

CONCEPCION MUÑOZ DIVINA AS REPRESENTED BY HER DAUGHTER AMELIA TINOCO, PETITIONER, VS. THE COURT OF APPEALS AND JUANITA N. MUÑOZ, RESPONDENTS.*G.R. No. 100993. March 30, 1993*

Ponente: NOCON, J.

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The petition before us is an action for recovery of sum of money based on an extra-judicial agreement. The counsel for the private respondent informed this court that respondent, Juanita Muñoz has succumbed to old age during the pendency of this appeal, and that despite efforts exerted, none of her relatives has come forward to substitute the deceased in this proceeding.

The contending parties are in-laws, who are contesting the inheritance of the deceased spouse of the now deceased respondent. Eleuterio M. Muñoz was the brother of Trinidad Muñoz-Marticio, Maximo M. Muñoz and Concepcion Muñoz-Divina (herein petitioner, represented by her daughter Amelia Tinoco). Eleuterio was married to Juanita, although their union was not blessed with a child. Upon Eleuterio's demise, Juanita invited her three in-laws to participate in the extra-judicial settlement of the estate of her husband, they being the only heirs.

Eleuterio's properties, both personal and real, were assessed in the amount of P709,403.00; less the expenses for the burial, wake and other incidental costs, the remaining balance left for partition amounted to P669,458.50. Based on the "Extra-Judicial Settlement of Estate of Eleuterio M. Muñoz, with Deed of Sale"[1] the heirs agreed that three-fourths (3/4) of the total net value of the property or P502,093.87 shall be adjudicated to respondent, Juanita, while the remaining one-fourth (1/4) or the amount of P167,364.00 shall be divided equally among Eleuterio's brother and sisters, each to receive more or less P55,788.00.

In the same instrument, the heirs agreed that Maximo, Trinidad and Concepcion were to sell to Juanita all their rights and participation to the estate and in consideration thereof, Juanita is to pay each of the heirs P55,788.00 or a total of P167,364.00 to expedite the settlement of the estate. The document was prepared and notarized by Atty. Teodulo C. Gabor, and signed by all the parties on December 18, 1980. On the same day, Juanita executed an affidavit promising to pay the other heirs their share in Eleuterio's inheritance within six (6) months from January 18, 1980.[2]

On January 24, 1984, Concepcion signed a "Statement of Partition, Assets of the Late Eleuterio M. Muñoz".[3] This document itemized the amount due to Concepcion, the agreed deductions and advances made by her and her daughter, Amelia, from Juanita. Two days thereafter, Concepcion caused Juanita to sign a certification which states that the residential house located at 4548 Quintos Street, Makati, (where Amelia with her family used to reside) was part of the inheritance received by Concepcion from the estate of Eleuterio.[4]

Sometime on September 1986, Juanita filed an accion publiciana against Ernesto Tinoco, husband of Amelia and two other tenants occupying the apartments on Quintos Street. The case, docketed as Civil Case No. 15030,[5] was decided in favor of Juanita and became final on March 1988, there being no appeal instituted by the

defendants. Defendant, Ernesto, was ordered to immediately vacate the property and allow plaintiff, Juanita to recover possession thereof.

On February 1988, or almost eight years after the signing of the extra-judicial settlement, Juanita's in-laws filed a complaint for revocation and annulment of the extra-judicial settlement of estate of Eleuterio, naming Juanita as defendant. In due time, however, Maximo and Trinidad withdrew as plaintiffs, leaving Concepcion, represented by her daughter, Amelia Tinoco, to pursue the case.

The complaint alleges that Juanita, by means of strategy and stealth and through fraud and illegal means, convinced and lured the plaintiffs therein in executing the Extra-Judicial Settlement of the Estate of Eleuterio M. Muñoz; that defendant Juanita has not paid each of the plaintiffs the amount of P55,788.00 or a total of P167,364.00 contrary to the stipulation in the said document; and that a certain property (apartment units) designated as 4544, 4546 and 4548 located at Quintos St., Makati together with the parcel of land on which the units were constructed were not turned over by defendant to Concepcion as promised by her in the certification[6] she signed on January 26, 1984.

The trial court, while upholding the validity of the Extra-Judicial Settlement, is of the belief that petitioner Concepcion was not paid the balance of her share giving credence to the affidavit of respondent Juanita signed in 1980 acknowledging such fact.

The affidavit, however, was executed on the same day that the extra-judicial partition was signed. On that very day, it is understandable that respondent did not have the cash to pay her co-heirs, and as she testified, she had to sell some properties in order to give her in-laws their agreed share.[7]

On the other hand, the appellate court, while also finding the Extra-Judicial Settlement valid, found that all the heirs, namely Concepcion, Trinidad and Maximo were indeed paid their share.

"Moreover, defendant-appellant's evidence reveal that the three (Maximo Muñoz, Trinidad Marticio and Concepcion Divina) were paid their respective shares on different dates. On December 1, 1981, Maximo Muñoz executed a sworn statement wherein he acknowledged receipt of P30,000.00 "as evidence and partial payment of my share to the estate (Exh. 13, p. 136, Rec.) Subsequently, on August 11, 1984, he acknowledged receipt of the amount of P9,762.00 in full payment of (his) share in the estate (p. 131, Rec.). Likewise, Trinidad Marticio signed a list which showed cash advances in the amount of P23,200.00 taken from defendant-appellant Juanita Muñoz and her share of the estate tax in the amount of P16, 056.00 or a total of P39,256.00. Thus, the total amount due her was only P16,532.00 of her share of P55,788.00 in the estate of Eleuterio Muñoz. She affixed her signature at the bottom of the statement of partition on January 23, 1984. On January 24, 1984, plaintiff- appellee Concepcion Divina likewise acknowledge receipt of a statement of partition (Exh. 2) similar to those given to Maximo Muñoz and Trinidad Marticio. It itemizes the cash advances taken either by appellee Concepcion Divina or her daughter Amelia Tinoco which totaled P15,415.00. Her share in the estate tax amounted to P16,056.00. Thus, the total amount due her was P24,317.00. While appellee's signature appears at the bottom of the statement of partition (Exh. 2), she, however, denies having signed it. To affirm the fact that the signature appearing on the statement of partition (Exh. 2 and Exh. E) is not hers, appellee wrote her name on a piece of paper in open court (Exh. F). The trial court, however, did not find any need to make a comparison. . ."[8]

The appellate court, however, found the signature of Concepcion in the statement of partition (Exhibit "2") evidencing proof of payment of her share by respondent, genuine. Said the court:

"We, however, must disagree with the opinion of the trial court that 'it cannot lend credence to the statement of partition (Exh. 2) as proof of payment of Concepcion's share by defendant.' First of all, We are of the view that the signature of appellee Concepcion Divina on the statement of partition (Exh. 2) is in her genuine signature.

We have compared it with her signatures on the Special Power of Attorney (p. 6, Rec.) and the extra-judicial settlement agreement (Exh. 8) and We find that it is strikingly similar to the questioned signature. By the naked eye, and by cursory examination of the three signatures, We are convinced that they were written by the same person, i.e., appellee Concepcion Divina. Additionally, since appellee disclaims her signature in Exhibit 2, she should have utilized a handwriting expert to prove it is a forgery.

"Moreover, if it is true that she was not paid her share, Concepcion Divina should have brought this to the attention of appellant Juanita Muñoz within two (2) years from the time she signed the extra-judicial settlement agreement. There is nothing in the record that she ever made any written demand for payment of her share. On the contrary, the statement of partition (Exh. 2) indicates that she was fully paid her share in the estate of her brother. Surely, when she acknowledged receipt of the statement of partition (Exh. 2), she should have questioned the amount which reflected the cash advances taken by her or daughter Amelia. She did not do so at the time of receipt or immediately thereafter. In effect, she confirmed the contents of the partition settlement." [9]

The extra-judicial settlement agreement is a contract, wherein the parties may establish such stipulations, clauses and conditions as they may deem convenient, provided that the legitime of the compulsory heirs are preserved. In the absence of fraud and provided all requisites are met, the same should be upheld as valid and binding between parties.

Extra-judicial partition, being a speedy and less expensive method of distribution of the estate, is specifically provided for in Section 1, Rule 74 of the Rules of Court, that in the absence of a will and where the decedent left no debts and the heirs are all of age, the heirs may divide the estate among themselves as they see fit by means of a public instrument, and should they disagree, they may do so in an ordinary action of partition.

In proceeding with the actual partition of the properties mentioned in the deed, the parties, of course, are duty bound to abide by the mutual waiver of rights agreed upon in the document. [10] A party can not, in law and in good conscience, be allowed to reap the fruits of a partition, agreement or judgment and repudiate what does not suit him. [11]

WHEREFORE, this petition is DISMISSED. The ruling of the appellate court is hereby AFFIRMED in toto. SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Regalado, and Campos, Jr., JJ., concur.

[1] Annex "A" of the Petition.

[2] Annex "B" of the Petition.2

[3] Original Records, p. 31.

[4] Original Records, p. 35.

[5] Original Records, p. 18.

[6] Annex "C" of the Petition.

[7] TSN, March 16, 1989, p. 12.

[8] Decision, p. 4, Rollo, p. 60.

[9] Rollo, p. 61.

[10] Lejaro v. Ciar, 76 Phils. 623 (1946).

[11] *Torres v. Encarnacion and De Borja*, 89 Phil. 678 (1951).

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