

CANDIDO PANCHO, ET AL., PETITIONERS, VS. MANUEL VILLANUEVA, ET AL., RESPONDENTS

G.R. No. L-8604. July 25, 1956

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Petitioners, Candido Pancho et al., seek a review by certiorari of a decision of the Court of Appeals. The pertinent facts are set forth in said decision, from which we quote:

"Flaviano Villanueva and Aniceta Limbungac were husband and wife. Anacleto had a son by her previous marriage named Patricio Pancho. During their lifetime, the spouses acquired a parcel of land with an area of fourteen hectares, and the corresponding Original Certificate of Title No. 3769 was issued in the name of the husband. Flaviano died on December 11, 1931, and on October 26, 1937, his wife executed a public instrument wherein she stated, among other things, that she was the only forced heir of her husband, who allegedly died without any ascendant or descendant or any collateral heir, and asked that said parcel of land be adjudicated to her extra-judicially. Aniceta died on March 6, 1939, and on March 4, 1948, her aforementioned son executed an affidavit stating that he was the sole heir of the property left by his deceased mother and adjudicating the same to him. "However, contrary to the allegations of Aniceta and Patricio Pancho, the late Flaviano Villanueva is survived by his brother and sister by the name of Manuel and Marta. Thus, on March 12 1951, they asserted their rights to one of the property left by their brother by filing a complaint against Patricio Pancho who, upon his death on February 15, 1952, was substituted by his heirs, the herein defendants, pursuant to the order of the court of October 6, of the same year, praying the Court of First Instance of Nueva Ecija, thus—

(a) To order the revival of Original Certificate of Title No. 3769 (Homestead Patent) and once revived, to order the immediate partition of the same in accordance with the law, one-half to the plaintiffs and the other one-half to the defendant herein of the above described land;

(b) To declare as null and void ab initio Annexes 'B' and 'C, as contrary to the existing laws of heirship and succession in relation to the facts of the case and once declared null and void, to order the cancellation of Transfer Certificate of Title Nos. (12359) and No. 104 in the name of Aniceta Limbungac and Patricio Pancho, respectively, of the City of Cabanatuan land records:

(c) To order the defendant to pay to the plaintiffs the sum of ₱1,500 as damages as a result of the lawful deprivation of plaintiffs' legal and lawful participation to the above described land;

"On April 5, 1951, defendants filed a motion for the dismissal of plaintiffs' complaint on the ground that it states no cause of action and that their cause of action was barred by the statute of limitations. Acting upon this motion and the opposition thereto, the trial court issued an order denying said motion and directing defendants to file their answer. Consequently, defendants filed their answer with affirmative defenses and counterclaim, praying for judgment dismissing plaintiffs' complaint and ordering them to jointly and severally pay the former the sum of ₱3,000.00 upon their counterclaim.

"After due trial, the lower court rendered decision, the dispositive portion of which is as follows—

"POR LAS CONSIDERACIONES ARRIBA EXPIJESTA, el Juzgado dicta decision en esta causa declarando nulos y de ningun valor ni efecto legal los certificados de Titulo Nos. 103 (12359) y 104, ordenando a los demandados a entregar dichos certificados de titulo al Registrador de Titulos de Nueva Ecija para que los cancele, y expide nuevos titulos a favor de los demandantes y demandados despues de que el terreno sea medido y dividido en partes iguales entre dichas partes de acuerdo con las disposiciones de la Ley No. 496. No ha lugar a los danos reclamados por no haberse probado. 'Se sobresee la contrademanda de los demandados. Sin especial pronunciamiento en cuanto a las costas.'

'From the aforesaid judgment, defendants appealed and now maintain that the lower court erred—

- "In not dismissing the appellees complaint on the ground of improper venue;
- "In not finding that the appellees have no cause of action, or that their complaints states no cause of action, against the appellants;
- "In not finding that whatever cause of action the appellees might have had against the appellants the same is already barred by the statute of limitations;
- "In not finding that the appellees have failed to prove their right to succeed to the property in question, and thus dismissing appellees' complaint;
- "In declaring null and void certificates of title Nos. 12359 and 104 and in ordering the partition of the property in equal parts; and
- "In rendering judgment in favor of appellees and not in favor of the defendants-appellants."

The Court of Appeals found no merit in these assignments of error and, hence, it affirmed the decision of the court of first instance. In their petition for certiorari to review the decision of the Court of Appeals, the defendants—now petitioners—reiterate said assignments of error. The first deals with venue. Petitioners contend that the Court of First Instance of Nueva Ecija had no authority to hear the case, both parties being residents of the province of Bulacan, where, it is claimed, the action should have been brought. Such pretense is absolutely untenable, this being an action for partition, for plaintiffs pray in their complaint that the court

" * * * order the revival of Original Certificate of Title No. 3769 (Homestead Patent) and once revived, to order the immediate partition of the same in accordance with the law * * *".

and pursuant to section 3, Rule 5 of the Rules of Court

"Actions affecting title to, or for recovery of possession, or for partition or condemnation of, or foreclosure of mortgage on, real property, shall be commenced and tried in the province where the property or any part thereof lies."

Referring to the second assignment of error, petitioners maintain that there is nothing in the transfer certificates of title covering the land in question or in any other document to show that said land "was being held in common by * * * Aniceta Limbungac and/or Patricio Pancho with respondents," or that respondents had ever been considered

by Aniceta and/or Patricio as co-owners of said property, and that there is no allegation in respondents' complaint to the effect that the land had ever been held by Aniceta, and/or Patricio or by petitioners herein "in common ownership with respondents" (pp. 11 and 13, Petitioners' Brief). It is, however, averred in the complaint that said property was part of the conjugal partnership of Aniceta Limbungac and her deceased husband Flaviano Villanueva; that, as brother and sister of the latter, who was not survived by any ascendant or descendant, plaintiffs (respondents herein) Manuel and Marta Villanueva are the sole heirs of his share in said property; that, as Aniceta's son by a previous marriage, Patricio is the successor to her share in the land in dispute; and that neither Aniceta nor Patricio had ever been in possession of said land. These allegations are sufficient to show that plaintiffs (respondents' herein), as heirs of Flaviano Villanueva, and Patricio Pancho, as heir of Aniceta Limbungac, were co-owners of said property.

It appearing that Aniceta and Patricio had never been in possession of said property, it follows that neither could have acquired it by acquisitive prescription and that the action of plaintiffs—respondents herein—as co-owners of said property, to demand its partition, has not prescribed. Accordingly, the third assignment of error is, also, devoid of merit.

Being corollaries of those already disposed of, the other assignments of error need no further discussion.

Wherefore, the decision appealed from is hereby affirmed, with costs against petitioners herein. It is so ordered.

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

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