

ROMUALDO MONTESINO, JUSTINIANA MONTESINO, ODON MONTESINO, NARCISA MONTESINO AND BERNARDO MONTESINO, PLAINTIFFS-APPELLANTS, VS. EUSEBIO RULLAN AND ESPEDITO PISON, DEFENDANTS-APPE...

G.R. No. L-22057. December 29, 1967

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

Appeal, by writ of error, from a decision of the Court of First Instance of Negros Occidental dismissing the complaint herein.

Plaintiffs, Romualdo, Justiniana, Odon, Narcisa and Bernardo, all surnamed Montesino, seek the annulment and cancellation of Transfer Certificates of Title Nos. T-16421 and T-31734, of the province of Negros Occidental, in the names of defendants Eusebio Rullan and Espedito Pison, respectively, and to compel these defendants to convey the property covered by said certificates of title to the plaintiffs, as well as to pay damages and costs.

Said property is lot No. 894 of the Cadastral Survey of Himamaylan, province of Negros Occidental, which was covered by an application, filed by Petra Limsiaco, for a homestead patent, on or about May 13, 1939. She did not, however, get the patent before her death in October, 1942, or September, 1943. It (Original Certificate of Title No. P-807) was not issued until July 8, 1954. Hence, it was placed in the name of the "Heirs of Petra Limsiaco." Soon thereafter, or on September 2, 1954, Transfer Certificate of Title No. T-16421 was issued in favor of Eusebio Rullan – with whom she had apparently been living as husband and wife – upon the filing by him of a deed – entitled, "Declaration of Heirship," executed by him on August 31, 1954 – adjudicating the lot to himself as her surviving spouse and only heir. On December 20, 1961, Eusebio Rullan sold the property to Espedito Pison. This sale was approved by the Secretary of Agriculture on March 12, 1962, upon the recommendation of the Director of Lands. Accordingly, Transfer Certificate of Title No. T-31734 was issued, in the name of Pison, on March 23, 1962, upon cancellation of Transfer Certificate of Title No. T-16421.

Plaintiffs commenced the present action on April 11, 1962, alleging that they are the children of a first degree cousin of Petra Limsiaco and, as such, her heirs; that Eusebio Rullan is neither her surviving spouse nor her heir; that he had acted fraudulently in claiming to be so related to the deceased and thus causing the title to said Lot No. 894 to be transferred to him; and that defendant Pison is not a purchaser in good faith of said lot. In an amended complaint filed on September 4, 1962, plaintiffs alleged further that they had acquired the rights over said lot of Eugenio de la Cruz, who, they maintain, is the true surviving spouse of Petra Limsiaco.

After appropriate proceedings, the lower court rendered the decision appealed from, dismissing the case, upon the ground that Eugenio de la Cruz had lost by prescription whatever rights he may have had in and to the lot in question, and that, accordingly he had transmitted none to plaintiffs herein.

In this connection, it should be noted that, upon the extra-judicial adjudication of said lot to Eusebio Rullan, as

Petra Limsiaco' s alleged surviving spouse, Eusebio de la Cruz – assuming that he was the legal spouse of Petra Limsiaco, which, according to the lower court, he was not – or "an heir" or "other person" who "has been unduly deprived of his lawful participation in the estate" of the deceased, had two (2) years – pursuant to Section 4 of Rule 74 of the Rules of Court – or four (4) years – as held in several decisions of this Court[1] –from the summary "settlement and distribution" of said estate, which, in the case at bar, took place upon the issuance of said Transfer Certificate of Title No. T-16421, on September 2, 1954, or not later than September 2, 1958, within which to enforce judicially such rights, if any, as he may have in and to the lot in dispute. The complaint herein was not filed, however, until April 11, 1962, or several years after expiration of the longest of said statutory periods of limitation of action.

WHEREFORE, the decision appealed from should be, as it is hereby, affirmed, with costs against plaintiffs--appellants.

Reyes, JBL, Makalintal, Bengzon, Zaldivar, Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur
Dizon, J., took no part.

[1] Diaz vs. Gorricho, L-11229, March 29, 1958; Avecilla vs. Yatco, L-11578, May 14, 1958; J. M. Tuason & Co. vs. Magdaugal, L-15539, Jan. 31, 1964; Lopez vs. Gonzaga, L-18788, Jan. 31, 1964; Gerona vs. De Guzman, L-19060, May 29, 1964.

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