

EDUARDO MATUTE, MANUEL MATUTE, THROUGH HIS ATTORNEY IN FACT EDUARDO MATUTE, AND CARMEN MATUTE DE LOYZAGA, ASSISTED BY HER HUSBAND JOAQUIN DE LOYZAGA, PLAINTIFFS AND APPELLANTS, ...

G.R. No. 42626. December 21, 1935

Ponente: IMPERIAL, J.

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IMPERIAL, J.:

This action was brought by the plaintiffs to recover from the defendant the sum of P41,250 plus legal interest therein, as their share of the profits in a certain business. They appealed from the judgment absolving the defendant and holding that the shares of which they claimed to be the owners had become the property of the minors Jose Luis Zaragoza y Matute and Carmen Zaragoza y Matute, with costs against them.

In a public instrument executed on April 30, 1903, Manuel Matute y Amasa, father of the three plaintiffs, and his brother Antonio Matute y Amasa, the defendant, formed a commercial general partnership which did business under the firm name of Matute Hermanos, with domicile in Davao, Mindanao, and engaged in agriculture and in the purchase and sale of articles. In addition thereto, both brothers had a pawnshop in the City of Manila, and on January 4, 1904, Manuel Matute ceded and transferred said industrial enterprise to Antonio Matute for P60,000, Mex., which was stipulated to become the former's capital in the pawnshop to be managed by the latter. It was likewise stipulated that this business would run for three years at the end of which time they would agree definitely who should take it over or whether it should continue or to be dissolved. On August 12, 1905, Manuel Matute died and was survived by his widow Maria Luisa Sequera y Lopez and four (4) children named Trinidad, Carmen, Eduardo and Manuel. The pawnshop continued to function and in the liquidation made by the defendant on December 31, 1906, it appeared that its assets amounted to P339,133.60 and its liabilities to P133,820.87, including the capital contributed by Manuel Matute, resulting in a balance of P205,312.73 which belonged to Antonio Matute as his share. On February 5, 1907, the widow Maria Luisa Sequera y Lopez, in her behalf and as mother or legal representative of her four (4) minor children, and the defendant Antonio Matute executed another public instrument before the notary Enrique Barrera y Caldes whereby they organized a new commercial general partnership entitled Antonio Matute, S. en C. Antonio Matute contributed P205,312.73 to this new partnership as his capital and Maria Luisa Sequera and her children P60,000, distributed as follows: P30,000 as capital of the former and P7,500 as capital of each of her four children. One of the conditions stated in the instrument was that the manager Antonio Matute would deliver to

Maria Luisa Sequera y Lopez, as profits belonging to her and her four children, the sum of P10,000 annually, payable monthly at the rate of P833.33. The testamentary proceedings of the deceased Manuel Matute, special proceedings No. 4088, were then pending in court, for which reason the attorney for the executor had to present to it for approval the instrument of the new commercial general partnership so organized, which was definitely approved in an order of February 16, 1907. Maria Luisa Sequera y Lopez having died on August 31, 1913, her children Trinidad Matute and the plaintiffs Carmen Matute, Eduardo Matute and Manuel Matute, the latter two

represented by their then guardian Ramon Zaragoza, the cross-defendant, on November 8, 1922, agreed to partition all the property left by their father as well as their mother, executing the deed of partition Exhibit 4 to that effect. In this partition an inventory was made of all the properties of the spouses Manuel Matute and Maria Luisa Sequera, including the capital of P60,000 contributed to the business of Antonio Muttd, S. en C. It was stated in the deed of partition that said capital formed part of the assets of the inheritance then partitioned and that all the capital of F60,000 had been adjudicated to Trinidad Matute as her share thereof. Ramon Zaragoza and Joaquin de Loyzaga as husbands of Trinidad Matute and Carmen Matute, respectively, concurred in and signed the deed of partition and it was approved by the court having cognizance of the guardianship of the then minors Eduardo Matute and Manuel Matute, special proceedings No. 7274. Thereafter, the herein plaintiffs ceased to receive any dividends or profits from their shares in the pawnshop. In the same guardianship case the minors Eduardo Matute and Manuel Matute were declared of age; the final accounts presented by their guardian, the cross-defendant, were approved; they uniprotectingly accepted with judicial approval all the inventoried properties belonging to them and the court finally discharged the guardian and cancelled the bond filed by him. Inasmuch as Trinidad Matute had died, her property was distributed in conformity with her will and the capital of P60,000 belonged pro indiviso and pro rata to her children Jose Luis and Carmen surnamed Zaragoza y Matute, pursuant to a judicial order of April 8, 1926.

Claiming that only the amount of P30,000 contributed by their mother Maria Luisa Sequera as capital to the pawnshop was partitioned by them that they continued to have a share of P7,500 each therein and consequently are entitled to receive the profits corresponding thereto from November 8, 1922, the plaintiffs brought this action.

The plaintiffs-appellants contend that the court erred in denying their petition to have the deposition of the plaintiff Antonio Matute y Amasa taken and make him answer the cross examination and questions on the attached documents, thus depriving them of their right to contradict the contention of said defendant and cross-defendant that their shares in the pawnshop were included in the deed of partition of November 8, 1922; in holding that their shares in the business of Antonio Matute, S. en C. were included in the partition in question; in holding that they admitted in Exhibit 4 that they were pro indiviso owners together with Trinidad Matute de Zaragoza of their shares in the partnership in question and that of their mother; in holding that the phrase "capital invested" used in Exhibit 4 refers to the entire capital of P60,000 of the Matute-Sequera family contributed to the business of Antonio Matute, S. en C; in confusing the issues in the case and in rendering judgment based on an erroneous concept thereof; in absolving Antonio Matute y Amasa from the complaint and in decreeing that the holdings of P60,000 became the exclusive property of Trinidad Matute de Zaragoza from November 8, 1922, and of her minor children Jose Luis Zaragoza y Matute and Carmen Zaragoza y Matute after her death; and in holding that from the execution of the deed of partition on November 8, 1922, all the profits formerly accruing to the four brothers and sisters were received by Trinidad Matute de Zaragoza in life and by her children after her death; that the plaintiffs' complaint was filed about eleven (11) years after the execution of the deed of partition, which period warrants the prescription invoked by the defendant and the cross-defendant; that their silence is an eloquent proof that they really understood that they had parted with their respective participation in the business, and that by virtue of said deed of partition, the participation of the plaintiffs and that of their mother belonged and were adjudicated to Trinidad Matute de Zaragoza and passed to her said children after her death.

In discussing the first assignment of error, suffice it to say tfiat in view of the conclusions to be arrived at later, it is unnecessary to dwell at length thereon as we hereafter hold it unfounded because even if we were to consider the proceeding erroneous and assume that Antonio Matute's deposition had been produced and admitted in the manner the appellants expected to receive it, said evidence, after all, would not have altered the result of the case.

All the other assignments of error refer to the question whether or not the individual participation of the three

plaintiffs as well as that of Trinidad Matute and that of their mother Maria Luisa Sequera, amounting to P60,000, was included in the deed of partition. The entire argument of the appellants hinges on the proposition that said partition involved only their mother's participation of P30,000 and their participation amounting to P22,500 was not included therein. To be convinced how unfounded the contention is, it is sufficient to bear in mind that the partition had for its principal and sole purpose the distribution of the inheritance left by the parents of the plaintiffs, the spouses Manuel Matute y Amasa and Maria Luisa Sequera y Lopez, among all their heirs who are the plaintiffs and Trinidad Matute de Zaragoza. Originally the entire participation or capital of P60,000 belonged to Manuel Matute; having died, it passed to his legitimate heirs, his widow and four (4) children as follows: one-half or P30,000 to the widow and the remaining half pro rata, or P7,500 each, to his four children, the three plaintiffs and Trinidad Matute de Zaragoza. As the participation of the four children and that of their mother continued pro indiviso after the death of Manuel Matute y Amasa and Maria Luisa Sequera, because their heirs had not theretofore made any partition thereof, in the deed executed by them on November 8, 1922, they necessarily had to take into consideration and include not only their mother's participation but also their participation by reason of their father's death; hence the deed of partition in question had to include inevitably all the participations, that is, the entire capital of P60,000. Wherefore, in the deed of partition Exhibit 4, the entire capital of P60,000 was stated as assets of the inheritance to be partitioned and in the distribution made the entire amount was adjudicated to the coheir Trinidad Matute de Zaragoza.

There is no legal or valid reason whatsoever to question the partition made by the plaintiffs and their coheir Trinidad Matute de Zaragoza. The same was approved by the court in the testamentary proceedings of the deceased Manuel Matute y Amasa and in the guardianship proceedings of the plaintiffs Eduardo and Manuel surnamed Matute when the latter were minors. As to Carmen Matute, the other plaintiff, she intervened and signed the deed of partition when she was already of age and in such act she was assisted by her husband who likewise gave his consent. In view of these facts and taking into consideration the fact that the partition was approved by the competent court on two occasions, we see no reason why its validity and efficacy should still be disputed.

When the plaintiffs Eduardo Matute and Manuel Matute became of age, they were informed that their participation was not included among the properties which their guardian had delivered to them; they had also been informed that from the time their property was in the custody of the court and the deed of partition executed and approved, they had never been credited with the profits accruing to the participation which, they now claim, continue to be theirs. In spite of all this, they accepted the consummated facts and they never pretended to be entitled to the profits now claimed by them until after the lapse of more than ten years. We hold that these facts prove not only our interpretation of the extent of the partition made among them but also the prescription invoked by the defendant and the cross-defendant, which prescription has produced the effect of preventing the plaintiffs from claiming any right which they would have had to the profits in question (sec. 43, par. 1, Code of Civil Procedure).

It is claimed in the sixth assignment of error that the court adjudicated the P60,000, first, to Trinidad Matute de Zaragoza and later, upon her death, to her children, the minors Jose Luis Zaragoza and Carmen Zaragoza, which is erroneous because none of the parties applied for the remedy or adjudication. The contention is unfounded because the court did not really make such adjudication. What the court did was to declare that under the partition executed on November 8, 1922, the participations amounting to P60,000 had become the property, first, of Trinidad Matute de Zaragoza and, later, upon her death, of her children, the minors Jose Luis and Carmen surnamed Zaragoza.

Wherefore, the appealed judgment is affirmed in toto, with the costs of this instance to the appellants. So ordered.

Malcolm, Villa-Real, Butte, and Goddard, JJ., concur.

Judgment affirmed.

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