1/8) of the hacienda and granted to plaintiff her share of the produce, back rentals and profits, plus damages, all amounting to P139,586.00 only. And after further proceedings, the lower court decreed that plaintiff's one-eight (1/8) share be taken from the cultivated portion of the land and the remaining cultivated and uncultivated portions should go to defendants. The latter are now contesting the award and the court order.

This is the second time that this case is before Us. The first time it was brought was on questions purely of law, i.e., whether the decision rendered by the court merely ordering a partition was already appealable, and We decided speaking thru Justice Dizon that it was not yet proper for appeal; hence it was remanded for continuation of the partition proceedings. This time, questions of fact and law are involved.

The law provides that the Supreme Court shall have exclusive appellate jurisdiction in "all civil cases in which the value in controversy exceeds two hundred thousand pesos, exclusive of interest and costs, or in which the title or possession of real estate exceeding in value the sum of two hundred thousand pesos to be ascertained by the oath of a party to the cause or by other competent evidence, is involved or brought in question. x x x" (Sec. 17, par. 3, No. 5 of R.A. 296 as amended)

Since plaintiff did not appeal from the decision, this Court cannot increase the award of P139,586.00. That amount is, for purposes of appeal, the value in controversy. While title to real estate is involved and the whole land has an assessed value of P137,800.00, yet the parties are disputing only the 1/8 portion thereof that should go to plaintiff. Plaintiff does not want the entire hacienda. 1/8 of P137,800.00 is P17,300.00. Adding this to the disputed award of P139,586.00, the result is P156,886.00. Hence, not exceeding P200,000.00 yet.

Defendants raise 22 errors but only 5 involve questions purely of law; the rest involve factual questions (since defendants assail the factual findings of the lower court) and mixed questions of fact and law.

Although the complaint asked for P202,302.00, the amount involved in the appeal is P156,886.00 only. In *IMPERIAL v. MANILA TIMES*, L-17430, Nov. 30, 1962, the complaint asked for P250,000.00 but the trial court awarded only P15,000.00 to each of the two plaintiffs. Only defendants appealed and their assignments of error involved factual questions. This Court held that it had no jurisdiction and certified the case to the Court of Appeals.

WHEREFORE, this appeal is hereby certified to the Court of Appeals.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, and Ruiz Castro, JJ., concur.

* See Exhibit 13.

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