

**FELIMON CENIDO, CRISTINA CENIDO ADORACION BARRETO,
JOVENAL BARRETO, AND PORVENIR BARRETO, PETITIONERS, VS.
THE COURT OF APPEALS, VALENTIN ANTAZO AND ADRIANO
ANTAZO, RESPONDENTS.**

G.R. No. L-10634-35. May 28, 1958

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

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

On September 13, 1931, Eulogia Antazo, a resident of Binangonan, Rizal, died. She was predeceased by her husband Mariano Aralar, and their two children, Maxima and Martina Aralar. Maxima was the mother of petitioners-appellants Adoracion, Jovenal and Porvenir, all surnamed Barretto, while Martina was the mother of plaintiffs Felimon and Cristina Cenido. Respondent-appellee Valentin Antazo was the cousin of Eulogia Antazo de Aralar.

On September 21, 1931, Valentin Antazo commenced Special Proceedings No. 4915, of the Court of First Instance of Rizal, for the probate of a will of the deceased, Eulogia Antazo, distributing her property. Valentin Antazo was appointed administrator in the testate proceedings. All the herein appellants were minors at the time, but the Barrettos were represented by guardians ad litem. On January 14, 1932, the court approved the project of partition; and the administrator on October 21, 1936, asked the court with the heirs' consent to relieve him from accounting; to be authorized to cede two parcels of land to Mateo Celerian in payment of the obligations of the deceased (Exh. E-2); and for the closure of the proceedings. The motion was granted by the court on February 13, 1937 (Exh. E-3).

On June 26, 1950, the grandchildren of Eulogia Antazo filed a motion in the testate proceedings to punish for contempt and remove administrator Antazo. Since the re constitution of the lost records of the testate case appeared impossible, the court suggested in an order, dated July 17, 1950, the filing of separate and independent actions. This resulted in the filing of Civil Cases Nos. 1160 and 1208 on July 17 and August 3, 1950, respectively.

In Civil Case No. 1160 (CA-G.R. No. 11719-R) against Valentin and Adriano Antazo, plaintiffs (grandchildren of Eulogia Antazo) urged the annulment of the project of partition submitted in the testate proceedings on the ground of fraud on the part of Valentin Antazo, as administrator, in asserting that the deceased Eulogia Antazo left no forced heirs, when she left grandchildren, and two of them, Felimon and Cristina Cenido were then minors; and sought recovery of three parcels described in paragraph 3 of their complaint, with damages and costs; and, in the event that the project of partition be declared valid, then plaintiffs pray for the partition of parcel (a), and the delivery of parcel (c), which was omitted in the project of partition. Valentin Antazo averred that parcel (a) was bequeathed by the deceased to him and his brother Adriano Antazo, pursuant to the order of the original owner; and with respect to parcel (b), that it was delivered and transferred by him to Adriano Antazo, in the administration proceedings. As to parcel (c), the record discloses that this was adjudicated to the plaintiffs by the trial court in its judgment on the pleadings dated November 13, 1952. Anyway, Valentin Antazo claimed that he

had never been in possession of this parcel of land in his capacity as administrator of the estate of Eulogia Antazo.

In Civil Case No. 1208-(CA-G. R. No. 11720-R), involving 14 parcels of land (including the three claimed in the other case) and a religious carriage locally known as a trescaida, allegedly belonging to the estate of the Aralar spouses, plaintiffs prayed for the value of the products of said lands, for the return of the trescaida and for damages. According to Valentin Antazo, parcels (e) and (g), the last being the same as parcel (c) in Civil Case No. 1160, have never come into his possession as administrator; that parcels (h) and (i) have been sold by him to Mateo F. Celerian, with the approval of the court, to satisfy all claims against the estate; and the remaining parcels of land have already been delivered to the legatees named in the will and project of partition.

After a joint hearing of the cases, the Court of First Instance rendered judgment on February 26, 1953, and adjudicated parcel (c) of case No. 1160 to the plaintiffs, by a prior judgment for the pleadings; held that plaintiffs' action accrued in 1931 and therefore barred by prescription and by the orders issued in the probate proceedings; and dismissed the actions, sentencing plaintiffs Barretto and Cenido to pay P2,000.00 damages to defendants.

Plaintiffs then appealed to the Court of Appeals, which, after hearing, duly rendered a decision setting aside the award of damages to the defendants Antazo, but upholding the dismissal of the cases saying

"These three cases are essentially the offshoot of the testate proceedings. The project of partition was prepared strictly in accordance with the dispositions made in the will (Exhibits E and Q-1). Even the sale to Mateo Celerian of the parcels of land described under paragraphs 2 (h) and (i) of the complaint in Civil Case No. 1208, which are the same as parcels Nos. 9 and 10 in the will, for the satisfaction of all claims against the estate, was in conformity with the will. The termination of the proceedings by the probate court on February 13, 1937 (Exhibit E-3) meant that a final distribution of the estate of the testatrix was made and approved by the court. This final distribution vested title to the lands composing the estate in the distributees or legatees (Santos v. Roman Catholic Bishop of Nueva Caceres, 45 Phil. 893). Assuming that at least Cristina Cenido and Felimon Cenido were not duly represented in the testate proceedings, the evidence of record does not show that they have been left out in the partition and distribution to warrant a reopening of the probate proceedings and let another court or judge throw out a decision or order already final and executed (Ramos v. Ortuzar, G. R. No. L-3299, August 29, 1951). If the lands were not actually delivered to the respective legatees after the termination of the proceedings the cause of action accrued in February, 1947, when all the appellants have attained the age of majority because the youngest of them, Provenir Barretto, became of age in May 1940. In Ramos v. Ramos, 45 Phil. 362, it was held that if the three-year saving clause in favor of a minor expires before the full ten-year prescriptive period has elapsed, prescription becomes effective at the expiration of the latter period. The law, said the Supreme Court in that case, does not unconditionally give the period of three years in addition to the ten years allowed for prescription. It is clear therefore, that the causes of action of appellants have been barred by prescription when the cases at bar were filed in 1950." (Petitioners' Brief, pp. 36-38)

Appellants Barretto and Cenido then resorted to this Court. We granted certiorari.

In their brief, appellants make the following assignment of errors:

"1. THE COURT OF APPEALS ERRED IN DECLARING THAT COURT CLOSED THE ADMINISTRATION ON FEBRUARY 13, 1937, WHEN IT ALSO SAID THAT 'ON FEBRUARY 24, 1937, ADMINISTRATOR ANTAZO FILED A CONSTANCIA' WHICH SHOWS THAT ON SAID DATE OF FEB. 24, 1937, THE ADMINISTRATOR WAS JUST PRAYING THAT HE BE ORDERED TO DELIVER THE SHARE OF ADORACION BARRETTO, AND THEREFORE THE ADMINISTRATION PROCEEDINGS COULD NOT BE TERMINATED PRIOR TO FEBRUARY 24, 1937.

2. THE COURT OF APPEALS ERRED IN NOT DECLARING THAT THESE CASES ARE GOVERNED BY ACT 3110, AND THAT UNDER THE PROVISIONS OF ACT 3110, SECTION 7. AN ORDER OF

PROBATE OF A WILL AND A FINAL ORDER OF TERMINATION OF THE PROCEEDINGS CANNOT BE PROVED EXCEPT BY AN AUTHENTIC COPY THEREOF.

3. THE COURT OF APPEALS ERRED IN NOT AWARDING THE WHOLE OF PARCEL (A) AND PARCEL (B) TO THE PLAINTIFFS, TOGETHER WITH THE HARVESTS THEREOF AT LEAST FROM 1937 UP TO AND UNTIL THEY ARE DELIVERED TO THE PLAINTIFFS.

4. THE COURT OF APPEALS ERRED IN NOT AWARDING MORAL DAMAGES AND ATTORNEYS FEES IN THE AMOUNT OF P10,000.00 CLAIMED BY THE PLAINTIFFS FOR BAD FAITH AND FRAUDS COMMITTED BY DEFENDANT ADMINISTRATOR.

5. THE COURT OF APPEALS ERRED IN NOT AWARDING DAMAGES IN PAST HARVESTS IN FAVOR OF THE PETITIONERS AFTER THE LOWER COURT HAD RENDERED JUDGMENT ON THE PLEADINGS WHICH DECLARED THE PLAINTIFFS THE COMPLETE AND ABSOLUTE OWNERS OF PARCEL (C), WHICH PARCEL THE DEFENDANT ADRIANO ANTAZO CLAIMED TO HAVE BEEN IN HIS POSSESSION 'SINCE 1918' UNTIL IT WAS DELIVERED TO THE PLAINTIFFS BY THE SHERIFF ON EXECUTION ISSUED BY THE TRIAL COURT, ON DEC. 19, 1952."

The first error raises a question of fact. The only reason advanced against the holding of the Court of Appeals that the administration of the estate of Eulogia Antazo was in fact closed by the order of February 13, 1937, is that on the 24th of said month, said Valentin Antazo as Administrator filed a motion (Exh. I) for the removal of Cirilo Barretto as guardian ad litem of his minor children (petitioners and appellants Barretto) and to authorize the Administrator to make delivery of her share to Adoracion Barretto herself, since she had already married and was released from her father's parental power. We do not believe that this motion contradicts the finding of the Court of Appeals, for obviously the motion concerned merely the execution of the project of partition, which was unquestionably passed upon and approved by the court on January 14, 1937 (Rec. App, pp. 25-26) and again on February 13, 1937 (Rec. App. p. 30), thus fixing the rights of the heirs and legatees as of the later date.

Anyway, whether the proceedings were or were not closed on February 13, 1937, there is no question that the order of approval of the project of partition had become final by that time, since no appeal was interposed. Any right of the distributees accrued as of that date in conformity with the approved partition; and by 1950, when the present cases were instituted, it was too late to have the partition reviewed or altered. Even in the case of the heir Cristina Cenido, who did not become of age until July 8, 1939 (since according to Exh. M, she was born on July 8, 1918), it was too late for her in 1950 to reinvestigate any properties to which she might lay claim because she had allowed more than the ten-year maximum period of limitation (1939-1949) to elapse without asserting her rights.

The second assignment of error is untenable. Act 3110 applies to reconstitution of records of pending cases, and did not apply to the Estate of Eulogia Antazo, which the court had declared terminated as of 1937.

As to the third error, parcel (b) of case No. 1160 (CA-G.R. No. 11719-R) was adjudicated in the final partition to appellee Adriano Antazo. This adjudication was in strict conformity with paragraphs 11 and "e" of the will of the deceased (Exh. Q-1). More than ten years having elapsed during which Adriano was in possession of said land, appellants are barred from questioning either the adjudication to Adriano or his ownership thereof.

But as to parcel (a) (land in Mambalon, Binangonan, Rizal, covered by Tax Declaration No. 20867), we agree with appellants that it was error to dismiss their claim in toto. Valentin Antazo's averment that said parcel had been "devuelto, transferido y entregado absolutamente y a perpetuidad a dicho demandado y a su hermano Adriano Antazo por la finada Eulogia Antazo" (Rec. App. p. 35) is contradicted by his own evidence. Paragraph (g) of the testament provided the following:

"g. Que devuelvo, entrego y transfiero en absoluto y a perpetuidad a primos Adriano Antazo y Valentin Antazo la propiedad descrita en el numero 12 de este documento, porque la citada propiedad de dos balitas y media es de la propiedad del Santo (Tres Caidas) de acuerdo con el testamento otorgado por nuestro abuelo, Capitan Pedro Antazo el 31 de Diciembre de 1891; y la otra mitad restante, lego y dono en partes iguales, a mis nietas Adoracion Barretto y Cristina Cenido." (Rec. App. p.42)

The property described in No. 12 of the testament is precisely parcel (a) of paragraph 3 of the complaint in case No. 1160; as can be seen, only one half was bequeathed to the brothers Antazo, while the other half was devised to the granddaughters of the testatrix. And this is confirmed by the project of partition submitted by Valentin Antazo himself, as Judicial Administrator; for it adjudicated to Adoracion Barretto "una cuarta (1/4) proindivisa" of said land (See. App. p. 20); to Cristina Cenido also an undivided fourth interest (Rec. App. p. 21); another fourth to Adriano Antazo (Rec. App. p.22); and a like interest to Valentin (Rec. App. p.23). Valentin Antazo is estopped, therefore, both by his own act and the court's decree, from denying that appellants Adoracion Barretto and Cristina Cenido have each a fourth interest in this land in Barrio Mambalon, Binangonan, Rizal, prewar Tax Declaration No. 20867, and that interest carries with it the right to partition and to a share in the fruits received by Valentin Antazo.

Adverse possession does not lie between coowners In the absence of express repudiation brought home to the other coowners (Laguna vs. Levantino, 71 Phil. 566; Mallari vs. Sunga, G. R. No. L-5043, Dec. 17, 1952). None having been proved in this case, appellants' action for revindication, partition, and accounting of the fruits was erroneously dismissed.

We see no error in the refusal of the Court of Appeals to award moral damages (fourth assignment of error) to plaintiffs, it appearing that the partition was strictly in conformity with the testament of the deceased grandmother of the appellants, and that most of the prejudice allegedly suffered by them is either non-existent or attributable to their concurrent negligence to enforce their rights. Neither is there any showing that the legitimes of the grandchildren were impaired.

As to the fifth assignment of error, suffice it to observe that the Court of First Instance awarded parcel (c) of the complaint in Case No. 1160, to herein appellants by a judgment on the pleadings on November 13, 1952, but refrained from making any pronouncement on the harvests thereof; yet the appellants acquiesced therein, and did not protest or prosecute an appeal from that award. The same having become final, appellants have only themselves to for the incomplete relief granted.

In view of the foregoing, the judgment appealed from is modified by declaring each one of appellants, Adoracion Barretto and Cristina Cenido, the owner of an undivided fourth of the land described paragraph 3(a) of the complaint in case No. 1160 of the Court First Instance of Rizal, and ordering the records remanded to said court for further proceedings regarding partition of the property and accounting and distribution of its fruits from and after 1937, by appellee Valentin Antazo, In all other respects, said decision is affirmed. No costs.

So Ordered.

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

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