

**FELIX ATACADOR, ADMINISTRATOR OF THE INTESTATE OF THE
DECEASED FLORENTINO ATACADOR AND VICTORIA PAYUMO,
PLAINTIFF AND APPELLANT, VS. HILARION SILAYAN, ROSARIO
PAYUMO, AND EDUARD...**

G.R. No. 45479. April 29, 1939

Ponente: IMPERIAL, J.

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IMPERIAL, J.:

The plaintiff appealed from the judgment of the Court of First Instance of Nueva Ecija rendered in the case, absolving the defendants from the complaint and declaring them the owners of the parcels of land described in the deed of donation, Exhibit A, as set out therein, and likewise declaring the intestate of the deceased Florentino Atacador owner of the parcels of land 18 and 19 of the inventory attached to the complaint, and the intestate of the deceased Victoria Payumo owner of the parcel of land 20 of the said inventory, without special pronouncement as to the costs.

The plaintiff, as administrator of the intestate of the deceased Florentino Atacador and Victoria Payumo, brought civil case No. 7060 in the Court of First Instance of Nueva Ecija against the defendants to recover from the latter the ownership and possession of twenty parcels of land described in annex A of the complaint; he also claimed from the defendants indemnity for damages and asked, moreover, for the appointment of a receiver to take charge of the properties during the pendency of the case. In their answer the defendants specifically denied the material allegations of the complaint and interposed various special defenses, the most important of which being the fact that Rosario Payumo and Eduardo Payumo, niece and grandson respectively, of the deceased Florentino Atacador and Victoria Payumo, are owners by donation from said deceased of the parcels of land sought to be recovered. As to parcels 18 and 20, the defendants allege that they are the only properties left by Florentino Atacador which they had offered to the plaintiff before the commencement of the action, and as to parcel 19, they stated that it is the only property left by Victoria Payumo which should go to her surviving nephews.

The parties submitted the case upon the following stipulation:

"The parties stipulate that the pieces of land mentioned in items 18 and 20 of the inventory accompanying the complaint as Exhibit A, be turned over to the plaintiff; that the present case be dismissed without pronouncement as to the costs with respect to the defendants Hilarion Silayan and Rosario Payumo. This temporary dismissal includes all the properties not mentioned in the deed of donation as donated to Eduardo Payumo.

"The plaintiff and the defendant Eduardo Payumo stipulate:

"1. On the facts alleged in paragraphs 1, 2, 3 and 4 of the complaint;

"2. On the authenticity of the deed of donation dated October 14, 1931, copy of which is attached to the answer as annex 4, in so far as it refers only to the properties which according to said deed are deemed donated to

Eduardo Payumo;

"3. That by virtue of said deed of donation, the defendant succeeded in having the registrar of deeds of Nueva Ecija issue transfer certificates of title Nos. 5558, 5559, 5560 and 9557 over the lands in question;

"4. That since 1932, the defendant Payumo has been paying the land tax of the properties in question;

"5. That the tax declarations over the said properties have been transferred in the name of Eduardo Payumo since December, 1931;

"6. That the defendant Eduardo Payumo will attach to this stipulation a copy of the descriptions of the lands in question in accordance with those appearing in the four Torrens titles above-mentioned, and the said copy will be certified by counsel for the defendant;

"7. That since the execution of the deed of donation, the defendant Eduardo Payumo has not done, anything indicative of protest or opposition to the conditions of said of donation, but instead has complied with the conditions imposed therein and conformed to all the stipulations thereof;

"8. That in view of these facts, a decision be rendered on the properties in litigation between the plaintiff and Eduardo Payumo, without costs."

The plaintiff contends that the court erred in declaring the validity of the donation executed by the spouses Florentino Atacador and Victoria Payumo in favor of the co-defendant Eduardo Payumo; and in not ordering that the properties donated to Eduardo Payumo be delivered to the plaintiff.

As has been indicated by the court, the only question for resolution has reference to the validity of the deed of donation executed by said spouses on October 14, 1931, with respect to Eduardo Payumo. The court was of the opinion that the donation is valid. The plaintiff contends that it is without effect and did not convey the properties to the donee Eduardo Payumo because the latter, on the date of the execution of the deed and of its acceptance, was a minor being then only twenty years of age. It is conceded that on said date the donee was a minor, but the donation is valid because it was subsequently confirmed and ratified impliedly by the parties who intervened therein (articles 1309 and 1311 of the Civil Code). There is no doubt that there was confirmation and ratification in the light of the facts that have taken place. Eduardo Payumo reached majority in 1932 and Florentino Atacador died on June 5, 1934. Since Eduardo Payumo became of age until Florentino Atacador died, the properties donated to the former passed to him and he administered and enjoyed the fruits thereof by virtue of the donation. Thereafter the donee cancelled original certificate of title No. 4841 issued in the name of the donor and obtained in lieu thereof transfer certificates of title Nos. 5558, 5559, 5580 and 5561. The tax declarations in the name of the donor were discontinued and the lands donated were declared in the name of the donee. The latter, finally, since he accepted the donation complied with the conditions thereof by giving to the donor a part of the products of the land for the latter's support. All these acts were executed with the knowledge of the donor and without the slightest objection or protest on his part, hence, the inevitable conclusion that the donation and its acceptance were in fact confirmed and ratified both by the donor and by the donee.

The attorneys for the appellees invite our attention to a supposed clerical error appearing in the dispositive part of the decision which consists in that parcels 18 and 19 have been adjudicated to the intestate of the deceased Florentino Atacador instead of parcels 18 and 20, and in the omission of parcel 19 in the adjudication made in favor of the intestate of Victoria Payumo. The error is manifest in view of the fact that according to the stipulation and other conceded facts, the said parcels of land should be adjudicated in the manner last mentioned.

In view of the foregoing considerations, and with the understanding that the intestate of Florentino Atacador be declared the owner of the parcels or tracts 13 and 20 and the intestate of Victoria Payumo that of parcel or tract

19, we affirm the appealed decision, with the costs of this instance to the plaintiff-appellant. So ordered.

Avanceña, C. J., Villa-Real, Diaz, Laurel, Concepcion, and Moran, JJ., concur.

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