

ENCARNACION BACANI AND VIRGILIO BACANI, PLAINTIFFS AND APPELLEES, VS. FELICISIMA PAZ SAMIA GALURA, ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 16066. April 25, 1962

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Appeal from a decision of the Court of First Instance of Tarlac. The case is before us only questions of law being raised in appellants' brief.

The main purpose of this case is to establish title to Lots Nos. 1470 and 1481-D of the Cadastral Survey of Concepcion, province of Tarlac, more particularly described in Original Certificate of Title No. 4499 of said province, in the name of Manuel Bacani. The latter was a widower who, for several years, had lived maritally, although without the benefit of clergy, with Monica Vargas, a widow who begot him two (2) children, namely, plaintiffs Encarnacion Bacani and Virgilio Bacani. Admittedly, these plaintiffs grew up with their aforementioned parents and were supported and sent to school by Manuel Bacani as his acknowledged natural children, with the knowledge of defendants Leonides, Paz and Angelina, all surnamed Samia, and hereafter referred to as the Samias.

Manuel Bacani died in Manila, on August 7, 1931, leaving no legitimate ascendants or descendants. His nearest relatives were his aforementioned acknowledged natural children, a sister, Josefa Bacani, and the children of a deceased sister, Candida Bacani—namely, the aforementioned Samias. On May 31, 1938, the Samias and defendant Anastacia Dizon, acting as administratrix of the estate of the late Josefa Bacani executed a deed of extrajudicial partition (Exhibit A) adjudicating to themselves, as the alleged heirs of the deceased Manuel Bacani, all of his properties, including the two lots af or mentioned. This deed of extrajudicial partition having been approved, on June 23, 1938, by the Court of First Instance of Pampanga, in Special Proceeding No. 5695 thereof, entitled "In Re Testate Estate of Josefa Bacani", upon ex-parte motion of said Anastacia Dizon, the above mentioned Original Certificate of Title No. 4499, covering said two (2) lots, was cancelled and, in lieu thereof, Transfer Certificate of Title No. 14121 was issued in favor of the Samias and the estate of Josefa Bacani, on December 6, 1938.

Soon thereafter, or on March 13, 1939, Encarnacion Bacani filed, with the Court of First Instance of Manila, a petition, docketed as Special Proceeding No. 54677 of said court, for the settlement of the estate of Manuel Bacani. By an order, issued in that case on November 6, 1939, she was appointed administratrix of said estate and authorized to take appropriate measures to set aside the proceedings by which his properties had been disposed of in favor of persons who were not his heirs. Hence, on November 9, 1939, she caused to be annotated on Transfer Certificate of Title No. 14121 of Tarlac, a notice of lis pendens in favor of the heirs of Manuel Bacani. On January 15, 1940, she filed in the Special Proceeding (No. 5695 of the Court of First Instance of Pampanga) for the settlement of the estate of Josefa Bacani, a petition praying that the aforementioned extra judicial partition be

declared null and void ab initio and that the properties covered by said extrajudicial partition be ordered delivered to her (Encarnacion Bacani) for her administration and subsequent distribution among the true and legitimate heirs of Manuel Bacani. This petition was denied in an order of said court dated February 14, 1940.

On March 7, 1940, Encarnacion Bacani instituted Civil Case No. 817 of the Justice of the Peace Court of Concepcion, Tarlac, for forcible entry and unlawful detainer, against the Samias. The record does not show the outcome of the case in said court, but on appeal to the Court of First Instance of Tarlac (Case No. 4909), it was dismissed on June 21, 1944, for non-appearance of the parties.

Meanwhile, or sometime before July 25, 1940, Encarnacion Bacani, likewise, commenced Civil Case No. 4878 of the Court of First Instance of Tarlac, for the purpose of compelling the Samias and Anastacia Dizon to convey the lots in question to her, as Administratrix of the estate of Manuel Bacani. However, in a decision rendered on November 26, 1943, the case was dismissed, upon the ground, among others, that it had been filed prematurely, for Encarnacion Bacani and Virgilio Bacani had not as yet been declared heirs of Manuel Bacani in Special Proceeding No. 54677 of the Court of First Instance of Manila.

In a resolution issued in said Special Proceeding No. 54677 on June 30, 1954, which was affirmed by the Court of Appeals (CA-G. R. No. 13949-R) on May 16, 1956, Encarnacion and Virgilio Bacani were eventually declared the acknowledged natural children of Manuel Bacani, and, as such, the heirs entitled to inherit his estate. When the records of said proceeding were remanded to the Court of First Instance of Manila, Encarnacion Bacani moved therein that defendants herein be ordered to render account of the products of the lots in question and to deliver said lots and the products thereof to her. The Samias opposed the motion, which was denied on November 23, 1956, without prejudice to the institution of the corresponding action for revindication. Hence, on July 12, 1957, Encarnacion Bacani and Virgilio Bacani instituted the present action (Case No. 3154 of the Court of First Instance of Tarlac) against the Samias and Anastacia Dizon. In the complaints plaintiffs prayed that they be declared owners of the lots referred to above and that the defendants be sentenced to convey the same to the plaintiffs, to render accounts of the products thereof, and to pay exemplary and moral damages, as well as attorney's fees.

Defendants moved to dismiss the complaint upon the ground that plaintiffs' cause of action is barred by the statute of limitations and by a prior judgment, and that the court has "no jurisdiction to take cognizance of the case and over the subject-matter thereof." The court having deferred action on the motion "until the trial" of the case on the merits, the grounds relied upon by the movants not appearing to be indubitable, the defendants filed their answer admitting some allegations of the complaint, denying other allegations thereof, alleging several special defenses—reproducing the grounds of said motion to dismiss, in addition to asserting ownership over the lots in dispute and denying the existence of plaintiffs' cause of action—and setting up a counterclaim for moral damages and attorney's fees on account of this litigation.

After due trial, during which the parties merely agreed on most of the pertinent facts and some documents were introduced in evidence, the lower court rendered a decision denying the motion to dismiss and: (a) declaring that plaintiffs are the only forced heirs of the late Manuel Bacani and, as such, the owners in equal shares of the two (2) lots in questions; (b) declaring the aforementioned extrajudicial partition as "non-existent or void"; (c) ordering the defendants to surrender to the Register of Deeds of Tarlac—within fifteen (15) days from the date on which the decision shall become executory—Transfer Certificate of Title No. 14121, for its cancellation, with the warning that, should the defendants fail to comply with this directive within the said period, the transfer certificate of title would be considered ipso facto null and void; (d) ordering said officer to cancel the aforementioned transfer certificate of title, and to issue a new one in the name of plaintiffs herein, in equal shares; (e) sentencing the defendants to pay to plaintiffs the sum of P4,640, as rentals of said lots, from February 1940 up to the time of

the rendition of said decision, at the rate of 80 cavanese a year, as well as to deliver to plaintiffs the rentals of said lots, at the same rate, from the agricultural year 1959-1960; (f) ordering the defendants to vacate said lots in order that its possession could be delivered to plaintiffs; (g) dismissing defendants' counterclaim; and (h) sentencing the defendants to pay P1,000.00 as exemplary damages and the costs.

Hence, this appeal by the defendants, who maintain that the lower court erred:

- " * * * in not holding that the order of the Court of First Instance of Pampanga, rendered in Sp. Proc. No. 5695, entitled 'Testate estate of Josefa Bacani', approving the extrajudicial partition executed by the defendants over the properties in question as heirs of the deceased Manuel Bacani, and the decision rendered by the trial court itself in Civil Case No. 4878, constitute res judicata to the present case, their being identity of parties, of the subject-matter, and of cause of action;"
- " * * * in not declaring that plaintiffs' cause of action is barred by the statute of limitations;"
- " * * * in not declaring that it has no jurisdiction over the subject-matter involved in the case;"
- " * * * in imposing exemplary damages against the defendants;"
- " * * * in denying the motion to dismiss."

We find no merit in the appeal. The order of the Court of First Instance of Pampanga, dated June 23, 1938, approving the extra judicial partition made by the defendants herein cannot bar the present action under the principle of res judicata. Said order was issued in the special proceeding (No. 5695) for the settlement of the estate of Josefa Bacani, in which the court had no jurisdiction to determine who were the heirs of Manuel Bacani and who should inherit his estate. The right of the plaintiffs herein to the lots in dispute was not settled in the decision of the court of First Instance of Tarlac in Civil Case No. 4878, said case having been dismissed upon the ground that Encarnacion Bacani, as administratrix of the estate of Manuel Bacani, appointed in Special Proceeding No. 54677 of the Court of First Instance of Manila, could not "prior to the determination of his heirs in that case, maintain" said Civil Case No. 4878 "in the Court of First Instance of Tarlac". Upon the other hand, the issue of res judicata pressed by defendants herein was raised by them in Civil Case CA-G. R. No. 13949-R—on appeal from the resolution dated June 30, 1954, of the Court of First Instance of Manila, in Special Proceeding No. 54677 thereof—and, in a decision promulgated on May 16, 1956, the Court of Appeals rejected the claim of said defendants. Accordingly, they are the ones barred by the principle of res judicata, from insisting in their aforementioned pretense.

Neither is plaintiffs' right to assail the aforementioned extrajudicial partition and the order approving the same, barred by the statute of limitations, the plaintiffs having contested both since March 30, 1939, when Special Proceeding No. 54677 of the Court of First Instance of Manila, for the settlement of the estate of Manuel Bacani, was instituted, apart from the fact that said order was null and void ab initio, for want of jurisdiction, and consequently, as good as non-existent, insofar as it implied a determination of the persons entitled to succeed Manuel Bacani and entailed the transmission to them of the title to his properties. Again, the same plea of prescription was set up by defendants herein in CA-G. R. No. 13949-R and, likewise, overruled by the Court of Appeals in its decision therein.

It is urged that, in the absence of a previous judicial declaration of nullity of the deed of extrajudicial partition and of the judicial order approving the same, the lower court had no jurisdiction over the subject matter of this case. Suffice it to say that the existence or absence of said previous declaration of nullity can not affect the jurisdiction of the court over the subject matter of this case, the same being conferred by law. Besides, it was sufficient, insofar as the case at bar is concerned, that the requisite allegations of fact showing the aforementioned nullity

were made in the complaint herein and that the corresponding declaration of nullity was made in the decision appealed from, to justify the same. It may not be amiss to note, also, that in said decision in CA-G. R. No. 13949-R, rendered prior to the institution of the case at bar, the Court of Appeals explicitly declared that, as far as the heirs of Manuel Bacani are concerned, "said extrajudicial partition made in the estate proceedings of Josef a Bacani of the properties of Manuel Bacani is null and void."

The imposition of exemplary damages—in the sum of P1,000, which is almost nominal—is fully justified, not only by the number of litigations plaintiffs had to institute, the many years they had to wait, and the expenses they must have incurred, but, also, by the fact that defendants well knew the status of plaintiffs herein, and, hence their right to the property in question.

The foregoing, likewise, shows that the motion to dismiss was properly dismissed.

Wherefore, the decision appealed from is hereby affirmed, with costs against the defendants. It is so ordered.

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

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