

SECOND DIVISION

[G.R. No. 194366, October 10, 2012]

NAPOLEON D. NERI, ALICIA D. NERI-MONDEJAR, VISMINDA D. NERI-CHAMBERS, ROSA D. NERI-MILLAN, DOUGLAS D. NERI, EUTROPIA D. ILLUT-COCKINOS AND VICTORIA D. ILLUT-PIALA, PETITIONERS, VS. HEIRS OF HADJI YUSOP UY AND JULPHA IBRAHIM UY, RESPONDENTS.

DECISION

PERLAS-BERNABE, J.:

In this Petition for Review on Certiorari^[1] under Rule 45 of the Rules of Court, petitioners Napoleon D. Neri (Napoleon), Alicia D. Neri-Mondejar (Alicia), Visminda D. Neri-Chambers (Visminda), Rosa D. Neri-Millan (Rosa), Douglas D. Neri (Douglas), Eutropia D. Illut-Cockinos (Eutropia), and Victoria D. Illut-Piala (Victoria) seek to reverse and set aside the April 27, 2010 Decision^[2] and October 18, 2010 Resolution^[3] of the Court of Appeals (CA) in CA-G.R. CV No. 01031-MIN which annulled the October 25, 2004 Decision^[4] of the Regional Trial Court (RTC) of Panabo City, Davao del Norte and instead, entered a new one dismissing petitioners' complaint for annulment of sale, damages and attorney's fees against herein respondents heirs of spouses Hadji Yusop Uy and Julpha Ibrahim Uy (heirs of Uy).

The Facts

During her lifetime, Anunciacion Neri (Anunciacion) had seven children, two (2) from her first marriage with Gonzalo Illut (Gonzalo), namely: Eutropia and Victoria, and five (5) from her second marriage with Enrique Neri (Enrique), namely: Napoleon, Alicia, Visminda, Douglas and Rosa. Throughout the marriage of spouses Enrique and Anunciacion, they acquired several homestead properties with a total area of 296,555 square meters located in Samal, Davao del Norte, embraced by Original Certificate of Title (OCT) Nos. (P-7998) P-2128^[5], (P-14608) P-5153^[6] and P-20551 (P-8348)^[7] issued on February 15, 1957, August 27, 1962 and July 7, 1967, respectively.

On September 21, 1977, Anunciacion died intestate. Her husband, Enrique, in his personal capacity and as natural guardian of his minor children Rosa and Douglas, together with Napoleon, Alicia, and Visminda executed an Extra-Judicial Settlement of the Estate with Absolute Deed of Sale^[8] on July 7, 1979, adjudicating among themselves the said homestead properties, and thereafter, conveying them to the late spouses Hadji Yusop Uy and Julpha Ibrahim Uy (spouses Uy) for a consideration of P80,000.00.

On June 11, 1996, the children of Enrique filed a complaint for annulment of sale of the said homestead properties against spouses Uy (later substituted by their

heirs)before the RTC, docketed as Civil Case No.96-28, assailing the validity of the sale for having been sold within the prohibited period. The complaint was later amended to include Eutropia and Victoria as additional plaintiffs for having been excluded and deprived of their legitimes as children of Anunciacion from her first marriage.

In their amended answer with counterclaim, the heirs of Uy countered that the sale took place beyond the 5-year prohibitory period from the issuance of the homestead patents. They also denied knowledge of Eutropia and Victoria's exclusion from the extrajudicial settlement and sale of the subject properties, and interposed further the defenses of prescription and laches.

The RTC Ruling

On October 25, 2004, the RTC rendered a decision ordering, among others,the annulment of the Extra-Judicial Settlement of the Estate with Absolute Deed of Sale. It ruled that while the sale occurred beyond the 5-year prohibitory period, the sale is still void because Eutropia and Victoria were deprived of their hereditary rights and that Enrique had no judicial authority to sell the shares of his minor children, Rosa and Douglas.

Consequently, it rejected the defenses of laches and prescription raised by spouses Uy, who claimed possession of the subject properties for 17 years, holding that co-ownership rights are imprescriptible.

The CA Ruling

On appeal, the CA reversed and set aside the ruling of the RTC in its April 27, 2010 Decision and dismissed the complaint of the petitioners. It held that, while Eutropia and Victoria had no knowledge of the extrajudicial settlement and sale of the subject properties and as such, were not bound by it, the CA found it unconscionable to permit the annulment of the sale considering spouses Uy's possession thereof for 17 years, and that Eutropia and Victoria belatedly filed their action in 1997, or more than two years from knowledge of their exclusion as heirs in 1994 when their stepfather died. It, however, did not preclude the excluded heirs from recovering their legitimes from their co-heirs.

Similarly, the CA declared the extrajudicial settlement and the subsequent sale as valid and binding with respect to Enrique and his children, holding that as co-owners, they have the right to dispose of their respective shares as they consider necessary or fit.While recognizing Rosa and Douglas to be minors at that time, they were deemed to have ratified the sale when they failed to question it upon reaching the age of majority.It also found laches to have set in because of their inaction for a long period of time.

The Issues

In this petition, petitioners impute to the CA the following errors:

- I. WHEN IT UPHELD THE VALIDITY OF THE "EXTRA JUDICIAL SETTLEMENT OF THE ESTATE WITH ABSOLUTE DEED OF SALE" AS FAR

AS THE SHARES OF EUTROPIA AND VICTORIA WERE CONCERNED, THEREBY DEPRIVING THEM OF THEIR INHERITANCE;

II. WHEN IT DID NOT NULLIFY OR ANNUL THE "EXTRA JUDICIAL SETTLEMENT OF THE ESTATE WITH ABSOLUTE DEED OF SALE" WITH RESPECT TO THE SHARES OF ROSA AND DOUGLAS, THEREBY DEPRIVING THEM OF THEIR INHERITANCE; and

III. WHEN IT FOUND THAT LACHES OR PRESCRIPTION HAS SET IN.

The Ruling of the Court

The petition is meritorious.

It bears to stress that all the petitioners herein are indisputably legitimate children of Anunciacion from her first and second marriages with Gonzalo and Enrique, respectively, and consequently, are entitled to inherit from her in equal shares, pursuant to Articles 979 and 980 of the Civil Code which read:

ART. 979. Legitimate children and their descendants succeed the parents and other ascendants, without distinction as to sex or age, and even if they should come from different marriages.

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ART. 980. The children of the deceased shall always inherit from him in their own right, dividing the inheritance in equal shares.

As such, upon the death of Anunciacion on September 21, 1977, her children and Enrique acquired their respective inheritances,^[9] entitling them to their *pro indiviso* shares in her whole estate, as follows:

Enrique	9/16 (1/2 of the conjugal assets + 1/16)
Eutropia	1/16
Victoria	1/16
Napoleon	1/16
Alicia	1/16
Visminda	1/16
Rosa	1/16
Douglas	1/16

Hence, in the execution of the Extra-Judicial Settlement of the Estate with Absolute Deed of Sale in favor of spouses Uy, all the heirs of Anunciacion should have participated. Considering that Eutropia and Victoria were admittedly excluded and that then minors Rosa and Douglas were not properly represented therein, the settlement was not valid and binding upon them and consequently, a total nullity.

Section 1, Rule 74 of the Rules of Court provides:

SECTION 1. *Extrajudicial settlement by agreement between heirs.* – x x x

The fact of the extrajudicial settlement or administration shall be published in a newspaper of general circulation in the manner provided in the next succeeding section; but no extrajudicial settlement shall be binding upon any person who has not participated therein or had no notice thereof. (Underscoring added)

The effect of excluding the heirs in the settlement of estate was further elucidated in *Segura v. Segura*,^[10] thus:

It is clear that Section 1 of Rule 74 does not apply to the partition in question which was null and void as far as the plaintiffs were concerned. The rule covers only valid partitions. The partition in the present case was invalid because it excluded six of the nine heirs who were entitled to equal shares in the partitioned property. Under the rule “no extrajudicial settlement shall be binding upon any person who has not participated therein or had no notice thereof.” As the partition was a total nullity and did not affect the excluded heirs, it was not correct for the trial court to hold that their right to challenge the partition had prescribed after two years from its execution...

However, while the settlement of the estate is null and void, the subsequent sale of the subject properties made by Enrique and his children, Napoleon, Alicia and Visminda, in favor of the respondents is valid but only with respect to their proportionate shares therein. It cannot be denied that these heirs have acquired their respective shares in the properties of Anunciacion from the moment of her death^[11] and that, as owners thereof, they can very well sell their undivided share in the estate.^[12]

With respect to Rosa and Douglas who were minors at the time of the execution of the settlement and sale, their natural guardian and father, Enrique, represented them in the transaction. However, on the basis of the laws prevailing at that time, Enrique was merely clothed with powers of administration and bereft of any authority to dispose of their 2/16 shares in the estate of their mother, Anunciacion.

Articles 320 and 326 of the Civil Code, the laws in force at the time of the execution of the settlement and sale, provide:

ART. 320. The father, or in his absence the mother, is the legal administrator of the property pertaining to the child under parental authority. If the property is worth more than two thousand pesos, the father or mother shall give a bond subject to the approval of the Court of First Instance.

ART. 326. When the property of the child is worth more than two