

**BENJAMIN DAYAO ET AL., PLAINTIFFS AND APPELLEES, VS.
CRESENCIANA ROBLES ET AL., DEFENDANTS. EMERENCIANA
ANIAG, DEFENDANT AND APPELLANT.**

G.R. No. 48893. February 19, 1943

Ponente: OZAETA, J.

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OZAETA, J.:

Magdalena Aniag, who died in 1905, left a natural son and a legitimate daughter named, respectively, Ignacio Aniag and Marciana Dionisio. She also left eight parcels of land situated in the municipality of Malolos, Bulacan, which are the subject of the present litigation between the children of Marciana Dionisio, who are the plaintiffs and appellees, and the daughter of Ignacio Aniag, who is the defendant and appellant.[1]

Up to the date of Magdalena Aniag's demise, she and her said two children, Ignacio Aniag and Marciana Dionisio, lived together. It does not appear when the natural brother and sister began to live separately, but it does appear that the eight parcels of land in question remained in his possession until he died in the year 1928. It was alleged in the complaint and admitted by defendant during the pretrial that Marciana Dionisio died on September 3, 1930, and that the defendant had "since then been possessing the above-described properties." It is alleged by the plaintiffs but denied by the defendant that Ignacio Aniag's possession of the land in question was that of mere administrator for the benefit of his sister Marciana Dionisio. Be that as it may, in 1924 Ignacio Aniag, without the knowledge of Marciana Dionisio, filed an answer in the cadastral proceedings oi Malolos in which he claimed title to the land in question by inheritance from his natural .mother, and a decree of registration was subsequently issued in his favor, by virtue of which the register of deeds in 1926 issued in his name eight original certificates of title for the eight parcels of land described in the complaint Said certificates of title are still in the name of Ignacio Aniag.

The plaintiffs, as legitimate children of Marciana Dionisio and grandchildren of Magdalena Aniag, claim exclusive ownership, and demand of the defendant the reconveyance and delivery to them, of the eight parcels of land in question. The defendant Emerenciana Aniag, on the other hand, claims exclusive ownership of said property by inheritance from her father Ignacio Aniag, and relies upon the latter's certificates of title, which had not been impugned within one year after the entry of final decree. The trial court sustained plaintiffs' contention and rendered judgment declaring them to be the true owners of the eight parcels of land in question and ordering the defendant to reconvey them to the plaintiffs. Hence this appeal by the defendant Emerenciana Aniag.

First. It is not contended for the appellant that Ignacio Aniag had acquired title to the land in question by prescription when he filed his claim thereto in the cadastral proceedings in 1924, evidently because his possession had not been exclusive of and adverse to his sister, Marciana Dionisio. (Be Castro vs. Echarri, 20 Phil., 23; Irlanda vs. Pitargue, 22 Phil., 383; Ramos vs. Ramos, 45 Phil., 362; Casanas vs. Rosello, 50 Phil., 97.) Appellant's contention is that Ignacio Aniag acquired title to said land by inheritance from his natural mother Magdalena Aniag; but that is not entirely correct because he was not the sole heir (if he was an heir at all) of the deceased Magdalena Aniag,

the latter having left a legitimate child—Marciana Dionisio. The mere registration under the Torrens system of the land in question in the name of Ignacio Aniag alone did not divest Marciana Dionisio of her right and title thereto as legal heir of her mother. (See section 70 and proviso of section 102, Act No. 496.)

The one-year limitation provided in section 38 of Act No. 496 for the review of the decree on account of fraud, upon which appellant relies, is not applicable to an action for reconveyance under sections 70 and 102 above cited. (*Severino vs. Severino*, 44 Phil., 343, 356.) It being admitted that the appellant has been in possession of the land in question since the death of appellees' mother in 1930, and this action having been commenced in 1939, it is apparent that neither is appellees' action barred by the statute of limitations.

Second. Appellees contend, and the trial court held, that Ignacio Aniag, as a natural child of Magdalena Aniag, had no right to inherit from her, on the assumption that she had not acknowledged him as her child. But we think such assumption is unwarranted and untenable in view of these admitted facts: that Ignacio Aniag bore the surname of his mother, from which fact it may be reasonably implied that he was christened and registered in the record of birth as her natural child (see article 131, Civil Code) ; that he, together with his natural sister, Marciana Dionisio, lived with his natural mother up to the latter's death; that he obtained a decree of registration of the land in question by claiming inheritance from his natural mother, and section 44 (a) of Rule 39 provides that in case of a judgment or order in respect to the personal, political, or legal condition or relation of a particular person, the judgment or order is conclusive upon the condition or relation of the person; and that the plaintiffs themselves alleged and acknowledged in their complaint that Ignacio Aniag was a natural child of Magdalena Aniag. Under these facts and circumstances, we think it is more reasonable to assume that Ignacio Aniag was an acknowledged natural son of Magdalena Aniag. Consequently, he was entitled to inherit one third of her estate, she having left only one legitimate child, Marciana Dionisio, who was entitled to two thirds thereof (article 840 Civil Code; *Chico vs. Viola*, 40 Phil., 316).

It follows from the foregoing that the judgment of the trial court must be modified in the sense that the appellant is entitled to one third of the eight parcels of land described in the complaint. These eight parcels of land have an aggregate area of 8,196 square meters. Assuming that the eight parcels have approximately the same value per square meter, the plaintiffs would be entitled to 5,464 square meters and the defendant, to 2,732 square meters. To accomplish the division, the parties must agree on the partition; otherwise the trial court has to appoint commissioners of partition. Since the certificates of title are still in the name of Ignacio Aniag, it is not necessary for the defendant Emerenciana Aniag to execute a deed of conveyance in favor of the plaintiffs; but the partition herein ordered, once accomplished and approved by the trial court, shall constitute sufficient authorization for the register of deeds of Bulacan to cancel original certificates of title Nos, 4834, 5186, 5270, 5327, 5446, 5645, 5646, and 6004, all mentioned in the complaint, and to issue the corresponding transfer certificates of title to the herein plaintiffs on the one hand and to the defendant Emerenciana Aniag on the other, in accordance with the result of the partition herein ordered, the expenses of which shall be borne proportionately by both parties. As thus modified, the judgment appealed from is affirmed, without any finding as to costs. So ordered.

Yulo, C. J., Moran, Paras, and Bocobo, JJ., concur.

[1] The defendant Cresenciana Robles, widow in third marriage of Ignacio Aniag and stepmother of Emerenciana Aniag, claims no interest in the property in litigation, an

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