

EUGENIA MORALES, ET AL., PLAINTIFFS AND APPELLANTS, VS. PROCESO YAÑEZ, DEFENDANT AND APPELLEE.

G.R. No. L-9315. March 24, 1956

Ponente: BENGZON, J.

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BENGZON, J.:

Appeal from an order of the Hon. Jose P. Veluz, Judge of the Court of First Instance of Misamis Oriental dismissing plaintiffs' complaint dated July 17, 1950 for the recovery of three parcels of land in the City of Cagayan de Oro.

There is no question that said lands belonged to Eugenio Saarenas who died intestate in 1937, leaving no ascendants nor descendants; that as his surviving nephews (by a sister) defendant Proceso Yanez (and his sisters) took possession of said lots; and that plaintiffs are illegitimate (adulterous) children of Eugenio, born between 1910 and 1927.

Plaintiffs' action is founded on arts. 287 and 988 of the New Civil Code, giving illegitimate children the right to succeed, where decedent leaves no ascendants nor descendants.

Defendant Yañez (and his sisters) claim the right to inherit under the Civil Code articles 946, 947, and 948—the law in force at the time of Eugenio's death.

Applying the Civil Code, the trial judge absolved the defendant. He refused to apply the New Civil Code— that grants for the first time successional rights to illegitimate children, in accordance with this Court's decision in *Uson vs. Del Rosario*, (92 Phil., 530) promulgated January 29, 1953, the pertinent portions of which are;

"But defendants contend that, while it is true that the minor defendants 'are illegitimate children of the late Faustino Nebraska and under the old Civil Code are not entitled to' any. success rights, however, under the new Civil Code, which became in force in June 1950, they are given the status and, rights which the law accords to the latter (Article 2264 and Article 278, new Civil Code), and because these successional rights were declared for the first time in the new code, they shall be given retroactive effect even though the event which gave rise to them may have occurred under the prior legislation (Art. 2253, new Civil Code).

"There is no merit in this claim. Article 2253 * * * provides that if a right should be declared for the first time in his Code, it shall be effective at once, even though the act or event which gives rise thereto may have been done or may have occurred under the prior legislation, provided said new right does not prejudice or impair any vested or acquired right, of the same origin. As already stated in the early part of this decision, the right of ownership of Maria Uson over the lands in question became vested in 1945 upon the death of her late husband and this is so because of the imperative provision of the law which commands that the rights to succession are transmitted from the moment of death (Article 657, old Civil Code). The new right recognized by the new Civil Code in favor of the illegitimate children of the deceased cannot, therefore, be asserted to the impairment of the vested right of Maria Uson over the lands in dispute."

It is clear that His Honor read the law correctly. " Appellants contend, however, that for defendant to acquire a

vested right to, Eugenio's property, he must first commence proceedings to settle Eugenio's estate—which he had not done. There is no merit to the contention. This Court has repeatedly held that the right of heirs to the property of the deceased is vested from the moment of death.[1] Of course the formal declaration or recognition or enforcement of such right needs judicial confirmation in proper proceedings. But we have often enforced or protected such rights from encroachments made or attempted before the judicial declaration.[2] Which can only mean that the heir acquired hereditary rights even before judicial declaration in testate or intestate proceedings.

However, a more conclusive consideration barring plaintiffs' demand is to be found in Article 2263 of the New Civil Code which read:

"ART. 2263. Rights to the inheritance of a person who died, with or without a will, before the effectivity of this Code, shall be governed by the Civil Code of 1889, by other previous laws, and by the Rules of Court. The inheritance of those who, with or without a will, die after the beginning of the effectivity of this Code, shall be adjudicated and distributed in accordance with this new body of laws and by the Rules of Court; but the testamentary provisions shall be carried out insofar as they may be permitted by this Code. Therefore, legitimes, betterments, legacies and bequests shall be respected; however, their amount shall be reduced if in no other manner can every compulsory heir be given his full share according to this Code."

According to the above italicized portion the rights of the herein litigants to the property of Eugenio must be determined in accordance with the Civil Code, because he died in 1937, i. e, before the enactment of the New Civil Code in 1949.

The appealed order is therefore affirmed with cost
against appellants.

Parás, C. J., Padilla, Reyes, A., Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

[1] Art. 657 Civil Code, *Mijares vs. Neri*, 3 Phil. 195; *Velasco vs. Vizmanos*, 45 Phil., 675; *Ilustre vs. Frondosa*, 17 Phil., 321; *Bondad vs. Bondad*, 34 Phil., 232; *Inocencio vs. Gatpandan*, 14 Phil., 491; *Fule vs. Fule*, 46 Phil., 317.

[2] See *Coronel vs. Ona*, 33 Phil., 456; *Nable Jose vs. Nable Jose*, 41 Phil., 713; *Velasco vs. Vizmanos*, supra.

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