

JULIA RABACAL, IN HER CAPACITY AS GUARDIAN OF THE PERSONS AND PROPERTIES OF THE MINORS JESUS, CORAZON, JULIO JR., FE, HELEN, RAMON AND ELI, SURNAMED BERINA, PLAINTIFF-APPELLEE V...

G.R. No. L-3776. March 31, 1952

Ponente: PADILLA, J.

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PADILLA, J.:

A complaint for partition was filed by the plaintiff in her capacity as guardian of her minor children had with the late Julio Beriña. This complaint was amended. After an answer to the amended complaint had been filed and several incidents which have no bearing on the question brought to us on appeal, the parties arrived at an amicable settlement in words and figures, as follows:

Come now the plaintiff and defendants, thru their respective attorneys, and to this Hon. Court respectfully submit the following agreed amicable settlement:

- That the parties herein agree to have the following parcels of land divided among themselves:
Parcels 1, 2, 5, 6, 7, 8, 9, 10, 11, 12 and 13 mentioned in the amended complaint.

- That the plaintiff herein renounces whatever right she has or she may have to parcels 3, 4, 14, and 15 of the amended complaint.

Wherefore it is prayed that a decision be rendered, approving the foregoing agreed amicable settlement, without costs.

Upon that compromise the court rendered judgment, the dispositive part of which is as follows:

WHEREFORE, the compromise is hereby approved and in consequence thereof, the wards, in representation of Julio Beriña, and the defendants are declared co-owners of parcels 1, 2, 5, 6, 7, 8, 9, 10, 11, 12, and 13 in equal parts and the defendants of parcels 3, 4, 14, and 15, also in equal parts, ordering them to make the proper deeds of partition and to submit them to this Court for approval; otherwise, the Court shall appoint commissioners to make the partition pursuant to the Rules.

The judgment was rendered on 21 January 1949. Motions for reconsideration wherein she prayed that the partition of the parcels of lands be without prejudice to the claim for damages were filed by the plaintiff and oppositions thereto by the defendants. On 9 July 1949, upon another amicable settlement reached by the parties, the court ordered the defendants to pay the plaintiff P150 within one week from the date of the order in full settlement of her claim for damages and appointed the commissioners to partition the parcels of land "in accordance with the terms of the decision." On 21 August 1949 the commissioners submitted for the approval of the court a proposed partition which reads, as follows:

PROYECTO DE PARTICION

Para tener base en la reparticion de los bienes de acuerdo con la decision de este Hon. Juzgado en esta cause, se especifican las partes envueltas en esta causa que son los siguientes:

- Los demandantes menores representados por su madre, Julia Rabacal, llamados Jesus, Corazon, Julio J., Fe, Helen, Ramon y Eli son hijos y herederos del difunto Julio Beriña;
- El demandado Paulino Beriña es el unico hermano superviviente de los difuntos Pablo Beriña, Andres Beriña, Francisca Beriña de Oliva y Julio Beriña;
- Los demandados, 1) Demetria, 2) Juana, 3) Teotimo, 4) Isabel, 5) Narciso y 6) Amparo de apellido Beriña, son hijos y herederos del difunto Pablo, Beriña;
- Los demandados, 1) Victorina, 2) Aniano, 3) Gregoria, 4) Gliceria y 5) Flaviana, de apellido Beriña, son hijos y herederos del difunto Andres Beriña;
- Los demandados, 1) Glicerio, 2) Salvadora, 3) Susana y 4) Serapion, de apellido Oliva, son hijos y herederos de la difunta Francisca Beriña Oliva.

De tal modo que las parcelas 1, 2, 5, 6, 7, 8, 9, 10, 11, 12 y 13 se dividiran por stirpes en cinco (5) partes iguales entre las partes y las parcelas 3, 4, 14 y 15 se dividiran por el mismo modo en cuatro (4) partes iguales entre los demandados solamente. Las descripciones de las mismas, segun la demanda enmendada, son como sigue:

(Here follows the description of the fifteen parcels of land exactly as they are numbered and described in the Amended Complaint.)

No estando medidos por un agrimensor competente las parcelas arriba descritas cuyas extensions podrian ser mas o menos de lo que constant en sus respectivas declaraciones de amillaramiento creemos conveniente hacer las adjudicaciones a ambas partes por parcelas.

ADJUDICACIONES

A los demandantes menores Jesus, Corazon, Julio Jr., Fe, Helen, Ramon y Eli de apellido Berina, hijos y herederos del difunto Julio Berina representados por su madre Julia Rabacal en su capacidad de tutora, se adjudica como su hijuela la PARCELA 8.

Al demandado Paulino Berina se adjudican como su hijuela las PARCELAS 1 y 2, mas $\frac{1}{4}$ de cada una de las PARCELAS 3, 4, 14, y 15.

A los demandados Demetria, Juana, Teotimo, Isabel, Narciso y Amparo de apellido Beriña, hijos y herederos del difunto Pablo Beriña, se adjudican como su hijuela las PARCELAS 7, 9, y 13, mas $\frac{1}{4}$ de cada una de las PARCELAS 3, 4, 14 y 15.

A los demandados Victorina, Aniano, Gregoria, Gliceria y Flaviana de apellido Beriña, hijos y herederos del difunto Andres Beriña, se adjudican como su hijuela las PARCELAS 6 y 10, mas $\frac{1}{4}$ de cada una de las PARCELAS 3, 4, 14 y 15.

A los demandados Glicerio, Salvadora, Susana y Serapion, hijos y herederos de la difunta Francisca Beriña de Oliva, se adjudican como su hijuela las PARCELAS 5, 11 y 12, mas $\frac{1}{4}$ de cada una de las parcelas 3, 4, 14, y 15.

Por lo que respetuosamente se somete a este Honorable Juzgado este proyecto para su consideracion.

On 23 August, the commissioner for the defendants objected to the proposed partition on the ground that it amends the judgment rendered in the case. On the same day, the defendants moved the Court to relieve the commissioners from their duty and to declare them guilty of contempt of court and objected to the proposed

partition on the same ground as that advanced by the commissioner who objected to the approval of the proposed partition submitted by the other two commissioners. The latter answered the defendants motion and the objection to the approval of the proposed partition. On 14 October 1949, after stating the incidents pertinent to the issue, the court denied the motion to discharge the commissioners and to declare them guilty of contempt of court and approved the proposed partition submitted by the two commissioners. From this order approving the proposed partition the defendants appealed.

After quoting the pertinent parts of the amicable settlement and the dispositive part of the judgment rendered in the case copied at the beginning of this opinion, the court states:

It is obviously necessary, in order to arrive at a correct interpretation of this agreement, that an inquiry be made as to who are the "parties" in the case. In the original complaint, Julia Rabacal in representation of the minors Jesus, Corazon, Julio, Fe, Helen, Ramon and Ely, all surnamed Beriña, appear as plaintiffs, while only Paulino Beriña appears as defendant. In his answer, Paulino Beriña alleged that with the exception of parcels 3, 4, 14 and 15, all others belong in common to himself and to his deceased brothers and sisters, who as stated above, were the parents of the herein wards and other defendants. Because of these allegations in his answer, the court ordered the plaintiff to amend her complaint in order to include these persons or their heirs as defendants. In compliance with this order, the plaintiff filed an amended complaint in which she included all of them as defendants, alleging in paragraph 4 that the deceased Julio Beriña and the defendants are co-owners proindiviso of the parcels of land in question. In their answer, the defendants admit the allegations of said paragraph 4 except with respect to parcels 3, 4, 12, 13, 14 and 15. It is, therefore, clear from the pleadings that the "parties" in this case are the herein wards in representation of their deceased father, Julio Beriña, as plaintiffs, and Paulino Beriña in his own behalf and the other defendants in representation of their respective deceased parents, as defendants. This is the reason why in the dispositive part of the decision the court stated among others that "the wards, in representation of Julio Beriña and the defendants were declared co-owners." The decision is of course silent as to the capacity of the other defendants—whether they ought to partake in the partition individually or in representation of their respective deceased parents—but this silence should be interpreted in the light of the pleadings which reveal the true intention of the parties in their agreement, to wit: That the defendants, other than Paulino Beriña, should also receive their share by stirpes.

The judgment of the court rendered on 21 January 1949, which declares the plaintiffs, the children and heirs of the late Julio Beriña, and the defendants co-owners in equal parts of parcels 1, 2, 5, 6, 7, 8, 9, 10, 11, 12 and 13 and the defendants also in equal parts of parcels 3, 4, 14 and 15, and orders them to execute the proper deeds of partition and to submit the same to the court for approval, does not conflict with the proposed partition submitted by the commissioners for approval, as explained by the court in its order of 14 October 1949 appealed from, which denied the appellant's motion to relieve the commissioners and to hold them in contempt of court, because the amicable settlement for the partition between the parties of parcels 1, 2, 5, 6, 7, 8, 9, 10, 11, 12 and 13, described in the amended complaint, and the judgment of the court declaring the parties co-owners thereof in equal parts, cannot be construed as giving each minor child of the late Julio Beriña, the plaintiffs, and each one of the defendants who are children and heirs of the deceased brothers and sister of Paulino Beriña, the only surviving brother, the same share in the parcels of land owned by them in common. The proposed partition is in accordance with and carries out the intent of the parties as agreed upon in the amicable settlement and does not conflict with the judgment of the court. More, it is in accordance with law.[1]

In view of the conclusion arrived at it is unnecessary to pass on the point raised by the appellants that the judgment rendered in the case is final and cannot be amended.

The order appealed from approving the proposed partition is hereby affirmed, with costs against the appellants.

Paras, Bengzon, Tuason, Montemayor, Reyes, Jugo, and Bautista Angelo, JJ., concur.
Feria, J., took no part.

[1] Articles 926 and 927, Civil Code.

DISIDENTE

PABLO, M.:

La demandante, debidamente nombrada por el Juzgado tutora de las personas y bienes de sus hijos Jesus, Corazon, Julio, Jr., Fe, Helen, Ramon y Ely, de apellido Beriña, presento una demanda en nombre de dichos pupilos pidiendo la reparticion de los bienes descritos en la misma, siendo demandados los siguientes: Paulino, Demetria, Juan, Teotimo, Isabel, Narciso, Amparo, Victorina, Aniano, Gregoria, Gliceria, Flaviana, de apellido Beriña, y Glicerio, Salvadora, Susana, Serapion, de apellido Oliva.

El parrafo 4 de la demanda enmendada dice: "That the deceased Julio Beriña, and the defendants, are co-owners pro-indiviso of the following parcels of land particularly described as follows"; pero no hay alegacion que revela la relacion de parentezco que existe entre las partes.

La contestacion no alega que Paulino Beriña es demandado en su propia representacion, y los otros demandados en representacion de sus respectivos padres. Son demandados individualmente. He aqui la contestacion:

"Come now the defendants, except Teotima Beriña, thru their undersigned attorneys, and in answer to the Amended Complaint, respectfully state:

I

"That they admit the allegations in paragraphs 1 and 2 of the amended complaint.

II

"That they deny the allegations in paragraph 3 because the minors named therein are illegitimate children of Julio Beriña.

III

"That they admit the allegations in paragraph 4 with respect to parcels Nos. 1, 2, 5, 6, 7, 8, 9, 10, 11 but they deny them with respect to parcels Nos. 3, 4, 12, 13, 14 and 15, because said parcels belong exclusively to the defendant Paulino Beriña who acquired parcels Nos. 3, 4, 12 and 13 by donation from his grandmother Juana Bernales more than thirty (30) days ago today, and parcel No. 14 by purchase from Esteban Beriña in December 25, 1911.

IV

That they deny the allegations in paragraph with respect to parcel No. 15, because said parcel belongs exclusively to the defendant Paulino Beriña who acquired the same in the following manner:

"Julio Beriña and the defendant bought seven different parcels of land, one parcel from Vicente Beriñas, which is parcel No. 4 of the 'Inventory and Appraisal of the Estate of the Wards' dated April 28, 1947, forming part of the records of Sp. Pro. No. 33, of this Court, and which defendant makes as a part of this answer by reference; one parcel from Petronia Gascon, which is parcel No. 6 of the said inventory; one parcel from Andrea de Amoroso, which is parcel No. 5 of the said inventory; one parcel from Martin Gascon; one parcel from Hilario Luceña; and one parcel from Anselmo Catimbang. The last three parcels from the bigger parcel which

is now parcel No. 17 of plaintiff's complaint.

"When Julio Beriña and the defendant divided the seven parcels mentioned above, the four different parcels that they bought from Vicente Beriña, Petronia Gascon, Juana Tibi and Andrea de Amoroso, respectively, were adjudicated to Julio Beriña, and the corresponding deeds of sale thereof were given to him, and since then he had been in possession of these four parcels, exclusively, as owner. The three parcels adjoining each other that were bought from Martin Gascon, Hilario Luceña, and Anselmo Catimbang, respectively, were adjudicated to the defendant.

"and as

SPECIAL DEFENSE

"That defendant Paulino Beriña for more than thirty (30) years now has been in possession of parcels Nos. 3, 4, 12, 13; for twenty-seven (27) years, parcel No. 14; and for about fifteen (15) years, parcel No. 15, openly, publicly, peacefully, continuously and without interruption, and in concept of an owner, adverse to the whole world.

"Wherefore, defendants pray that the amended complaint be dismissed with respect to parcels Nos. 3, 4, 12, 14, and 15, and that defendant Paulino Beriña be declared the absolute owner of the said parcels with costs against the plaintiff, defendants praying furthermore for any other remedy just and equitable in the premises."

Despues de varios incidentes que no son del caso mencionar, la demandante y los demandados pidieron que el Juzgado dictase sentencia de acuerdo con el siguiente convenio:

"Come now the plaintiff and defendants thru their respective attorneys, and to this Hon. Court respectfully submit the following 'agreed amicable settlement.'

"1. That the parties herein agree to have the following parcels of land divided among themselves:

"Parcels 1, 2, 5, 6, 7, 8, 9, 10, 11, 12, and 13 mentioned in the amended complaint.

"2. That the plaintiff herein renounces whatever right she has or she may have to parcels 3, 4, 14, and 15 of the amended complaint.

"Wherefore, it is prayed that a decision be rendered, approving the foregoing agreed amicable settlement, without costs.

"July 16, 1948.

"JULIA RABACAL,
Plaintiff

(Sgd.) DEMETRIO BERIÑA

"(Sgd.) PAULINO BERIÑA

Defendant

Defendant

(Sgd.) JUANA BERIÑA

(Sgd.) TEOTIMO BERIÑA

Defendant

Defendant

(Sgd.) ISABEL BERIÑA

(Sgd.) NARCISO BERIÑA

Defendant

Defendant

(Sgd.) AMPARO BERIÑA

(Sgd.) VICTORIA BERIÑA

Defendant

Defendant

(Sgd.) ANIANO BERIÑA

(Sgd.) GREGORIO BERIÑA

Defendant

Defendant

(Sgd.) GLICERIA BERIÑA

(Sgd.) FLAVIANA BERIÑA

Defendant

Defendant

GLICERIO OLIVA

(Sgd.) SALVADORA OLIVA

Defendant

Defendant

(Sgd.) SUSANA OLIVA

SERAPION OLIVA

Defendant

Defendant

"VALER & VILGERA

DE LEON & TITUSECO

Attys. for plaintiff

Attys. for defendants

"By: (Sgd.) GERMAN VILGERA

By: (Sgd.) LUIS N. DE LEON"

En 21 de enero de 1949 el Juzgado dicto su decision, cuya parte dispositiva esta copiada en la pagina 2 de la decision de la mayoria. En dicha decision se ordeno que "the wards, in representation of Julio Beriña, and the defendants are declared co-owners of parcels 1, 2, 5, 6, 7,8, 9, 10, 11, 12, and 13 in equal parts." No se dice que los demandados han de recibir su participacion por cabeza o por estirpe.

Despues de otros varios incidentes sin importancia, en 9 de julio de 1949 el Juzgado declaro firme la decision y nombro comisionados a Leoncio Garchitorena, Justo Imperial y Guillermo Malate, este ultimo a propuesta de los demandados y el segundo a propuesta de la demandante.

En 21 de agosto de 1949 dos comisionados, con la oposicion del tercero, presentaron un proyecto de particion que esta mas de acuerdo con la ley que con la decision. Esta de acuerdo con la ley porque hace las adjudicaciones por cabeza en cuanto a Paulino Beriña, y por estirpe en cuanto a los representados por la demandante y los otros demandados. Pero no consta en autos que Paulino Beriña concurre con sus sobrinos, hijos de sus cuatro difuntos hermanos; esto aparece solamente por primera vez en el proyecto de particion sometida por los comisionados.

Despues de considerar los argumentos de una y otra parte, el Juzgado dicto una orden aprobando el proyecto de particion.

Contra esta orden los demandados apelaron.

La cuestion a resolver es si el proyecto de particion que no esta de acuerdo con la decision ya firme, preparado por dos comisionados de particion, debe aprobarse o no. Opino que no. El proyecto de particion debe estar de acuerdo con los terminos precisos de la decision, tanto mas cuanto que la decision ha sido dictada de acuerdo con un

convenio suscrito por los demandados. En ninguna parte de este escrito de convenio amistoso se hace constar que Paulino Beriña concurre con sus sobrinos: todos ellos firmaron en su propio nombre y no como herederos de alguien. Por eso el Juez a quo dispuso que la particion seria en partes iguales. Aprobar el proyecto de particion es enmendar la decision.

Una decision firme ya no puede ser enmendada aunque fuese erronea. "x x x De los autos resulta claramente que la cuantia de la sentencia dictada contra el demandado era menor que la cantidad que effectivamente debia este a la demandante. No habiendo apelado la demandante de la sentencia del Juez de Primera Instancia, no hay terminos habiles para corregir dicho error." (Viuda de Soler contra Rusca, 13 Jur. Fil., 626); "x x x razones poderosissimas e irrefutables de orden publico y de sana practica en los Juzgados, requieren que aun a riesgo de errores ocasionales las sentencias de los Jueces que diriman controversias sometidas a ellos queden firmes en algun tiempo fijado por la ley o por una regla de procedimiento reconocida por aquella, de tal manera que despues de transcurrido dicho termino esten fuera del control aun del Tribunal que las dicto para rectificar errores de hecho o de derecho en que, a juicio del mismo, haya incurrido. El objeto mismo con el cual se han organizado los Tribunales, ha sido para poner termino a las controversias, decidir las cuestiones sometidas por los litigantes, y determinar los derechos respectivos de las partes. Con pleno conocimiento de que los Tribunales no son infalibles, los litigantes someten sus respectivas reclamaciones para su resolucion, y tienen derecho a que en un ida u otro se dicte sentencia definitiva que puedan invocar como el fallo definitivo de las cuestiones sometidas, y saber que el litigio ha llegado a su fin." (Arnedo contra Llorente y otro, 18 Jur. Fil., 257).

Debe revocarse la orden que aprueba el proyecto de particion, y debe presentarse otro proyecto en consonancia con la decision.

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