

ACISCLO JIMENEZ, ADMINISTRATOR OF THE ESTATE OF MARIA JOSUE, DECEASED, AND BARBARA LELIS, PLAINTIFFS AND APPELLANTS, VS. TRINIDAD BAUTISTA, DEFENDANT AND APPELLEE.

G.R. No. 3394. December 23, 1908

Ponente: JOHNSON, J.

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JOHNSON, J.:

The following facts seem to be admitted of record:

First. That Teodoro Lelis and Maria Josue were husband and wife.

Second. That during their marriage they had two children, Donato Lelis and Barbara Lelis.

Third. That Donato Lelis Avas lawfully married to the defendant Trinidad Bautista.

Fourth. That in 1883 Donato Lelis died, leaving surviving him his wife, Trinidad Bautista, and his father and mother and sister.

Fifth. That, at the time of the death of Donato Lelis, he was in possession of various pieces or parcels of land situated in the Province of Sprsogon.

Sixth. That some days prior to the death of Donato Lelis, he made a will leaving all of his property to his wife, Trinidad Bautista.

Seventh. That this will was duly admitted to probate in the Court of First Instance of said province.

Eighth. That his wife, Trinidad Bautista, paid some of the debts against the estate of her deceased husband, the exact amount of which does not clearly appear of record.

Ninth. That since, the death of her husband in 1883 or 1884, Trinidad Bautista has remained in possession of all of the property left by Donato Lelis.

Tenth. That Teodoro Lelis died on the 22d of November, 1884.

Eleventh. That Maria Jbsue died on the 29th of September, 1897.

Twelfth. That probably (the record does not disclose the fact) Acisclo Jimenez was duly and regularly appointed as administrator of the estate of Maria Josue, deceased.

Thirteenth. That on the 29th day of July, 1905, the plaintiffs commenced an action against the defendant for the purpose of—

(1) To have a partition of the property left by Donato Lelis; and

(2) To have the portion corresponding to Maria Josue delivered to the administrator of the estate of the said Maria Josue, deceased.

The defendant filed both a general and a special answer.

The defendant made the following special defense:

First. That Donato Lelis, her husband, died in 1883, leaving a will under which she was named as the only heir, and that she had been in possession of the property of her husband as such heir since the death of her husband.

Second. That Donato Lelis brought no property to the marital relation, and that all of the property left by her husband was bienes gananciales.

Third. That the defendant had paid the debts of the estate of Donato Lelis, which amounted to more than the value of the property left by her husband.

To this answer of the defendant the plaintiff filed a demurrer, maintaining that the answer of the defendant did not constitute a defense to the cause of action of the plaintiff. The court overruled this demurrer and the defendant duly excepted.

After hearing the evidence adduced during the trial of the cause, the judge of the lower court reached the following conclusions upon the questions presented:

First. That Donato Lelis had no authority under the law in force at that time by will to leave all of his property to his wife to the exclusion of herederos forzosos, citing in support of this contention law 10, title 7, part. 6 (a); law 1 (a), title 8 (o), part. 6 (a); Escriche, Diccionario Razonado de Legislation y Jurisprudencia, vol. 4, page 638.

Second. That, by reason of the fact that Donato Lelis had no authority under the law to so dispose of his property, his will was null and void, citing in support of this conclusion the authorities above and in addition thereto Escriche, Diccionario, etc., pages 299 and 1101.

Third. That the mere fact that the herederos forzosos had not appeared at the time of the probaton of the will, did not have the effect of depriving them of the right to insist upon their portion of the inheritance, under the law, within the period prescribed by law, citing in support of this conclusion decisions of the supreme court of Spain of the 26th of September, 1876, the 29th of September, 1877, and also law 18, title 6, part. 6 (a), and law 101, title 18, part. 3 (a).

The lower court further held that the order of the court made at the time of the probaton of the will to the effect that the defendant under said will became the owner of all of the property left by her husband, Donato Lelis, did not have the effect of giving her the sole right to the property as against the herederos forzosos.

Fourth. The lower court held that the period of prescription applicable to actions by omitted heirs is thirty years, citing in support of this conclusion Law 63 of Toro, decisions of the supreme court of Spain of November 17, 1865, December 12, 1865, December 30, 1865, 6 Manresa, 325, and 7 Manresa, 403.

Fifth. That the defendant had paid the debts of the estate of Donato Lelis, which debts exceeded the value of the property and that, therefore, the defendant was entitled to said property left by her husband.

From the foregoing conclusions of the lower court the plaintiff appealed and made the following assignments of error:

"I. The court erred in overruling the demurrer presented by the plaintiffs to the answer of the defendant.

"II. The court erred in admitting as evidence the letters marked Exhibit D.

"III. The court erred in admitting as evidence the receipts marked Exhibit C for payments made by the defendant.

"IV. The court erred in admitting as evidence the document Exhibit K.

"V. The court erred in admitting as evidence the document Exhibit R.

"VI. The court erred in declaring in the judgment that the defendant assumed the payment of the debts of Donato Lelis, deceased, which together with the cost of the last illness and the funeral expenses amounted to more than the value of all the property belonging to the husband and wife at the time of the death of Donato Lelis.

"VII. The court erred in holding that the defendant, having paid said debts, is entitled to the reimbursement therefor out of the property of her late husband, and that, after the delivery to her of sufficient property to reimburse the expenditure made by her, there is nothing to be divided between the heirs of Donato Lelis, deceased.

"VIII. The court erred in disregarding the hereditary right of the plaintiff, Barbara Lelis, as the sole heir of her parents.

"IX. The court erred in overruling the motion for a new trial."

During the trial of the cause the defendant undertook to show that she had paid some thousands of pesos of indebtedness against the estate of her deceased husband and alleged that these debts exceeded the value of the property. No satisfactory proof was adduced during the trial showing what was the value of the property in question at the time of the death of Donato Lelis.

Upon a full consideration of the assignments of error made by the plaintiff and of the record brought to this court, we have¹ reached the following conclusions:

First. That the property left by Donato Lelis, a part of which the plaintiff is attempting to recover, was not bienes gananciales.

Second. That under his las Leyes de Toro, under the circumstances presented in this case, Donato Lelis could not by will deprive the plaintiffs herein as herederos forzosos of their interest in the property which he had at the time of his death, without giving some special reason therefor. (Law 6 of Toro, 1 (a), title 8 (o), part. 6 (a) ; Emilio Escuin y Itatac vs. Francisco Escuin,[1] 6 Off. Gaz., 1537).

Third. That the plaintiffs herein under las Leyes de Toro and under the facts in the present case are entitled to two-thirds of the estate of the said Donato Lelis, they being herederos forzosos, and the defendant is entitled to one-third interest in the said estate. (Law 6 Toro, 6 Los Codigos Españoles, 573).

Fourth. That, when the herederos forzosos accept the property of an estate, under las Leyes de Toro, to which they are entitled under the law, they thereby become obligated to pay the debts against the estate, at least to the extent of the value of the property so accepted. (Law 1 (a), title 8 (o), part. 6 (a).)

Fifth. That if one of the herederos forzosos should pay the debts of the estate, he is entitled to be repaid out of the estate the amount of the indebtedness which he pays.

Sixth. The plaintiffs, therefore, in the present case, before they can recover their interest in the estate under the law, must pay to the defendant their proportional share of the indebtedness against said estate.

Seventh. That the law of prescription applicable to actions like the present one is Ley 63 de Tora. (6 Manresa, 325; 7 Manresa, 1008; decisions of supreme court of Spain of November 17, 1865, December 12, 1865, December 30, 1867.)

In view of the fact that the record does not positively disclose—

- (a) That all of the indebtedness paid by the defendant was indebtedness against the estate of Donato Lelis;
- (b) That such indebtedness was in fact more than the value of the property of the said Donato Lelis; and

In view of the fact that the record does not disclose the value of the property of the said estate at the time of the death of Donato Lelis; and

In view of the foregoing considerations of fact and law, it is hereby ordered that the cause be remanded to the lower court for the purpose of a new trial for the purpose of taking additional evidence upon the following questions:

- (1) What was the total amount of indebtedness existing against the estate of Donato Lelis at the time of his death;
- (2) What was the total amount of such indebtedness paid by the defendant, Trinidad Bautista; and
- (3) What was the value of the property of Donato Lelis at the time of his death.

After hearing the additional testimony upon these questions, the lower court is directed to render a decision in accordance with the foregoing conclusions of law. Without any finding as to costs, it is so ordered.

Torres and Mapa, JJ., concur.

Willard and Tracey, JJ., concur in the result.

[1] 11 Phil, Rep., 332.

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