

MARIA LANDAYAN, ET AL., PETITIONERS, VS. HON. ANGEL BACANI, ET AL., RESPONDENTS.

G.R. No. L-30455. September 30, 1982

Ponente: VASQUEZ, J.

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VASQUEZ, J.:

In his lifetime, Teodoro Abenojar owned several parcels of land located in Urdaneta, Pangasinan, and a house and lot in Manila. The said properties were all covered by Torrens titles in his name. He died intestate in Urdaneta, Pangasinan, on March 20, 1948.

On February 3, 1949, private respondents Maxima Andrada, the surviving spouse of Teodoro Abenojar, and Severino Abenojar, executed a public document, entitled "Extra-Judicial Agreement of Partition" whereby they adjudicated between themselves the properties left by Teodoro Abenojar. Severino Abenojar represented himself in said document as "the only forced heir and descendant" of the late Teodoro Abenojar.

On March 6, 1968, petitioners herein filed a complaint in the Court of First Instance of Pangasinan presided over by the respondent Judge seeking a judicial declaration that they are legal heirs of the deceased Teodoro Abenojar, and that private respondents be ordered to surrender the ownership and possession of some of the properties that they acquired under the deed of extra-judicial settlement corresponding to the shares of the petitioners, and that the said deed of extra-judicial settlement and the subsequent deed of donation executed in favor of private respondents, spouses Liberata Abenojar and Jose Serrano, in consequence thereof be declared null and void.

In their complaint, petitioners Maria, Segundo, Marcial and Lucio, all surnamed LANDAYAN (the rest of the petitioners being their respective spouses), alleged that they are the legitimate children of Guillerma Abenojar, then already deceased, who was the only child of Teodoro Abenojar with his first wife named Florencia Bautista; and that while Teodoro Abenojar contracted a second marriage with Antera Mandap and a third with private respondent Maxima Andrada, he did not have any offspring in any of the said second and third marriages. They aver that private respondent Severino Abenojar is an illegitimate son of Guillerma Abenojar. They accordingly pray that they be declared as among the legal heirs of the deceased Teodoro Abenojar entitled to share in his estate.

Private respondents, on the other hand, have alleged in their pleadings that Teodoro Abenojar married only once, and that was with private respondent Maxima Andrada. They claimed that private respondent Severino Abenojar is an acknowledged natural child of Teodoro Abenojar with Florencia Bautista. They disclaimed the allegation of the petitioners that their mother Guillerma Abenojar was a legitimate daughter of Teodoro Abenojar and Florencia Bautista, the truth being allegedly that Guillerma Abenojar, the mother of the Landayans, was Teodoro Abenojar's spurious child with Antera Mandap who was then married to another man.

As their affirmative and special defense, the private respondents alleged that the action of the petitioners had already prescribed, the same having been filed more than 18 years after the execution of the documents that they seek to annul.

After a preliminary hearing on said affirmative defense, the respondent Judge issued an Order sustaining the contention that the action is barred by prescription and dismissing the case as a consequence thereof.

The finding that prescription had set in was rationalized on two main considerations, namely, (1) the action for the annulment of the deed of extra-judicial partition and the deed of donation is based on fraud, the prescriptive period of which is four years from the discovery of the fraud, such discovery being presumed to have taken place upon the registration of the documents in the Office of the Registry of Deeds and the issuance of new titles in the names of the transferees which, in this case, had occurred on November 21, 1951; and (2) the deed of extra-judicial partition is not an inexistent and void contract the action for the declaration of which does not prescribe, the said document being at most a voidable contract, subject to the operation of the statute of limitations.

We find the dismissal of the action filed by the petitioners to be precipitous and erroneous. Although the principles relied upon by the respondent Judge are legally correct, he had unqualifiedly assumed the extra-judicial partition to be merely a voidable contract and not a void one. This question may not be resolved by determining alone the ground for the annulment of the contract. It requires an inquiry into the legal status of private respondent Severino Abenojar, particularly as to whether he may be considered as a "legal heir" of Teodoro Abenojar and as such entitled to participate in an extra-judicial partition of the estate of said deceased. This is a most material point on which the parties have asserted conflicting claims. Understandably so, inasmuch as the question of whether the questioned document is void or merely voidable depends largely on such determination.

As stated above, petitioners contend that Severino Abenojar is not a legal heir of Teodoro Abenojar, he being only an acknowledged natural child of Guillerma Abenojar, the mother of petitioners, whom they claim to be the sole legitimate daughter in first marriage of Teodoro Abenojar. If this claim is correct, Severino Abenojar has no rights of legal succession from Teodoro Abenojar in view of the express provision of Article 992 of the Civil Code, which reads as follows:

"ART. 992 . An illegitimate child has no right to inherit ab intestato from the legitimate children and relatives of his father or mother; nor shall such children or relatives inherit in the same manner from the illegitimate child."

The right of Severino Abenojar to be considered a legal heir of Teodoro Abenojar depends on the truth of his allegations that he is not an illegitimate child of Guillerma Abenojar, but an acknowledged natural child of Teodoro Abenojar. On this assumption, his right to inherit from Teodoro Abenojar is recognized by law (Art. 998, Civil Code). He even claims that he is the sole legal heir of Teodoro Abenojar inasmuch as the petitioners Landayans, who are admittedly the children of the deceased Guillerma Abenojar, have no legal successional rights from Teodoro Abenojar, their mother being a spurious child of Teodoro Abenojar.

Should the petitioners be able to substantiate their contention that Severino Abenojar is an illegitimate son of Guillerma Abenojar, he is not a legal heir of Teodoro Abenojar. The right of representation is denied by law to an illegitimate child who is disqualified to inherit ab intestato from the legitimate children and relatives of his father. (Art. 992, Civil Code.) On this supposition, the subject deed of extra-judicial partition is one that included a person who is not an heir of the descendant whose estate is being partitioned. Such a deed is governed by Article 1105 of the Civil Code, reading as follows:

"Art. 1105 . A partition which includes a person believed to be an heir, but who is not, shall be void only with respect to such person."

It could be gathered from the pleadings filed by the petitioners that they do not seek the nullification of the entire deed of extra-judicial partition but only insofar as the same deprived them of their shares in the inheritance from

the estate of Teodoro Abenojar. Should it be proved, therefore, that Severino Abenojar is, indeed, not a legal heir of Teodoro Abenojar, the portion of the deed of extra-judicial partition adjudicating certain properties of Teodoro Abenojar in his favor shall be deemed inexistent and void from the beginning in accordance with Articles 1409, par. (7) and 1105 of the Civil Code. By the express provision of Article 1410 of the Civil Code, the action to seek a declaration of the nullity of the same does not prescribe.

WHEREFORE, the Order appealed from is hereby REVERSED and SET ASIDE. The respondent Judge is ordered to try the case on the merits and render the corresponding judgment thereon. The private respondents shall pay the costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Melencio-Herrera, Plana, Relova, and Gutierrez, Jr., JJ., concur.

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