

**GLICERIA MARELLA ET AL., PLAINTIFFS AND APPELLANTS, VS.
AGRIPINO AGONCILLO, JUDICIAL ADMINISTRATOR OF THE ESTATE
OF FELISA ARRIOLA, DECEASED, DEFENDANT AND APPELLANT.**

G.R. No. 10928. April 01, 1918

Ponente: ARAULLO, J.

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ARAULLO, J.:

This case comes from the Court of First Instance of Batangas by virtue of an appeal interposed by the plaintiffs against the decision of the committee on appraisal in the proceedings for the settlement of the estate of Felisa Arriola, the deceased wife of Agripino Agoncillo, whereby the plaintiffs' claim in the sum of P10,032.42, alleged to be still owing from the said deceased was denied. In the complaint, as amended, it is claimed that the defendant Agripino Agoncillo, as judicial administrator of the estate of his deceased wife, should pay to the plaintiffs the said sum of P10,032.42 with legal interest thereon from the date of the filing of the complaint and the costs of the suit, which amount was owing from the deceased Felisa Arriola to the plaintiffs at the time of her death in October 1911, said plaintiffs being the widow of Eulalio Villavicencio, also deceased, and the children of both, and therefore, the heirs of the said deceased in the amounts which said Eulalio Villavicencio in his lifetime had been taking and which had not been paid in part or in whole up to the date of the filing of the complaint.

A demurrer interposed to the complaint was overruled with the exception of the defendant. The defendant, in his answer, denied generally and specifically all the allegations contained in the amended complaint, with the exception of those relative to the personality of the same defendant as administrator of the estate left by his deceased wife and the claim presented by the plaintiffs before the commissioners on appraisal for the above-mentioned amount and the rejection of said claim by the same commissioners, and alleged that the facts set forth in the said complaint and those stated by the plaintiff Gliceria Marella in the statement of account, Exhibit A, attached to the complaint, and made a part thereof, and particularly the fact that Felisa Arriola had been receiving amounts, do not at all constitute a cause of action; that the debt alleged in the complaint was absolutely null and void; and that the action had totally prescribed; and for these reasons he prayed that he be absolved from the complaint, with the costs against the plaintiffs.

But when the trial of the case was about to begin, the defendant filed an amended answer in which, in addition to the denials made by him in his original answer, he also denied under oath the statement of account, Exhibit A, attached to the complaint, and as a special defense, alleged that: (1) The complaint did not state facts sufficient to constitute a cause of action; (2) it was the spouses, Gliceria Marella and Eulalio Villavicencio, who were indebted to Felisa Arriola in her lifetime, and therefore to the Arriola's estate, in various sums of money which they had received from the said Arriola, she being then a minor, which sums were regarded as a voluntary deposit in the possession of the said spouses, Marella and Villavicencio, and which remained unpaid up to the time of the filing of the said answer, the plaintiffs not having instituted any judicial proceeding for the settlement of the estate left by the deceased Eulalio Villavicencio; (3) from the statement of account, Exhibit A, attached to the complaint, it could be inferred that the amounts alleged to have been received by Felisa Arriola in her lifetime had been

received by her during the time she was a minor, she not then being under any guardian or family council; and (4) the plaintiffs' action, if any there existed, had prescribed. Wherefore, the said defendant prayed that he be absolved from the complaint, with the costs against the plaintiffs, and with respect to the debt of the spouses, Marella and Villavicencio, that the court reserve to him the right to bring the proper action against Gliceria Marella and the judicial administrator, when one be appointed to administer the property left by the deceased, Eulalio Villavicencio, unless the court should deem it proper to decide the said petition in favor of the defendant judicial administrator, considering the special defense No. 2 as a counterclaim against the plaintiffs.

The plaintiffs objected to this amended answer, because it was presented late and contain a counterclaim, and they did not have sufficient time within which to present their answer. But, in view of the fact that the attorney for the defendant stated that it was not a counterclaim unless the court so held it, as shown in the same prayer of the said answer, the court admitted the said amended answer, giving the plaintiffs time to present a negative answer or a special defense. Counsel for the plaintiffs, after excepting from the said decision, denied all the new facts alleged in the said amended answer. Then the trial proceeded.

At the trial, the parties agreed that Felisa Arriola was born on January 14, 1874, and was the daughter of Herminiano Arriola and Felipa Marella, the first of whom died on May 8, 1886, and the second, three months before that date; that Felisa Arriola died on December 8, 1911, and that she had no brother other than Irineo Arriola, the then municipal president of Calaca of the said Province of Batangas; that Felisa Arriola was married for the first time with the defendant Agripino Agoncillo on June 9, 1900, and that she was the cousin of Eulalio Villavicencio and of the mother of the plaintiff, Gliceria Marella; that all the plaintiffs are of age; that counsel for the defendant admitted in the course of the trial the truth of the allegation of paragraph 2 of the complaint, that is, the fact that the plaintiff, Gliceria Marella, was the widow of the deceased Eulalio Villavicencio, and the other plaintiffs, the legitimate children of the former; and hence, were the heirs of the latter, with the exception of Micaela Atienza, Vicente Ilustre and Delfina Ylagan who joined in the complaint, the first and third in their capacity as wife of Jose and Sixto Villavicencio, respectively, and the second as husband of Rita Villavicencio, also a plaintiff.

The facts held as proven by the trial court are, in short, as follows:

- That Herminiano Arriola, the father of Irineo Arriola and Felisa Arriola, in his lifetime, had commercial relations with the plaintiff Gliceria Marella, receiving from the latter several amounts of money for exploiting his haciendas and lands, but on the death of Herminiano Arriola which occurred in the year 1886, he was still indebted to Gliceria Marella in an amount a little over P6,000, and as Felisa Arriola was yet a minor, her brother Irineo Arriola took charge of all the property and business of their father and continued his father's mercantile relations with the plaintiff Gliceria Marella. Therefore, Irineo Arriola recognized the balance or debt of his father in favor of the said Marella who continued delivering amounts to the same Irineo Arriola for the purpose of exploiting the haciendas of his deceased father.
- That in 1893, after Felisa Arriola had been educated in a college in the City of Manila and after she had returned to her town, which took place the year before, she then being more or less 19 years of age, she and her brother Irineo Arriola agreed to partition extrajudicially the property left by their deceased father into two parts, dividing also the debt or net balance amounting on that date to about P12,000, against them and in favor of Gliceria Marella, and the amount corresponding to Felisa Arriola was one-half of that debt or P6,103, which amount appeared on page 1 of Exhibit LL presented by the plaintiffs.
- That Irineo Arriola, as well as his sister, Felisa, continued dealing, although separately, with Gliceria Marella, each receiving from the latter different amounts of money for the exploitation of the portions of land or haciendas

which had been awarded to each in the extrajudicial partition had in 1893, in such a manner that Felisa Arriola was the one who managed the haciendas which were allotted to her, seeing to their cultivation and taking money from Glicería Marella with which to defray the expenses of exploiting them and her own personal expenses, and turning over to her the price of the sugar which she could sell in this city and charging the same to Marella's account. These relations continued between the two in this manner till a short time before Felisa Arriola married in 1900.

- That a liquidation of accounts was made annually between Glicería Marella and Felisa Arriola, concerning the amounts received by the latter from the former and the price of sugar delivered by Arriola to Marella, charging a reciprocal interest of 14 per cent per annum, the same interest as the deceased father of Felisa used to pay to Marella. These liquidations were approved by Felisa Arriola, although such approval does not appear in any paper signed by her, in view of the relationship existing between them, and this has been the practice when the business relations were carried on between Felisa's father and Marella, which were thus continued between the said Felisa Arriola and Glicería Marella till the marriage of the former.

- That the liquidations set out in Exhibit LL of the plaintiffs, which is the current account, were approved by Felisa Arriola, who was furnished a copy of the statement, of which that of July 24, 1899, showed a final balance against her of P10,724, 3 reales and 10 cuartos.

- That upon the extrajudicial partition made by Felisa Arriola with her brother Irineo of the property left by their father the title deeds of the lands allotted to her in said partition, namely, the documents presented at the trial as Exhibits I, J, and K, were given by her brother to her, which, after each had taken possession of the respective property, were delivered by said Felisa Arriola to Glicería Marella as security for the debt of her father, acknowledged by her to be due said Glicería, and for that which he was incurring by borrowing money from her for the exploitation of his lands and for his personal expenses, which documents were in the hands of said Marella when the trial of the case was held.

- That in Felisa Arriola's lifetime and when she was already married to Agripino Agoncillo, demands were made upon her by Glicería Marella for payment, the last demand having been made in the year 1910, although before said date Arriola made a certain plan for the payment of the debt, an attempt having been made to appraise such lands of hers as were to be delivered to Marella in payment of the debt, but which plan was not carried out before the death of said debtor.

- That after the partition between Felisa Arriola and her brother of the property left by their deceased father, when she was only 20 years old, but believing herself to be able to manage her own property in view of her high education, she managed it herself and continued managing her property until her death without interference whatsoever on the part of her husband, and maintaining direct relations with the plaintiff Marella not only on matters relating to her business but also on those connected with the debt due the latter.

Having made these findings of fact, the lower court went on to consider the evidence adduced by the defendant, which was held by it to be insufficient to destroy the probative force of that introduced by the plaintiffs, and after discussing the questions raised by the parties, found as follows: (1) That the amount of the indebtedness claimed by the plaintiffs was sufficiently established by the evidence, the nature of each item of the amount owing from Felisa Arriola to Glicería Marella being specified in the account, Exhibit LL; (2) that the defense of the defendant based on the nullity of the acts performed by Felisa Arriola is extemporaneous and cannot be sustained, and (3) that while the debt existed and was not paid, yet the action of the plaintiffs to enforce payment thereof has prescribed. And for all the foregoing, the trial court rendered judgment holding the debt to have prescribed, and absolving the defendant from the complaint, without special finding as to costs. To this judgment the plaintiffs

excepted, as well as the defendant, the latter in so far as it contained no finding whatsoever regarding his petition for a reservation to him of such action as he had, or might have had, against the plaintiffs for the amounts of money they were retaining and which belonged to the deceased Felisa Arriola and for the surrender of the title deeds which were in the hands of the plaintiffs. Both parties also moved for a new trial, which motion was denied. To said ruling they excepted and brought the case on appeal to this court by the respective bill of exceptions.

The questions raised by the plaintiffs-appellants in various assignments of error have reference to the holding of the trial court that the action had prescribed. Those raised by the defendant, on the other hand, in his assignments of error have to do first with the weight given by the trial court to the evidence and the admission of a part thereof, and second, with the overruling of his second defense set forth in his answer to the effect that plaintiffs' action was ineffective, just as the supposed act or contract on which it was based was inexistent and void, and with the omission of the trial court to make any finding, as already stated, as to reservation of defendant's action and delivery to him of the documents above-mentioned.

Having made a careful examination of the evidence we do not believe it necessary to make a statement thereof in order to express our findings of facts. The evidence having been minutely and clearly stated in the decision under review, we agree with the considerations made by the lower court, whose findings of fact are, to our mind, justified, and it cannot be held, in view of the facts disputed at the trial in connection with plaintiffs' action, that the court below erred in admitting the evidence referred to by the defendant-appellant in his brief.

The defendant did not except to that part of the judgment of the lower court overruling his second special defense, wherein he alleged that the acts and contracts executed by Felisa Arriola, and upon which the complaint is based, were inexistent and void, and that the action brought by the plaintiffs was ineffective. This being the fact, the assignment of error contained in the brief of said defendant-appellant with regard to said points cannot be considered, nor sustained in the appeal taken by him, and therefore the overruling of said defense stands, and must be upheld upon the same grounds stated by the lower court in its judgment; namely, that while the relations between Felisa Arriola and Gliceria Marella were begun when she was only 20 years old, yet on attaining the age of majority in January, 1897, she continued said relations with full legal capacity and did not claim the nullity thereof, nor of the contracts entered into with Gliceria Marella, within the four-year period prescribed by article 1301 of the Civil Code, or at any time before her death which occurred in the year 1911, and therefore the defense of nullity set up by the defendant had already prescribed.

As it is useless to make reservation of actions in connection with alleged or supposed rights, for whoever believes himself to be entitled to bring an action may do so without the necessity of any reservation thereof, the trial court did not err in not making in the judgment appealed from any pronouncement on this point, nor in omitting to order the surrender to the defendant of the title deeds of the lands belonging to the deceased Felisa Arriola, which were in the hands of the plaintiffs, for, aside from the fact that said documents had been given by Felisa Arriola to Gliceria Marella as security for what she owed, and might be found to be owing, to the latter who was furnishing her with funds in the transactions they were making, the defendant's answer did not contain any prayer to that effect; and as the plaintiffs had already excepted to the judgment of the court below and moved for a new trial when the defendant asked for the modification of said judgment in the sense that the plaintiffs be ordered to deliver the aforesaid documents to him, the lower court could have denied, as it did deny, said petition, the judgment rendered in favor of said defendant not having become final and it being possible to make delivery of the document to the latter at the execution of the judgment should it be affirmed.

It was proved, as was held by the trial court, that the debt, payment of which is demanded by the plaintiffs, existed, as well as that the same remained unpaid; the court, however, absolved the defendant from the complaint on the ground that the plaintiffs' action to enforce said payment had prescribed under the provisions of the Civil

Code, as well as under those of the Code of Civil Procedure now in force.

It was also proven, as stated in the judgment appealed from, that between Felisa Arriola and Glicería Marella there existed business relations, and their dealings were entered in a current account, which was presented as Exhibit LL at the trial, and periodical liquidations were made, which were approved by Felisa Arriola, the last of which, that of July 24, 1899, showing a final balance against her of P10,724, 3 reales and 10 cuartos, which amount was later reduced to P10,032.42 payment of which is demanded in the complaint. Therefore the plaintiffs' right of action to enforce payment of said sum by Felisa Arriola accrued on the said date, July 24, 1899, and not on August 31, 1897 when, as stated in the same judgment, those relations can be said to have terminated, for on that date, as said account had not been liquidated, the final balance against Felisa Arriola and in favor of Glicería Marella was not known.

The cause of action having accrued prior to the first of October, 1901, when the Code of Civil Procedure, that is to say, Act No. 190, went into effect, it is evident that the trial court erred in applying the provisions of sections 43 and 50 of said Code of Procedure, and holding the plaintiffs' action to have prescribed, and absolving the defendant from the complaint, for, as was repeatedly held by this court, the rule of prescription to be applied in cases where the cause of action had accrued prior to the date when the Code of Civil Procedure took effect, is that provided by the Civil Code or the laws in force prior to the enactment of the Code of Civil Procedure. (*Piccio Araneta vs. Garrido*, 5 Phil., 137; *Villarruz vs. Azarraga*, 15 Phil., 108; *Lichauco vs. Limjuco and Gonzalo*, 19 Phil., 12.)

Therefore, applying the rules of prescription provided by the Civil Code, we have that the plaintiffs' action to demand the payment of the P10,032.42 by Felisa Arriola accrued on July 24, 1899; and on July 18, 1913, when the original complaint was filed by the plaintiffs, the fifteen years, fixed by article 1964 of the Civil Code for the prescription of personal actions having no special period of prescription, had not elapsed, and much less had it elapsed in May of the same year, when they presented their claim to the committee on appraisal in the proceedings for the settlement of the estate of the deceased; and therefore the lower court also erred in holding said action to have prescribed under the provisions of the Civil Code.

But even admitting that the plaintiffs' cause of action accrued, as was held by the trial court, on August 31, 1897 when, according to the same court, the business relations between Felisa Arriola and Glicería Marella stopped or terminated, which, as already stated, is inaccurate, yet, as the provisions of the Civil Code must be applied, and as, according to the precept of article 1973 of said Code, the period of prescription of the action that the plaintiffs could have brought against the defendant was interrupted by the extrajudicial demands made by Glicería Marella in the years 1906 and 1907, as evidenced by the letters Exhibits G, H, and L, presented at the trial, in conjunction with the other proof introduced by the plaintiffs, the last of which demands was made upon Felisa Arriola herself in the year 1910, as was declared by the lower court itself in its decision, the action of the plaintiffs cannot be held to have prescribed, for the fifteen years fixed for such prescription had not elapsed on July 18, 1913, when the original complaint was filed.

For all of the foregoing, the judgment appealed from is reversed in so far as the debt and plaintiffs' action to demand payment thereof is hereby declared to have prescribed, and the defendant is sentenced to pay the plaintiffs the aforesaid sum of ten thousand and thirty-two pesos and forty-two centavos (P10,032.42), with legal interest thereon at 6 per cent per annum from the date of the filing of the complaint until fully paid with the costs of the first instance, and without special finding as to the costs in this court. So ordered.

Arellano, C. J., Torres, Johnson, Street, and Malcolm, JJ., concur.

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