

GERMAN S. MONTESA, PLAINTIFF-APPELLANT, VS. FELIPE ONOFRE DIRECTO, ARTURO ANTONIO DIRECTO, MARIA CARIDAD DIRECTO AND VALERIANO MANIPOL, DEFENDANTS-APPELLANTS.*G.R. No. L-27100. March 28, 1969*

Ponente: CONCEPCION, C.J.

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Appeal from an order of dismissal of the Court of First Instance of Manila.

Soon after the death of Angustia Sipin, alias Angustia Sipin de Montesa, on August 22, 1949, Valeriano Manipol, and plaintiff herein, German S. Montesa, acting in his behalf and as guardian of the minors Amparo Montesa, Felipe Onofre Directo, Arturo Antonio Directo and Maria Caridad Directo, executed, on November 12, 1949, a deed of extrajudicial partition of the estate of the deceased, stating that said Valeriano Manipol is her surviving spouse; that German S. Montesa and the minors represented by him are her children; that said estate consists of two (2) parcels of land located, one (of about 114 sq. meters) at Sta. Cruz, Manila, and the other (of about 300 sq. meters) at Cubao, San Juan del Monte, Province of Rizal, and two (2) Savings Accounts, one (for P1,418.97) in the Monte de Piedad and another (for P7,812.73) in the Philippine National Bank; that said estate has no pending debts or claims against it; that said two (2) parcels of land are paraphernal property of the deceased and were, accordingly, adjudicated to her aforementioned five (5) children, each one of whom shall own one-fifth of each lot; that the amounts of said savings accounts shall be distributed as follows: the sums deposited before October 30, 1945, when Angustia Sipin married Valeriano Manipol, were, likewise, the former's paraphernal property and belonged to her aforementioned children in equal shares, whereas the sums deposited after said date were conjugal property, so that five-tenths thereof were adjudicated to Valeriano Manipol, and the rest to her aforementioned children, at one-tenth each; and that, should other property of the deceased be found subsequently, the same shall be similarly divided and distributed among the parties to the agreement, depending upon the paraphernal or conjugal nature of such property.

It appears that on January 24, 1966, Felipe, Arturo and Maria Directo brought Civil Case No. 64032, of the Court of First Instance of Manila, against German S. Montesa and Amparo Montesa for the partition of the lot in Manila, adjudicated to all of them in the aforementioned deed of extrajudicial partition, and of a four-door two story apartment house, existing on said lot. In their answer to the complaint therein, the Montesas alleged, inter alia, that they are the sole owners of said property, having inherited the same from their mother, Angustia Sipin de Montesa, and that the Directors are merely her spurious illegitimate children, who, as such, "have no right, interest or participation whatsoever therein. "The Montesas alleged, also, "(t)hat whatever documents, instruments, papers,, writings and/or titles or title deeds presently existing which evidence the alleged co-ownership between the parties of the properties in controversy are null and void ab initio, because they were executed under a mistake or misapprehension of facts and have no legal basis whatsoever, aside from the fact that the same were executed without any valid and/or sufficient consideration whatsoever."

This answer was filed on February 11, 1966. Seven (7) months later, or on September 10, 1966, German Montesa instituted the present action in the same court - as Civil Case No. 66772 thereof - against the Directos and Valeriano Manipol, for the purpose of annul-ing the aforementioned deed of extrajudicial partition, alleging that German Montesa had executed said instrument because of "misrepresentation, deceit, fraud and undue influence made by defendants, particularly defendant Valeriano Manipol." The Directors moved to dismiss the complaint, upon the ground of pendency of another action "between the same parties over the same cause," referring to said Civil Case No. 64032. Said court granted this motion and, accordingly, dismissed the case at bar, without costs. A reconsideration of the order to this effect having been denied, plaintiff interposed the present appeal to the Supreme Court.

Plaintiff insists that the two (2) cases do not have the same subject-matter and cause of action, because the first case is for partition, whereas the second is for annulment of the aforementioned deed of extrajudicial partition, and the object of the first case was one only of the properties forming part of the estate of the deceased, whereas the case at bar affects the entirety of said estate.

Plaintiff's pretense is manifestly devoid of merit. The claim of the Directos in the first case is necessarily anchored upon the adjudication, of three-fifths of the property involved therein, made in their favor in the aforementioned deed of extrajudicial partition, which is assailed by German Montesa, in his answer as one of the defendants in said case. To decide the same, it is necessary, therefore, for the court to pass upon the validity or nullity of said deed of extrajudicial partition, which is the very same issue raised by German Montesa in his complaint herein. In other words, the decision in Case No. 64032 would settle the issue in the case at bar.[1]

WHEREFORE, the order appealed from is hereby affirmed, with costs against plaintiff German S. Montesa.

IT IS SO ORDERED.

Reyes, JBL, Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Fernando, Capistrano, Teehankee, and Barredo, JJ., concur.

[1] Manuel v. Wigett, 14 Phil. 9; Hongkong & Shanghai Banking Corp. v. Ibañez, 30 Phil. 255; Jison v. Vda. de Her-naez, 74 Phil. 72; J. Northcott & Co. v. Villa-Abrille, 41 Phil. 462; Tambunting v. De Leon, L-2184, Aug. 11, 1950; Santos v. Geronimo, 89 Phil. 715; Capati v. Ballesteros, 47 O.G. 5127; Francisco v. Vda. de Bias, 93 Phil. 1; Pillado v. Francisco de Lasala, 95 Phil. 490.

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