

BENNY SAMPILO AND HONORATO SALACUP, PETITIONERS, VS. THE COURT OF APPEALS AND FELISA SINOPERA RESPONDENTS.*G.R. No. 10474. February 28, 1958*

Ponente: LABRADOR, J.

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Certiorari against a decision of the Court of Appeals, Third Division, affirming with slight modification a judgment of the Court of First Instance of Pangasinan, declaring plaintiffs owners of one-half portion of four parcels of land described in the complaint, with costs. The judgment was rendered in an action instituted by Felisa Sinopera, administratrix of the estate of Teodoro Tolete, to recover from defendants one-half share of the aforesaid four parcels of land, which, it is alleged, belonged to the deceased Teodoro Tolete.

According to the facts found by the Court of Appeals, Teodoro Tolete died intestate in January, 1945. He left four parcels of land, lots Nos. 12006, 119907, 14352 and 12176 of the cadastral survey of San Manuel, Pangasinan. He left as heirs his widow, Leoncia de Leon, and several nephews and nieces, children of deceased brothers and sisters. On July 25, 1948, without any judicial proceedings, his widow executed an affidavit stating that "the deceased Teodoro Tolete left no children or dependents, neither ascendants or acknowledged natural children, neither brother, sisters, nephews or nieces, but the affiant Leoncia de Leon, the legitimate wife of the deceased, the one and only person to inherit the above properties" (Record on Appeal, p. 9). This affidavit was registered in the Office of the Register of Deeds of Pangasinan. On the same day, she executed a deed of sale of all the above parcels of land in favor of Benny Sampilo for the sum of P10,000. This sale was also registered in the Office of the Register of Deeds of Pangasinan. On June 17, 1950, Benny Sampilo, in turn, Sold the said parcels of land to Honorato Salacup for P50,000 and this sale was also registered in the Office of the Register of Deeds of Pangasinan (See Annexes "A", "B", "C", attached to the complaint).

In March, 1950, Felisa Sinopera instituted proceedings for the administration of the estate of Teodoro Tolete (Special Proceeding No. 3694, Pangasinan), and having secured her appointment as administratrix, brought the present action on June 20, 1950. Notice of lis pendens was filed In the Office of the Register of Deeds and said notice was recorded on certificates of title covering the said properties on June 26, 1950. This notice, however, was subsequent to the registration of the deed of sale, in favor of Honorato Salacup, which took place on June 17, 1950.

The complaint alleges that the widow Leoneia de Leon, had no right to execute the affidavit of adjudication and that Honorato Salacup acquired no rights to the lands sold to him, and that neither had Benny Sampilo acquired any right to the said properties. Sampilo and Salacup filed an amended answer alleging that the complaint states no cause of action; that if such a cause exists the same is barred by the statute of limitations; that defendants are innocent purchasers for value; and that the complaint is malicious, frivolous and spurious, intended to harass and inconvenience the defendants.

After trial the Court of First Instance rendered judgment for the plaintiff, Felisa Sinopera, declaring that the

affidavit of adjudication Exhibit "A", the deed of sale Exhibit "B", and the deed of sale Exhibit "C", are all null and void; declaring plaintiff owner of one-half portion of the four parcels of land in question, and finally declaring that the usufructuary rights of Leoncia de Leon to said properties are terminated. The case was appealed to the Court of Appeals. This court held that the annulment of the affidavit of adjudication, Exhibit "A", by the trial court was correct but that the annulment of the deeds Exhibits "B" and "C", insofar as one-half of the properties conveyed is concerned, and in adjudicating one-half of the same to the heirs of the deceased, is premature. Hence, it modified the judgment, declaring that Exhibits "B" and "C" are null and void only insofar as the properties thereby conveyed exceed the portion that corresponds to Leoncia de Leon. Therefore, it ordered the defendants to deliver to the plaintiff, in her capacity as administratrix of the estate of Teodoro Tolete, for disposition according to the law, one-half of the lands described in the complaint, but reserved to Honor a to Salacup the right to claim and secure adjudication in his favor of whatever portion of said properties may correspond to Leoncia de Leon and also his right to bring an action for the damages that he may have suffered against Leoncia de Leon and Benny Sampilo.

Benny Sampilo and Honorato Salacup have appealed to this Court by certiorari and have assigned the following errors in their brief:

I

The Court of Appeals erred in affirming that respondent Felisa Sinopera's right of action to recover her and her co-heirs' participation to the lands in question had not prescribed at the time the action to recover was filed.

II

The Court of Appeals erred in not finding that the petitioners are innocent purchasers for value.

III

The Court of Appeals erred in affirming the lower court's denial of petitioner's motion for new trial.

In support of the first assignment of error, it is argued that as the action was instituted almost four years after the affidavit of adjudication, Exhibit "A", was registered in the Office of the Register of Deeds of Pangasinan, the right of action of the administratrix has prescribed and lapsed because the same was not brought within the period of two years as prescribed in Section 4 of Rule 74 of the Rules of Court, and as decided in the cases of McMicking vs. Sy Conbieng, 21 Phil., 211 and Ramirez vs. Gmur, 42 Phil., 855 869.

Section 4 of Rule 74 provides, in part, as follows:

"SEC. 4. Liability of distributees and estate.-If it shall appear at any time within two years after the settlement and distribution of an estate in accordance with the provisions of either of the first two sections of this rule, that an heir or other person has been unduly deprived of his lawful participation in the estate, such heir or such other person may compel the settlement of the estate in the courts in the manner hereinafter provided for the purpose of satisfying such lawful participation. * * *."

Section 1, which is mentioned in Section 4, reads as follows:

"SEC. 1. Extra judicial settlement by agreement between heirs.- If the decedent left no debts and the heirs and legatees are all of age, or the minors are represented by their judicial guardians, the parties may, without securing letters of administration, divide the estate among themselves as they see fit by means of a public, instrument filed in the office of the register of deeds, and should they disagree, they may do so in an ordinary action of partition. If there is only one heir or one legatee, he may adjudicate to himself the entire estate by means of an affidavit filed in the office of the register of deeds. It shall be presumed that the decedent left no debts if no creditor files a petition for letters of administration within two years after the death of the

decedent."

It will be noted that the provision next above-quoted contains two parts, the first referring to a case in which there are two or more heirs interested in the estate of a deceased person, and the second in which there is only-one heir. The section was taken from Section 596 of the old Code of Civil Procedure (Act No. 190, as amended by Act No. 2331). Said Section 596 as amended, was as follows:

"SEC. 596. Settlement of Certain Intestates Without Legal Proceedings.-Whenever all the heirs of a person who died intestate are of lawful age and legal capacity and there are no debts due from the estate, or all the debts have been paid the heirs may, by agreement duly executed in writing by all of them, and not otherwise, apportion and divide the estate among themselves, as they may see fit, without proceedings in court."

We notice two significant provisions in Sections 1 and 4 of Rule 74. In Section 1, it is required that if there are two or more heirs, both or all of them should take part in the extra judicial settlement. This requirement is made more imperative in the old law (Section 596, Act No. 190) by the addition of the clause "and not otherwise." By the title of Section 4, the "distributees and estate" are indicated as the persons to answer for rights violated by the extrajudicial settlement. On the other hand, it is also significant that no mention is made expressly of the effect of the extrajudicial settlement on persons who did not take part therein or had no notice or knowledge thereof. There cannot be any doubt that those who took part or had knowledge of the extrajudicial settlement are bound thereby. As to them the law is clear that if they claim to have been in any manner deprived of their lawful right or share in the estate by the extrajudicial settlement, they may demand their rights or interest within the period of two years, and both the distributees and estate would be liable to them for such rights or interest. Evidently, they are the persons who, in accordance with the provision, may seek to remedy the prejudice to their rights within the two-year period. But as to those who did not take part in the settlement or had no notice of the death of the decedent or of the settlement, there is no direct or express provision, and it is unreasonable and unjust that they also be required to assert their claims within the period of two years. To extend the effects of the settlement to them, to those who did not take part or had no knowledge thereof, without any express legal provision to that effect, would be violative of the fundamental right to due process of law. In the case of *Ramirez vs. Gmur*, supra, cited by the appellants in this case, we held:

"It will be noted that while the law (sec. 754) provides that the order of distribution may be had upon the application of the executor or administrator, or of a person interested in the estate, no provision is made for notice, by publication or otherwise, of such application. The proceeding, therefore, is to all intents and purposes ex parte. As will be seen our law is very vague and incomplete; and certainly it cannot be held that a purely ex "parts proceeding, had without notice by personal service or by publication, by which the court undertakes to distribute the property of deceased persons, can be conclusive upon minor heirs who are not represented therein."

The procedure outlined in Section 1 of Rule 74 of extrajudicial settlement or by affidavit, is an ex parte proceeding. It cannot by any reason or logic be contended that such settlement or distribution would affect third persons who had no knowledge either of the death of the decedent or of the extrajudicial settlement or affidavit, especially as no mention of such effect is made, either directly or by implication. We have examined the two cases cited by appellants and there is no similarity at all between the circumstances on which the ruling therein had been predicated and those of the case at bar.

Following the above-quoted decision of this Court in the case of *Ramirez vs. Gmur*, supra, we are of the opinion and no hold that the provisions of Section 4 of Rule 74, barring distributees or heirs from objecting to an extrajudicial partition after the expiration of two years from such extrajudicial partition, is applicable only (1) to persons who have participated or taken part or had notice of the extrajudicial partition, and, in addition, (2) when

the provisions of Section 1 of Rule 74 have been strictly complied with, i.e., that all the persons or heirs of the decedent have taken part in the extrajudicial settlement or are represented by themselves or through guardians. The case at bar fails to comply with both requirements because not all the heirs interested have participated in the extrajudicial settlement, the Court of Appeals having found that the decedent left, aside from his widow, nephews and nieces living at the time of his death.

The next contention of appellants is that plaintiff's action is barred by the statute of limitations.' The origin of the provision (Section 4, Rule 74), upon which this contention is predicated, which is Section 596 of Act No. 190, fails to support the contention. In the first place, there is nothing therein, or in its source which shows clearly a statute of limitations and a bar of action against third persons. It is only a bar against the parties who had taken part in the extrajudicial proceedings, but not against third persons not parties thereto. In the second place, the statute of limitations is contained in a different chapter of Act No. 190, Chapter XL, and if Section 596 of the Act had been meant to be a statute of limitations, it would naturally have been included in the chapter which defines the statute.

But even if Section 4 of Rule 74 is a statute of limitations, it is still unavailing to the defendants. The action is one based, on fraud, as the widow of the deceased owner of the lands had declared in her affidavit of partition that the deceased left no nephews or nieces, nor other heirs except herself. Plaintiff's right of action, which is based on fraud and which has a period of four years (Section. 43, par. 3, Act No. 190; Article 1146, Civil Code), does not appear to have lapsed when the action was instituted. Judicial proceedings were instituted in March, 1950 and these proceedings must have been instituted soon after the discovery of the fraud. In any case, the defendants have the burden of proof as to their claim of the statute of limitations, which is their defense, and they have not proved that when the action was instituted, four years had already elapsed from the date that the interested parties had actual knowledge of the fraud.

The second assignment of error, i.e., that the defendants-appellants are innocent purchasers for value was rejected as unfounded by the Court of Appeals. Said court said:

"The claim that defendants-appellants did not have sufficient knowledge or notice of the claim of the heirs of Teodoro Tolete, deceased, over the land in question, does not find support in the evidence of record. As regards defendant Benny Sampilo, it is an admitted fact that he is a nephew of Leoncia de Leon and he had been living with the latter. Both Benny Sampilo and the heirs of the deceased who are claiming the property are residents of San Manuel, Pangasinan. It is hard, therefore, to believe that Benny Sampilo did not know the existence of said heirs, and that he was not aware that they were nephews and nieces, children of the deceased brothers, of the deceased Teodoro Tolete. The fact furthermore that Benny Sampilo accompanied his aunt Leoncia de Leon to Sison, Pangasinan, when the latter saw Notary Public Ladislao Villamil, who was the former's uncle, to have him prepare the affidavit of adjudication Exhibit "A", and the deed of conveyance Exhibit "B" by which on the same date she conveyed to Sampilo all the property which she had adjudicated to herself, both of which she acknowledged before said notary public, coupled with the fact that there is no sufficient showing that the consideration for the conveyance of P10,000 had in fact been paid, strengthens our belief that said Benny Sampilo knew that the deceased Teodoro Tolete had other heirs who may claim the property, and that the immediate conveyance thereof to him was a stratagem concocted to defeat the former's rights. And as regards Honorato Salacup, while the claim that no notice of lis pendens appeared annotated in the certificates of title issued to Benny Sampilo when he acquired the property might be true, for he purchased the property on June 17, 1950, and the notice of lis pendens was noted on said certificates of title on June 26, 1950, nevertheless, he cannot claim that he was a purchaser in good faith for value of the property. It is well-settled rule in this jurisdiction that a purchaser of registered lands who has knowledge of facts which should put him upon inquiry and investigate as to the possible defects of the title of the vendor and fails to make such, inquiry and investigation cannot claim that he is a purchaser in good faith for value and he bad

acquired a valid title thereto. *Leung Yee vs. Strong Machinery Co.*, 37 Phil., 644; *Dayao vs. Diaz*, G.R. L-4106, May 29, 1952."

Finding no error in the decision of the Court of Appeals, we hereby affirm it in toto, with costs against the petitioners. So ordered.

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

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