

BENJAMIN DIZON, ZACARIAS DIZON, AFRICA DIZON, PERFECTO DIZON, CARMEN DIZON (HEIRS OF PAULA GALANG), JULIA GALANG, CONSOLACION TABORA, ABELARDO TABORA, CECILIA TABORA, AVELINA TA...

G.R. No. 101929. January 06, 1993

Ponente: PADILLA, J.

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PADILLA, J.:

In this petition for review on certiorari, petitioners seek to nullify the decision[*] of the Court of Appeals, dated 29 April 1991, in CA-G.R. CV. No. 14312, the dispositive portion of which reads as follows:

"WHEREFORE, the appealed judgment is hereby REVERSED; and the Deed of Extra-Judicial Settlement of the Estate of the deceased Dionisio Galang (Exh. 'D'), in so far as it relates to Lots 3548 and 3562 of the Bacolor Cadastre, and Transfer Certificates of Title Nos. 182670-R and 182671-R issued by virtue thereof are hereby declared null and void.

"Conformably, the Register of Deeds concerned is hereby ordered to cancel the said titles; and subject Lots 3548 and 3562 are hereby adjudicated to the heirs of the deceased co-owners to be partitioned among them as follows:

- a. one-sixth to the Heirs of Marciana Galang;
- b. one-sixth to the Heirs of Dionisio Galang;
- c. one-sixth to the Heirs of Flaviana Galang;
- d. one-sixth to the Heirs of Gertrudes Galang;
- e. one-sixth to the Heirs of Potenciana Galang;
- f. one-sixth to the Heirs of Leoncia Galang

"Costs against defendants-appellees.

"SO ORDERED." [1]

It appears that on 21 August 1984, Aureo Reyes, et al. (hereafter "respondents") filed an amended complaint before the Regional Trial Court of San Fernando, Pampanga, docketed as Civil Case No.6752, for the annulment of a deed of extra-judicial settlement and partition of the estate of Dionisio Galang, claiming to have been deprived thereby of their shares, as co-owners, in Lot Nos. 3548 and 3562 Bacolor cadastre, and that OCT Nos. 9010 and 9102, issued in the name of Dionisio Galang, covering said lots, are fraudulent and should therefore be annulled and cancelled.

The facts of the case, as culled from the Court of Appeals decision, are as follows:

The spouses Hilario Galang and Martina Laxamana owned two (2) lots located in San Agustin, Potrero, Municipality of Bacolor, Province of Pampanga. They had six (6) children, namely, Dionisio, Marciana, Potenciana, Flaviana, Leonora and Gertrudes.

The spouses (Hilario and Martina) mortgaged the afore-said lots to Camilo Angeles. It is alleged by the respondents that Dionisio Galang redeemed these lots in his own name, despite the fact that part of the funds used for the redemption came from his sisters.[2] A cadastral survey involving the two (2) lots was conducted, and on 19 May 1919, the Court of First Instance ordered the issuance in Cadastral Case No. 14, of OCT Nos. 9010 (for lot 3548) and 9102 (for lot 3562) in the name solely of Dionisio Galang (hereafter Galang).

Respondents, who are heirs of Galang's sisters, claim that Galang and his five (5) sisters had partitioned the subject lots on 27 June 1920, as embodied in an unnotarized affidavit executed by Galang (Exh. "C"). As a consequence thereof, Galang's sisters constructed their houses on Lot 3548. The structures passed on from generation to generation, with each of Galang's sisters and their descendants enjoying the benefits therefrom. No one questioned or disturbed them until the petitioners (heirs of Galang) informed them that the lots in question were titled in Galang's name and had been partitioned, on the basis of a Deed of Extrajudicial Partition (Exh. "D"), into three (3) equal parts corresponding to his (Galang's) three (3) children; that petitioners had succeeded in subdividing the lots and in obtaining titles thereto in their name (TCT Nos. 182670-R and 182671-R) despite their (respondents') earlier demands for an extrajudicial settlement of their dispute.

Petitioners, on the other hand, contend that the cadastral case which culminated in the issuance of the original certificates of title over the subject lots in the sole name of Galang, was a proceeding in rem, thus binding on the whole world; that when original certificates of title (OCT Nos. 9010 and 9102) were issued on 9 January 1922 to Galang, respondents did not raise any objection until March 1983 when they filed the complaint in Civil Case No. 6752, or after a lapse of sixty-one (61) years.

The trial court[3] upheld Galang's titles over the lots which, as aforesaid, had been issued as early as 1922 in his name. The trial court further held that respondents' action had long prescribed, having been filed, only on 24 March 1983, or after a lapse of sixty-one (61) long years from the issuance of said titles. The court also noted respondents' failure to establish their relationship to Galang's five (5) sisters, premising their claim solely on an unsubstantiated assertion that they are descendants of the deceased Galang sisters.[4] The presence or construction of the houses on Lot No. 3548 was also not considered as evidence in respondents' favor, since no proof was submitted establishing respondents' right to occupy the place. The documentary evidence (Exh. "C" and "C-1") allegedly showing co-ownership among Dionisio and his co-heirs, was likewise ignored by the trial court as this did not specifically refer to the disputed Lots 3548 and 3562.

On appeal by the respondents, respondent Court of Appeals reversed the trial court by upholding respondents' rights. It focused on two (2) issues. Thus -

"Are the properties in question owned in common by the predecessors-in-interest of appellants and appellees?
And has appellants' present action for partition prescribed?"[5]

The appellate court declared that co-ownership existed between respondents' predecessors-in-interest and those of petitioners, on the basis of Galang's affidavit which, although unnotarized, was nonetheless an ancient document, pursuant to Sec. 22, Rule 132 of the Rules of Court, since it was executed on 27 June 1920. As such, proof of its due execution and authentication could be dispensed with, according to the appellate court.

Hence, this recourse in turn by the petitioners.

We find the petition impressed with merit.

It is a fact that Dionisio Galang's ownership over the disputed lots (3548 and 3562) had been judicially confirmed on 19 May 1919 in Cadastral Case No. 14, G.L.R.O. No. 51, which is a proceeding in rem and hence binding "on the whole world." OCT No. 1056 (9010) and OCT No. 1057 (9102) were, as a consequence, issued on 9 January 1922. None of Galang's co-heirs objected to or protested their issuance. These titles became indefeasible and incontrovertible. Then it was only after sixty-one (61) years or on 24 March 1983 that the descendants of Galang's co-heirs asserted co-ownership claims over the subject lots.

It is true that Galang executed an affidavit, unnotarized at that, on 27 June 1920 which states in part as follows (per English translation [Exh. "C-1]): [6]

That on this date, I have received from all my sisters and nephews who are my co-heirs, namely Potenciana Galang, Flaviana Galang, Gertrudes Galang, who are my sisters, and Silverio Garcia and Hilarion Samia, in their own names and for their brothers and sisters who are also co-heirs, the sum of ONE HUNDRED AND SIX PESOS (P106.00), Philippine Currency, as complete payment for the discharge of the land we co-inherited, which is the one we partitioned this date also, which was mortgaged to the Angeles family." [7]

However, as can be gleaned from the foregoing, there is no reference to Lot Nos. 3548 and 3562. Said affidavit is not therefore a sufficient basis or support for what is alleged by respondents as a partition among Dionisio and his now deceased sisters. It does not, as correctly stated by the trial court, amount to anything insofar as the two (2) lots involved in this case are concerned:

"Even their presentation of the document purportedly executed by Dionisio Galang on June 27, 1920 (Exh. "C" and "C-1") where the latter acknowledges that he and his co-heirs named therein are co-owners of a certain property which they had mortgaged to a certain family surnamed Angeles does not amount to anything for nothing in this document shows that it pertains to the two lots involved herein. It merely referred to a certain 'land' which Dionisio Galang and his co-heirs 'co-inherited' and partitioned without any indication as to which property is being referred to." [8]

We likewise agree with the trial court that in the absence of definite proof establishing respondents' link/relationship to their alleged predecessors-in-interest, i.e., the Galang sisters, they do not have any cause of action, and the suit for partition must necessarily fall. The trial court aptly observed:

x x x the plaintiffs thru their witnesses Bienvenido Tapnio, Marcos Dimabuyu, Pedro Atienza, and Carmelita Galang, tried to prove that all the plaintiffs herein are heirs and direct descendants, respectively, of Marciana Galang, Potenciana Galang, Flaviana Galang, Leoncia Galang and Gertrudes Galang who, in their lifetime, together with their late brother Dionisio Galangs, are the co-owners of these two lots, namely, Lots Nos. 3548 and 3562. Lament-ably, all that was proved in the process by the plaintiffs thru these witnesses despite several proddings and suggestions made by the court toward this end was that each of these plaintiffs are just related to one another in varying degrees of relationship. They failed to establish their connection or relationship with any of these five sisters save for their unfounded averment that they are indeed descendants and heirs of these deceased individuals." [9]

WHEREFORE, the petition is GRANTED. The appealed decision of the Court of Appeals is hereby SET ASIDE and the decision of the trial court dated 3 October 1986 in Civil Case No. 6752 is hereby REINSTATED. No costs.

SO ORDERED.

Cruz, (Chairman), Griño-Aquino, and Bellosillo, JJ., concur.

[*] Penned by Justice Fidel P. Purisima with the concurrence of Justices Eduardo R. Bengzon and Salome A.

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[1] Rollo, pp. 40-41

[2] Rollo, p. 40.

[3] RTC, San Fernando, Pampanga, Br. XLIV, Judge Nathanael M. Gorospe, presiding.

[4] Rollo, p. 36.

[5] Rollo, p. 38

[6] Records, p. 241

[7] Rollo, p. 243

[8] Records, p. 294

[9] Records, p. 293

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