

VALENTINA DE TORRES, PLAINTIFF AND APPELLEE, VS. NARCISO DE TORRES ET AL., DEFENDANTS AND APPELLANTS.*G.R. No. 9234. September 19, 1914*

Ponente: TORRES, J.

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This appeal, through a bill of exceptions, has been raised by counsel for the defendants from the judgment of January 8, 1913, whereby the Honorable Herbert D. Gale, judge, held, among other findings, that the agreement of partition executed between the plaintiff and the defendants on January 10, 1912, was null and void, and sentenced the defendants to deliver and return to the plaintiff the four parcels of land concerned in the agreement, and, besides, to pay her the costs of the suit, including the fees of the receiver for the deposit.

By a written complaint of April 11, 1912, counsel for Valentina de Torres brought suit in the Court of First Instance of Tayabas, alleging as a cause of action that, being a duly recognized natural daughter of Sulpicio de Torres, who died intestate on December 28, 1911, in the municipality of Tayabas, Province of Tayabas, and left no ascendant or descendant, except the herein plaintiff, and erroneously believing that the defendants, Narciso de Torres, a brother of her deceased father, and Mariano Obispo and Cesareo Rabina, nephews of the former and sons of sisters of his, had the same right as she to her father's estate, she executed and signed, on January 10, 1912, an instrument of partition, Exhibit A, by virtue of which the property left by her father was divided among them; that the plaintiff was led into error with regard to the defendants' capacity as heirs, through their false statements, for, taking advantage of the plaintiff's ignorance, they assured her that they had the same right as she to the inheritance of the deceased for the reason that the plaintiff was not a daughter of his born in lawful wedlock, and that they thus induced her to execute and sign the said instrument of partition. The plaintiff therefore asked the court to annul the partition made by her with the defendants, on January 10, 1912, of the property of the deceased Sulpicio de Torres, and to order the said defendants to restore to the plaintiff all the lands received by them through the aforementioned instrument of partition.

The defendants entered a general denial of all the facts contained in the complaint and, as a special defense, alleged that all the lands adjudicated to the three defendants, in accordance with the agreement referred to by the plaintiff in her complaint, were acquired by the defendant Mariano Obispo from the Spanish Government, through a composition title issued on March 27, 1888, and recorded in the property registry of Tayabas, and therefore prayed that, as these lands belonged exclusively to the defendant Mariano Obispo, they be absolved from the complaint, with the costs upon the plaintiff.

This suit is brought to annul the partition of certain hereditary property, effected by the plaintiff, Valentina de Torres, on the one hand, and her uncle Narciso de Torres, a brother of her deceased father, Sulpicio de Torres, and their nephews, Mariano Obispo and Cesareo Rabina, on the other. The property that was the subject of the partition came from the plaintiff's father.

The said partition was set forth on page 4 of the document, Exhibit A, written in Tagalog and ratified before a

notary, and its translation appears on page 6 of the same. Pursuant to the stipulations of this instrument it was covenanted between the four parties aforementioned that the land left by the plaintiff's deceased father at his death should be divided into as many parcels and one parcel be allotted to each of them.

To substantiate her claim, plaintiff exhibited (p. 30, Exhibit B) a private document subscribed on December 19, 1911, by Sulpicio de Torres, wherein the latter stated, under oath and in the presence of witnesses, that when he was still young and single he had a natural daughter named Valentina Villoria, whom, by virtue of articles 130 and 131 of the Civil Code and with her consent, she also having signed the document, he recognized as such natural daughter of his and authorized her to bear his surname, in accordance with article 133 of the code. This document was ratified before a notary public on December 20th of the Same year.

During the hearing of this case in the Court of First Instance, the plaintiff, Valentina de Torres, after affirming under oath in the presence of defendants' counsel that she was the natural daughter of Sulpicio de Torres by her mother, also single, added that her parents subsequently married and had two other children who died in infancy; that her father left the property specified in the document of partition, Exhibit A, which she signed because, upon her refusal at first to do so, her aforesaid relatives became angry at her and told her that as a natural daughter she was not entitled to any share in her father's estate, and that, believing such statement to be true, she signed the said document, although she did not afterwards come into possession of the parcel of land allotted to her in the partition on account of the opposition set up against her. She further testified that she had not at the time consulted any attorney, and that her mother was still living, being now very old and feeble, and bore the surname of Villoria. During the course of the hearing counsel for defendants stated that he waived his right to present evidence in the name of his clients, inasmuch as it was his understanding that the question at issue was purely one of law and not of fact, and asked that the defendants be absolved from the complaint, with the costs upon the plaintiff.

The plaintiff was born a natural daughter of Sulpicio de Torres, who was single at the time of her birth and had her by a woman who was then also single. These parents subsequently married and by reason thereof the plaintiff came into the enjoyment of the same rights that pertained to her parents' two other legitimate children, born in wedlock. (Civil Code, art. 122.)

The defendants' attorney was present when the plaintiff, Valentina de Torres, testified under oath during the hearing of the case in the Court of First Instance that her parents were married after her births and he neither contradicted nor denied this statement, and therefore it must be accepted as true and the plaintiff must be considered as the legitimized natural daughter of her parents who begot her while they were still single and qualified to contract marriage.

Though the plaintiff were only a natural daughter, she alone would be entitled to succeed to the estate of her natural father, according to article 939 of the Civil Code, in as much as she was recognized by her father and he had no other legitimate descendant or ascendant; however, this does not apply to the present case, because it concerns a natural daughter legitimized by a subsequent marriage.

With respect to the unfounded and erroneous claim made by the brother and nephews of the plaintiff's deceased father to the estate left by the latter, it must be borne in mind that article 921 of the same code prescribes that "in inheritances the relative nearest in degree excludes the most remote excepting the right of representation in proper cases," and in the case at bar such a right of representation cannot be invoked by the defendants.

Aside from the fact that the plaintiff, a woman without education and culture, allowed herself to be convinced, and seriously believed what the defendants told her, to wit, that as a natural daughter of her father she was not entitled to succeed to his estate and that she merely could share the hereditary property with them, consideration must be given to the provision of article 1081 of the Civil Code, which specifically prescribes that "a division

made with a person who was believed to be an heir without being so shall be void." The woman Valentina de Torres, being ignorant and not so well informed as the defendants, erroneously believed that these latter were entitled to inherit from her father, when in fact while she is living she alone is entitled under the law to succeed to the estate of Sulpicio de Torres, to the exclusion of all her other relatives in remote degree.

On this premise, the plaintiff is entitled to enter upon the possession of the property of which the estate of her deceased father consists, and her relatives who took charge of the same unduly and without any right whatever, through a partition that was null and void, must return or restore it to the plaintiff, its lawful owner.

For the foregoing reasons, whereby it is held that the errors assigned to the judgment appealed from have been refuted, and this latter being in accord with justice and in harmony with the merits of the case, we should, and do hereby, affirm the same, with the costs against the appellants.

Arellano, C. J., Johnson, Carson, Moreland, and Araullo, JJ., concur.

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