

FAUSTO D. LAQUIAN, PLAINTIFF AND APPELLANT, VS. FILOMENA SOCCO, ET AL., DEFENDANTS AND APPELLEES.*G.R. No. L-6792. May 14, 1954*

Ponente: REYES, J.

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The spouses Marcelo Laquian and Constancia Socco died without issue and their respective estates are now under judicial administration in Special Proceedings Nos. 1941 and 2110 of the Court of First Instance of Bataan.

On October 16, 1951 Fausto D. Laquian, in his capacity as administrator of the estate of Marcelo Laquian, filed a complaint in that court against Filomena Socco, in her capacity as administratrix of the estate of Constancia Socco, and the Director of Lands as successor to the defunct Rural Progress Administration, setting up two causes of action. The first cause of action referred to a house and lot in the City of Manila, registered in the name of the deceased Constancia Socco alone but alleged to belong in reality to herself and her deceased husband Marcelo Laquian, for which reason it was prayed that the property be declared conjugal and one-half thereof adjudged to the heirs of Marcelo Laquian and the other half to those of Constancia Socco. For a second cause of action, the complaint alleged that the aforementioned deceased spouses were in their lifetime the bona fide occupants and tenants of various lots of the Dinalupihan Estate, among them the six lots specifically described in the complaint and as such bona fide occupants and tenants had the preferential right to purchase the said six lots from the Rural Progress Administration or its successor the Director of Lands, but that the defendant Filomena Socco, as administratrix of the deceased Constancia Socco, claims that the said six lots were exclusively occupied and possessed as bona fide lessee by the said deceased and the preferential right to purchase them from the Government passed, upon her death, to her own heirs so that her husband's heirs could claim no participation therein. Plaintiff, therefore, prayed that the deceased spouses Marcelo Laquian and Constancia Socco be declared to have been the bona fide occupants and tenants of the lots in question and their preferential right to purchase the same to have been inherited by their respective heirs.

The Director of Lands answered the complaint, setting up a counterclaim against the estate of Marcelo Laquian for a sum of money representing unpaid rents for certain lots of the Dinalupihan Estate leased to the said deceased; but plaintiff having replied alleging that the said claim had already been settled, the court rendered an order providing for the deposit of the disputed portion of the said claim with the clerk of court.

Defendant, on her part, filed a motion for dismissal on the grounds that venue was improperly laid as to the first cause of action, and that as to the second cause of action, the complaint stated no cause. The lower court upheld both grounds and rendered an order dismissing the complaint. And reconsideration of this order having been denied, plaintiff has appealed to this Court, raising purely questions of law. The defendant Director of Lands does not appear to have taken any interest in the appeal one way or the other.

The appeal involves two legal questions. One is whether venue was properly laid as to the first cause of action and the other is whether the lower court was justified in dismissing the second cause of action in view of the allegation

in defendant's motion to dismiss that there was no issue between her and plaintiff because she had never claimed that the deceased Constancia Socco "was the exclusive bona fide tenant of the six lots mentioned in the complaint."

With reference to the first question, it is obvious that the Court of First Instance of Bataan had no jurisdiction over the same, because the real property therein involved is situated in the City of Manila, and section 3 of Rule 5 provides that "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." The contention that the present action is one for partition and may therefore be brought in any province where some of the properties to be partitioned are located, is untenable because there is as yet nothing to be partitioned and there will be none. until a state of co-ownership has been judicially declared, which appears to be the purpose of the suit. This is specially true with respect to the second cause of action which seeks recognition of a joint participation in a mere option to purchase real estate.

The lower court dismissed the second cause of action on the theory that as the deceased spouses had a common interest in the lots in Bataan the administratrix of the spouse Filomena Socco should have been made co-plaintiff instead of defendant. If the statement to this effect in said defendant's motion to dismiss was taken by the court as an admission of plaintiff's allegation that those lots were held in tenancy not by Constancia Socco alone but by both herself and her husband so that the preferential right to purchase the same from the Government passed to the heirs of both of them, then what the lower court should have done was to render judgment granting the prayer in the second cause of action and not to dismiss the complaint.

In view of the foregoing, the order of dismissal is affirmed as to the first cause of action but revoked with respect to the second cause of action, as to which the case is ordered remanded to the lower court for further proceedings. With costs against the appellee.

Pablo, Bengzon, Montemayor, Jugo, Bautista Angelo, Labrador, and Concepcion, JJ., concur.

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