

LEONA AGLIBOT, ET AL., PLAINTIFFS AND APPELLEES, VS. ANDREA ACAY MAÑALAC, ET AL., DEFENDANTS AND APPELLANTS.*G.R. No. 14530. April 25, 1962*

Ponente: DIZON, J.

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Leona and Evarista Aglibot commenced the present action (Civil Case No. 1482) in the Court of First Instance of Zambales on July 31, 1952 to recover from Andrea Acay Mañalac and her children—Ramona, Gregorio, Felix, Angela, Juanita and Purisima, all surnamed Mañalac—the ownership and possession of a parcel of land situated in barrio Namanaan, Municipality of San Antonio, Zambales, more particularly described in paragraph 2 of their complaint, and damages.

Briefly stated, the allegations of the complaint are that the Aglibots inherited the property subject matter thereof from their deceased niece Juliana Mañalac, that upon the death of Anacleto Mañalac, father of Juliana; the defendants took possession of said property, claimed it as their own and had since then appropriated for themselves all the palay annually harvested therefrom amounting to 30 cavaness; that notwithstanding demands made upon said defendants by the Aglibots, they had refused to surrender the property of the latter.

In their answer, after denying some material averments of the complaint, appellants alleged substantially the following as affirmative defense: that the land in question was purchased from Esteban Garcia by the spouses Anacleto Mañalac and Maria Aglibot for P1,000.00; that when Maria Aglibot died, only P300.00 of this amount had been paid; that the remaining P700.00 was paid to the vendor during the marriage of Anacleto Mañalac and appellant Andrea Acay; that Juliana Mañalac, the only daughter of Anacleto and his first wife, died in 1920, while Anacleto died in 1942; that upon his death, his widow, Andrea Acay, and their children acquired the property in question as his sole legal heirs. Their answer likewise claimed the sum of P1,000.00 as attorney's fees by way of counterclaim.

After due trial upon the issue thus joined, the lower court rendered judgment as follows:

"IN VIEW OF THE FOREGOING CONSIDERATIONS, the Court hereby renders judgment declaring the plaintiffs owners pro-indiviso of one half (1/2) of the land covered by Original Certificate No. 10 described in paragraph 2 of the amended complaint; ordering the defendants to deliver to the plaintiffs the possession of the said one-half (1/2) of the property covered by said title; ordering the defendants jointly and severally to deliver to the plaintiffs 15 cavaness of palay yearly as the share of the plaintiffs from the produce of the land or its equivalent value at P10.00 a cavan from the date of the filing of the complaint until the said one-half (1/2) portion of the property described in Original Certificate No. 10 is delivered to the plaintiffs and ordering the defendants to pay the costs."

From the above judgment Andrea Acay and her children took the present appeal.

The evidence shows that, originally, the land in question belonged to the conjugal partnership of the spouses Anacleto Mañalac and Maria Aglibot, and was covered by Original Certificate of Title No. 10 of the Register of

Deeds of Zambales in the name of Anacleto Mañalac, married to Maria Aglibot; that said spouses had an only child named Juliana Mañalac; that Maria Aglibot died on October 2, 1906; that on April 25, 1910, Anacleto Mañalac married appellant Andrea Acay with whom he has six children (the other appellants herein); that Juliana Mañalac died intestate on October 22, 1920, leaving no other relatives except her father, Anacleto Mañalac, and her half brothers and sisters already mentioned; that upon the death of Anacleto on June 2, 1942, his widow, Andrea Acay, and her six children took possession of the parcel of land in controversy and since then have refused to surrender the ownership and possession thereof to the appellees; that the land produces; thirty cavanese of palay yearly.

On May 18, 1951 appellees Leona and Evarista Aglibot filed a verified petition in the Court of First Instance of Zambales for the summary partition or distribution of the properties left by the deceased Juliana Mañalac among her rightful heirs (Special Proceeding No. 594). The court, after proper proceedings, issued an order dated October 30, 1951, the dispositive part of which reads as follows:

"Wherefore, the Court declares that the applicant Leona Aglibot and Evarista Aglibot are the only heirs within the third degree of Juliana Mañalac, and belonging to the same line from which: these properties originally belong, that is, from Maria Aglibot, being the sisters of the latter; that the value of these properties does not exceed six thousand pesos (P6,000); and that each of the applicants is entitled to receive and enter into possession of one-half of the first five parcels and one-fourth of the last two, after paying such debts of the state—if there be any—and the proportionate expenses of this special proceedings, subject to the provisions of Rule 74 of the Rules of Court". (Page 10 Rec. on Ap.)

After securing the decision above quoted appellees made the unsuccessful demands upon appellants for the surrender of the property in question to them, and subsequently filed the present action.

The main question to be resolved now is: Who is entitled to the land which Anacleto Mañalac inherited from his daughter, Juliana, as between appellees (sisters of Maria Aglibot, first wife of Anacleto Mañalac), on the one hand, and appellants (Anacleto's second wife and their children), on the other?

It is clear from the facts of the case that the land in question is reservable property in accordance with the provisions of Article 811 of the Spanish Civil Code (Art. 891 of the New Civil Code). Both parties now admit that the entire parcel covered by Original Certificate of Title No. 10 belonged to the conjugal partnership of the spouses Anacleto Mañalac and Maria Aglibot; that upon the death of the latter on October 2, 1906, their only daughter, Juliana Mañalac, inherited one-half of the property, the other half pertaining to her father as his share in the conjugal partnership; that upon the death of Juliana Mañalac on October 22, 1920 without leaving any descendant, her father inherited her one-half portion of said property. In accordance with law, therefore, Anacleto Mañalac was obliged to reserve the portion he had thus inherited from his daughter, for the benefit of appellees, Leona and Evarista Aglibot, aunts of Juliana on the maternal side and who are, therefore, her relatives within the third degree belonging to the line from which said property came.

Appellant's contention that the major portion of the purchase price of the land in question was paid to the original owner, Esteban Garcia, after the death of Maria Aglibot is rendered clearly untenable not only by the lack of sufficient evidence to this effect but also by the very significant circumstance that the property was titled in the name of Anacleto Mañalac "married to Maria Aglibot"—circumstance that strongly indicates that said spouses had acquired full ownership thereof during the lifetime of Maria Aglibot.

A secondary question raised by appellants is to the effect that the lower court erred in ordering them, jointly and severally, to deliver to appellees fifteen cavanese of palay yearly or pay their equivalent value of P10.00 a cavan, from the date of the filing of the complaint. Considering the belief of appellants that the property in controversy

formed part of the estate of Anacleto Mañalac and that upon the latter's death ownership thereof was transmitted to all his heirs, subject to the usufructuary rights of the surviving spouse, Maria Acay, their contention—not sufficiently rebutted—that only the latter enjoyed possession of the property since her husband's death and received the annual share pertaining to the landlord seems to be reasonable and logical. She should be the only one, therefore, sentenced to pay the fifteen cavanos of palay yearly from the date of the filing of the complaint.

The remaining contention of appellants that the lower court should have ordered appellees to refund to them 50% of the annual realty tax paid on the property cannot be sustained, this matter having been raised by them for the first time on appeal.

Wherefore, modified as above indicated, the decision appealed from is affirmed, with costs.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, and Paredes, JJ., concur.

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