

IRENE TAC-AN-DANO, FELIPE G. TAC-AN, DIOSDADO G. TAC-AN AND SOCORRO TAC-AN GENOBATEN, PETITIONERS, VS. THE COURT OF APPEALS AND ALFONSO G. TAC-AN, RESPONDENTS.*G.R. No. 62251. July 29, 1985*

Ponente: MELENCIO-HERRERA, J.

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Petitioners herein seek to reverse the Decision of the then Court of Appeals[1] in CA-G.R. No. 63057-R, as well as its Resolution which denied their Motion for Reconsideration, and to reinstate in toto the Decision of the then Court of First Instance of Misamis Occidental, Branch III, Oroquieta City, in Civil Case No. 3092, for Recovery of Ownership of Coconut Trees and Damages filed by private respondent against them.

Petitioners Irene Tac-an Dano, Felipe G. Tac-an, Diosdado G. Tac-an and Socorro Tac-an Genobaten, and private respondent ALFONSO G. Tac-an, are brothers and sisters, children of the deceased spouses Pio Tac-an and Luisa Guzman. Upon the demise of Pio Tac-an on March 12, 1948, his wife, Luisa, managed the entire estate, including an agricultural land of approximately 89 hectares at San Isidro, Misamis Occidental, until her death on April 18, 1971.

On September 28, 1971, intestate proceedings for the settlement of Luisa's estate were instituted by petitioner Diosdado Tac-an before the Court of First Instance of Misamis Occidental, Branch III, docketed as Special Proceedings No. 615. ALFONSO opposed the petition contending that one-half of the new 6,159 coconut trees at the San Isidro property belonged to him in accordance with his agreement with his late mother. Ultimately, on January 29, 1973, partition was ordered by the intestate Court pursuant to a Compromise Agreement arrived at among the heirs. ALFONSO claimed, however, that the partition was without prejudice to the prosecution of his claim in a separate suit.

On January 31, 1975, ALFONSO filed a complaint for Recovery of Ownership of Coconut Trees and Damages against petitioners with the then Court of First Instance of Misamis Occidental, Branch III, Oroquieta City, docketed as Civil Case No. 3092, which he amended on April 3, 1975. He alleged that sometime in 1944, upon the request of his late mother, and with the consent of petitioners, he planted coconut trees on an agricultural land of their late father at San Isidro (Señor), Sinacaban, Misamis Occidental, with an area of 89.7033 hectares; that part of the land was planted with sugar cane which he gradually replaced with coconut trees, completing the work in 1957; that he and his mother, during her lifetime, agreed, without objection from petitioners, that the coconut trees including the fruits and produce thereof, would be equally divided between them; that their equal sharing continued for fifteen (15) years; that upon the death of their mother, petitioner Diosdado Tac-an filed in September 1971, Special Proceeding No. 615 with the Court of First Instance of Misamis Occidental, Branch III, for the partition of the real and personal properties left by their parents, which he opposed.

Petitioners, in their Answer, stated that ALFONSO's claim for improvements is barred by prior judgment in Special Proceedings No. 615 rendered by the intestate Court on the basis of the amicable compromise agreement

entered into by the parties after concessions were given to respondent for the settlement of said claim; that by virtue of said Decision, the land in San Isidro was subdivided and adjudicated in equal shares among them; that the claim of respondent for one-half (1/2) of the produce of the coconut trees was denied by the intestate Court in its Order of April 18, 1972, which had already become final; that the complaint states no cause of action; that the claim is unenforceable under the Statute of Frauds, and is barred by the Statute of Limitations and/or prescription.

On September 12, 1977, the trial Court, through Judge Mariano M. Florido, dismissed ALFONSO's Complaint and rendered judgment, thus:

"ACCORDINGLY, judgment is hereby rendered dismissing the plaintiff's complaint for lack of merit; and ordering the plaintiff, under the Counterclaim, to pay and deliver to the defendants:

"1. The amount of P21,000.00, representing the share of the defendants which the plaintiff failed to give and deliver to the defendants from May, 1971 to September, 1971, with interest thereon at six (6) per cent per annum from the filing of defendants' Counter-claim on July 3, 1975, until the amount is fully paid;

"2. The forty (40) heads of cows representing the shares of the defendants in the amicable settlement dated January 29, 1973 in Special Proc. No. 615, and the additional forty (40) heads of cows representing the offsprings, which the cows of the defendants would ordinarily have produced but which they failed to do so, to the prejudice of the defendants, on account of the default of the plaintiff, or for a total of eighty (80) heads of cows; or in case of failure of plaintiff to deliver the eighty (80) heads of cows to the defendants, to pay to the defendants the amount of P80,000.00, representing the value of the eighty (80) heads of cows at P1,000.00 per head, plus interest thereon at six (6%) per cent per annum from the filing of defendants' counterclaim on July 3, 1975, until fully paid;

"3. The amount of P15,000.00 as moral damages;

"4. The amount of P20,000.00 as attorney's fees; and in the further amount of P5,000.00, as expenses of litigation; and

"5. With costs against the plaintiff."

On appeal, the then Court of Appeals modified the judgment of the trial Court by allowing ALFONSO to receive one-half of the produce of the coconut trees, reducing the number of cows, and eliminating the award of damages and attorney's fees, as follows:

"WHEREFORE, with the modifications that the plaintiff is entitled to receive one-half (½) of the produce of coconuts in the land at San Isidro, Sinacaban, Misamis Occidental to resume upon finality of this decision; that plaintiff should only return to defendants 40 cows and if not possible the equivalent in value at the rate of P500.00 per head or a total of P20,000.00 with legal rate of interest at 6% from the filing of defendants' counterclaim on July 3, 1975 until fully paid; the elimination of moral damages, attorney's fees and expenses of litigation; the decision appealed from is hereby AFFIRMED in all other respects, without pronouncement as to costs in this instance."

Before us now, petitioners, as defendants below, impugn the Decision of the Appellate Court assigning to it the following errors:

I

"The Court of Appeals committed serious error of law and grave abuse of discretion amounting to lack of jurisdiction in not holding that the claim for improvements of Alfonso Tac-an is barred by a prior final order in Special Proceeding No. 615 - Res Judicata.

II

"The Court of Appeals committed serious error of law and grave abuse of discretion amounting to want of

jurisdiction in not holding that the claim for improvements of Alfonso Tac-an was likewise settled and adjudicated by the final decision embodying the amicable compromise agreement of the parties for the partition of the estate in Special Proceeding No. 615 - Res Judicata.

III

"The Court of Appeals committed grave abuse of discretion amounting to lack of jurisdiction when it sanctioned the filing of this present independent civil action relying mainly on the clarificatory orders (erroneously referred to by the Court of Appeals as 'decision') of Judge Melecio Genato which are contrary to the amicable compromise agreement embodied and approved in the decision of Judge Mariano Florido.

IV

"The Court of Appeals committed grave abuse of discretion amounting to lack of jurisdiction in modifying the lower court decision by declaring that Alfonso Tac-an is entitled to receive one-half ($\frac{1}{2}$) of the produce despite the fact that it emphatically declared and held that no agreement existed between plaintiff and his mother.

V

"Assuming arguendo that there was such agreement the Court of Appeals gravely erred in enforcing it against petitioners.

VI

"The Court of Appeals committed grave abuse of discretion amounting to lack of jurisdiction in resolving the claim of Alfonso Tac-an by entitling him to one-half ($\frac{1}{2}$) of the produce based on equity, justice and human considerations instead of applying clear and specific provisions of law (positive laws).

VII

"The Court of Appeals committed grave abuse of discretion amounting to lack of jurisdiction in applying laches and estoppel against defendants.

VIII

"The Court of Appeals gravely erred in not resolving the issue that this action is barred by prescription relying on the illegal clarificatory orders of Judge Melecio Genato.

IX

"The Court of Appeals likewise gravely erred in resolving the issue that this action is barred by the Statute of Frauds also relying on the clarificatory orders of Judge Genato.

X

"The Court of Appeals gravely erred in modifying the decision of the lower Court by ordering plaintiff to return to defendants only 40 heads of cows or if not possible the equivalent in value at the rate of P500.00 per head or a total sum of P20,000.00 instead of the valuation of the trial Court.

XI

"The Court of Appeals gravely erred in eliminating the award of P21,000.00 representing the share of petitioners which plaintiff failed to give or deliver for the period from May 1971 to September 1971.

VII

"The Court of Appeals gravely erred in deleting the award of moral damages, attorney's fees and expenses of litigation."

On July 27, 1983, we denied the petition for lack of merit, and likewise denied on January 11, 1984, petitioners' Motion for Reconsideration of said Resolution. However, upon petitioners' Second Motion for Reconsideration, we resolved to reconsider our Resolutions of July 27, 1983 and January 11, 1984 and gave due course to the Petition.

On res judicata and prescription

Petitioners contend that ALFONSO's suit for recovery of ownership of coconut trees is barred by prior judgment in Special Proceedings No. 615. While it may be that the said intestate proceedings did attain finality, it was subject to the clarificatory Order, dated April 24, 1973, issued by Judge Melecio Genato reading:

"The decision dated January 29, 1973, rendered by this Court based on the amicable settlement of the heirs in this case is amended to be without prejudice to whatever claim oppositor Alfonso Tac-an has over the improvements he had personally introduced or caused to be introduced into the estate situated at Señor, Sinacaban, Misamis Occidental."

In his Order, dated June 19, 1973, resolving petitioners' Motion for Reconsideration, the same Judge held that there was "no amendment" to the Decision dated January 29, 1973.[2] Those Orders were elevated on Certiorari to this Court in G. R. No. L-37298 entitled Irene Tac-an Dano, etc. vs. Hon. Melecio Genato, et al., which petition this Court dismissed for lack of merit on February 12, 1974.[3]

Premised on the foregoing, the defense of res judicata must fail and it has to be held that the right was reserved to ALFONSO to pursue his claim for recovery of ownership of coconut trees.

Prescription can neither be invoked as against ALFONSO by reason of that reservation in his favor. He filed suit two years after the Decision in the intestate proceedings had been rendered. Under Article 1144 of the Civil Code, he had ten (10) years from the time the right of action accrued within which to file suit upon a judgment.

On the Alleged Agreement

ALFONSO's complaint, filed in the trial Court, was completely based on an alleged oral agreement between himself, as co-owner, and his mother as another co-owner, whereby he would be receiving benefits from the mentioned coconut land more than he would be entitled to as co-owner. Both the trial Court and the Appellate Court made the factual finding that the arrangement if at all, could have referred only to the produce, with the difference that the former Court held that its effectivity ceased after the mother's death and could not bind the other heirs; whereas the latter Court ruled that since petitioners acquiesced in the arrangement during their mother's lifetime, they are now estopped from asserting the contrary.

It is not disputed that the San Isidro property was the capital property of the father of the opposing parties, and that Luisa, their mother, was not authorized by petitioners upon the death of their father, to enter into contract with ALFONSO concerning the produce of their respective shares of said property. It has been established, too, that the expenses incurred in planting coconut trees in said land came from the common fund[4] and that concessions were given ALFONSO in the partition for his work in converting the property into coconut land. So, whatever agreement the mother had with ALFONSO regarding the produce of the coconut trees, could legally bind her share only, and ceased upon her death. Petitioners merely tolerated such sharing arrangement in deference to their mother's commitment. This is shown by the fact that five months after her death, petitioners instituted the proceedings for the partition of the estate of their deceased parents including the San Isidro property. Accordingly, the doctrine of laches and estoppel as against petitioners cannot be successfully invoked. Absent was any element of turpitude or negligence connected with the silence by which another is misled to his injury.[5]

Moreover, the agreement between mother and son must be deemed superseded, for, on September 29, 1953, even during the lifetime of the mother, Original Certificate of Title No. 28 (Lot No. 1) in the name of the deceased father, was cancelled and replaced by TCT No. RT-121 issued in the names of "Felipe Tac-An, Irene Tac-an, Alfonso Tac-an, Catalina Tac-an, Diosdado Tac-an, Socorro Tac-an and Luisa Guzman, in pro indiviso share of one-seventh (1/7) each", the last named being the surviving spouse (Exhibit "12"). It will be seen, therefore, that,

after 1953, it was expressly made of record that ALFONSO, his mother, and five (5) siblings (Catalina has since passed away) were co-owners in equal shares. If, in fact, ALFONSO, had an agreement as to ownership of the trees and produce with his mother, that was the time for him to have insisted on a lien to be specifically included in the title. His mother, too, would have been in a position to confirm or deny the existence of the agreement.

Additionally, as petitioners contend, to give ALFONSO the right to receive one-half (½) of the produce of coconuts, as respondent Court did, would be to perpetuate a state of co-ownership, contrary to Article 494 of the Civil Code, which limits co-ownership to a period of ten (10) years or at most twenty (20) years.

On the Partition

It follows that ALFONSO's claim for recovery of ownership of the coconut trees and of the produce thereof must fail. He should only be entitled to the share allotted to him in the "share raffle" embodied in their compromise agreement and approved by the Court in Special Proceeding No. 615, dated January 29, 1973, as follows:

"5. The share raffle was conducted with respect to the 'Coconut Lands' mentioned on page 3 of the said partition proposal and the following result was registered:

"1. Lot 1 was drawn in favor of Mrs. Socorro Tac-an Genobatan; Lot 2 was drawn in favor of Mrs. Irene Tac-an Dano; Lot 3 was drawn in favor of oppositor Alfonso Tac-an; Lot 4 was drawn in favor of Atty. Felipe Tac-an, and Lot 5 was drawn in favor of Diosdado Tac-an.

xxx xxx xxx

"7. xxx xxx The administrator of the estate is hereby ordered to make a tentative partition of the coconut land located at Señor, Sinacaban into five (5) shares based not only on the area, but also on the value of the improvements thereon within a period of ten (10) days from today, and that the heirs hereby agree to draw another raffle in order to determine the share that would correspond to them in the drawing of lots, except the share of Alfonso Tac-an, the oppositor, which is agreed by the heirs to be that area where his house is standing and that the farm house be adjudicated to him." [6] (Emphasis ours)

The sharing in the Compromise Agreement submitted before the intestate Court with respect to the partition of the cows should also be maintained. The Courts, as a rule may not impose upon the parties a judgment different from their Compromise Agreement.[7] The pertinent sharing agreement reads:

"7. With respect to the number of cows, as of today, there are seventy-one (71) heads of cows. It has been agreed by the parties and their counsel that Alfonso Tac-an will get 3/7 of this number or of whatever number of cows there are belonging to the estate, and the remainder 4/7 of the cows shall be divided equally by the four (4) remaining heirs which would give them the equivalent of 1/7 share of the said cows. If actually the number of cows as counted by the administrator is only 71, let it be divided in accordance with the agreement of the parties and the remaining one head of cow be turned over to the administrator for evaluation and the administrator may sell it and distribute the actual proceeds among the heirs." xxx xxx[8]

Consonant, therefore, with our finding that ALFONSO is not entitled to one-half (½) of the produce of the San Isidro property, he should give to petitioners, as ruled by the trial court, their share which he failed to deliver from May 1971 to September 1971, or the amount of P21,000.00 plus interest thereon at six (6) per cent per annum from the filing of petitioners' counterclaim on July 3, 1975, until the amount is fully paid.

As to the award of damages, there being no evidence of fraud and bad faith committed by ALFONSO, the elimination by respondent Appellate Court of the award of moral damages, attorney's fees and expenses of litigation to petitioners should be affirmed.

WHEREFORE, modifying the judgment under review, this court RESOLVES:

1] The elimination of the award of moral damages, attorney's fees and expenses of litigation to petitioners is hereby AFFIRMED;

2] The award in favor of private respondent, Alfonso G. Tac-an, of one-half of the produce of the coconut trees from the coconut lands situated at San Isidro (Señor), Sinacaban, Misamis Occidental, is hereby SET ASIDE;

3] Private respondent, Alfonso G. Tac-an, is hereby ordered to pay to petitioners the amount of P21,000.00 representing the latter's share in the produce of the coconuts from May 1971 to September 1971 with six (6) per cent interest thereon per annum from the filing of the counterclaim on July 3, 1975 until the amount is fully paid; and

4] The parties are enjoined to abide by the terms of their Compromise Agreement in the partition of the heads of cattle.

No costs.

SO ORDERED.

Teehankee, (Chairman), Plana, Relova, Gutierrez, Jr., De la Fuente, and Alampay, JJ., concur.

[1] Penned by Justice Emilio A. Gancayco and concurred in by Justices Rodolfo A. Nocon and Jose A.R.Melo.

[2] Annex "G", Petition.

[3] p. 144, Rollo.

[4] p. 16, CA Decision; p. 94, Rollo.

[5] Tolentino, Civil Code of the Philippines, Vol. IV, p. 600.

[6] pp. 2, 3 & 4, Decision in Sp. Proc. No. 615, Sub-Annex "A", Record on Appeal, p. 111, Rollo.

[7] Philippine Bank of Communications vs. Echiveri, 99 SCRA 508 (1980).

[8] p. 3, *ibid*.

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