

THIRD DIVISION

[G.R. No. 126996, February 15, 2000]

HEIRS OF CESARIO VELASQUEZ, NAMELY: ANASTACIA VELASQUEZ, SOFIA VELASQUEZ, ELISEO VELASQUEZ, JOSE VELASQUEZ, CORAZON VELASQUEZ, LEONORA VELASQUEZ, AND NIEVES VELASQUEZ, PETITIONERS, VS. THE COURT OF APPEALS AND HEIRS OF ANATALIA DE GUZMAN, NAMELY: SANTIAGO MENESES, ANDRES MENESES, FELICIDAD MENESES, AND APOLONIO MENESES, RESPONDENTS.

D E C I S I O N

GONZAGA-REYES, J.:

Before us is a Petition for Review on *Certiorari* filed by petitioners assailing the December 29, 1995 decision^[1] of the Court of Appeals in CA-G.R. CV No. 39729 affirming the decision of the Regional Trial Court of Pangasinan, Branch 40, Dagupan City^[2] in Civil Case No. D-9288 and the resolution dated November 6, 1996 denying their motion for reconsideration.^[3]

Spouses Leoncia de Guzman and Cornelio Aquino died intestate sometime in 1945 and 1947, respectively and were childless. Leoncia de Guzman was survived by her sisters Anatalia de Guzman (mother of the plaintiffs) and Tranquilina de Guzman (grandmother of the defendants). During the existence of their marriage, spouses Aquino were able to acquire the following real properties:

- a) A parcel of land (residential) situated in Guiguilonen, Mangaldan, Pangasinan. Bounded on the S. by Simeon Meneses; on the E. by Dionisio Muyargas; on the N. by road to San Jacinto; and on the W. by Juan Magalong; containing an area of 995 sq. m. more or less and assessed for the current year;
- b) A parcel of land (sugar cane) and coconut land situated in Poblacion, Mangaldan, Pangasinan. Bounded on the N. by Jose Lopez and Cipriano Serafica; on the E. by road to Mapandan; on the S. by Vicente Doyola and Dalmacio Gonzales; and on the W. by Eleuterio Serafica; containing an area of 27,849 sq. m., more or less;
- c) A parcel of land situated in Malabago, Mangaldan, Pangasinan. Bounded on the N. by Fausto Tandingan; on the E. by Segundo Toralba, Fausto Tandingan and Jacinta Biasaga; on the S. by Roberto Mamapon; and on the W. by heirs of Estanislao Biasaga and Elena delos Reyes; containing an area of 2,077 sq. m. more or less;
- d) A parcel of land (sugarcane), situated in Embarcadero, Mangaldan, Pangasinan. Bounded on the N. by Basilio Duya and Bernardo Cano; on

the E. by Simeon Manaois; on the S. by a road; and on the W. by Loreto de Guzman; containing an area of 2,857 sq. m., more or less; It is covered by Tax Decl. No. 231;

e) A parcel of residential land situated in Bari, Mangaldan, Pangasinan. Bounded on the N. by Andres Aquino; on the E. by Arcadio Barromeo; on the S. by National Road; on the W. by Andres Aquino; containing an area of 595 sq. m., more or less and covered by Tax Decl. No. 453;

f) A parcel of unirrigated riceland situated in Malabago, Mangaldan, Pangasinan. Bounded on the N. by Segundo Tandingan and Jacinto Biasaga; on the E. by Segundo Toralba, Fausto Tandingan and Jacinto Biasaga; on the S. by Roberto Mamapon; and on the W. by heirs of Estanislao Biasaga and Elena delos Reyes; containing an area of 2,077 sq. m., more or less, and covered Tax Decl. No. 1156.

Sometime in 1989, the heirs of Anatalia de Guzman represented by Santiago, Andres, Felicidad and Apolonio,^[4] all surnamed Meneses filed a complaint for annulment, partition and damages against the heirs of Cesario Velasquez (son of Tranquilina de Guzman) for the latters' refusal to partition the above-mentioned conjugal properties of the Spouses Aquino. The complaint alleged that Leoncia de Guzman, before her death, had a talk with the plaintiffs' mother, Anatalia de Guzman, with plaintiff Santiago Meneses and Tranquilina de Guzman and his son Cesario Velasquez in attendance; that in the conference Leoncia told Anatalia de Guzman, Tranquilina de Guzman and Cesario Velasquez that the documents of donation and partition which she and her husband earlier executed were not signed by them as it was not their intention to give away all the properties to Cesario Velasquez because Anatalia de Guzman who is one of her sisters had several children to support; Cesario Velasquez together with his mother allegedly promised to divide the properties equally and to give the plaintiffs one-half (1/2) thereof; that they are entitled to 1/2 of each of all the properties in question being the children of Anatalia de Guzman, full blood sister of Leoncia de Guzman. Plaintiffs further claim that after the death of Leoncia, defendants forcibly took possession of all the properties and despite plaintiffs' repeated demands for partition, defendants refused. Plaintiffs pray for the nullity of any documents covering the properties in question since they do not bear the genuine signatures of the Aquino spouses, to order the partition of the properties between plaintiffs and defendants in equal shares and to order the defendants to render an accounting of the produce of the land in question from the time defendants forcibly took possession until partition shall have been effected.^[5]

Defendants filed their Amended Answer with counterclaim alleging among others that during the lifetime of spouses Cornelio Aquino and Leoncia de Guzman, they had already disposed of their properties in favor of petitioners' predecessors-in-interest, Cesario Velasquez and Camila de Guzman, and petitioners Anastacia and Jose Velasquez in the following manner:

(1) The third and sixth parcels were conveyed to defendants' late parents Cesario Velasquez and Camila de Guzman, by virtue of a *Escritura de Donation Propter Nuptias* dated February 15, 1919;

(2) The second parcel was conveyed to defendants' late parents Cesario

Velasquez and Camila de Guzman by virtue of a deed of conveyance dated July 14, 1939, for which Transfer Certificate of Title No. 15129 was issued by the Registry of Deeds of Pangasinan in the names of Cesario Velasquez and Camila de Guzman;

(3) The first parcel was likewise conveyed to defendants Jose Velasquez and Anastacia Velasquez by virtue of a deed of conveyance (Donation *Inter vivos*) dated April 10, 1939;

(4) As to the fourth and fifth parcels, the same were owned and possessed by third parties.

Defendants denied that a conference took place between Leoncia de Guzman and plaintiff Santiago Meneses and his mother Anatalia with Tranquilina (defendants' grandmother) and Cesario Velasquez (defendants' father), nor did the latter promise to divide the properties equally with the plaintiffs or to execute a deed of partition; that they did not forcibly take possession of the subject properties since their possession thereof has been peaceful, open, continuous and adverse in character to the exclusion of all others. By way of affirmative defenses, defendants claim that the instant case is already barred by *res judicata* since there had been three previous cases involving the same parties, subject matter and cause of action which were all dismissed, the last of which was dismissed for failure to prosecute; that plaintiffs' action to annul the documents covering the disposition of the properties is also barred by the statute of limitations; that the action for partition presupposes the existence of a property held in common as agreed upon or admitted by the parties but the co-ownership ceases when one of the parties alleges exclusive ownership, thus the action becomes one for a title and recovery of ownership and the action prescribes in four years.^[6]

On May 18, 1990, a pre-trial order was issued by the trial court which defined the issues to be resolved as follows:^[7]

"x x x

1. Whether or not the properties in question form part of the estate of Anatalia de Guzman and Sps. Cornelio Aquino and Leoncia de Guzman;
2. Whether or not plaintiff's action is already barred by the statutes of limitation and *res judicata*; and
3. Whether or not the properties in question can be the subject of an action for partition."

After trial, the decision was rendered on April 8, 1992 which ruled as follows:^[8]

"From the evidence, the Court finds that the plaintiffs are brothers and sisters who are the children of Estanislao Meneses and Anatalia de Guzman and the defendants are the children of plaintiffs' cousin Cesario Velasquez and Camila de Guzman. The defendants' mother Tranquilina de Guzman and plaintiffs' mother Anatalia de Guzman and Leoncia de Guzman are full blooded sisters. The subject six (6) parcels of land were conjugal properties of Leoncia de Guzman and her husband Cornelio

Aquino were in their possession until their death in 1945 and 1947, respectively. After the death of plaintiffs' mother Anatalia de Guzman on September 14, 1978, plaintiff Santiago Meneses came across an affidavit of Cesario Velasquez notarized by Atty. Elpidio Barrozo stating that he is an adopted son of said spouses Cornelio Aquino and Leoncia de Guzman (Exhibit "A") which, is however, not supported by evidence (a court order). The said affidavit mentioned, among other things, a house and a parcel of land covered by Tax Declaration No. 699 located at Guiguilonen, Mangaldan, Pangasinan, (Exhibit "B"). The sugar cane and coconut land situated at Poblacion, Mangaldan, Pangasinan, containing an area of 27,849 square meters covered by Tax Declaration No. 978 (Exhibit "C") which was in the possession of spouses Cornelio Aquino and Leoncia de Guzman until their death. Sometime in 1944 Leoncia de Guzman called a conference among the plaintiffs and spouses Cesario Velasquez and Camila de Guzman and told them that all their conjugal properties shall be divided equally between Anatalia de Guzman and Tranquilina de Guzman and that she did not sign documents regarding the conveyance of their properties; and that the property (parcel B) in Malabago, Mangaldan, Pangasinan, which yielding an annual produce worth P15,000.00 was divided between Anatalia de Guzman and Tranquilina de Guzman.

Spouses Cornelio Aquino and Leoncia de Guzman who were childless had Anatalia de Guzman and Tranquilina de Guzman as their legal heirs. The latter succeeded the former over the subject six (6) parcels of land in equal shares - 1/2 belongs to Anatalia de Guzman and the other half, to Tranquilina de Guzman."

This, notwithstanding the claim of defendants that the first parcel was donated to Jose Velasquez and Anastacia Velasquez by way of "Donation Intervivos."

The second parcel, sold to Cesario Velasquez and Camila de Guzman;

The third and 6th parcels, donated to Cesario Velasquez and Camila de Guzman; and

The 4th and 5th parcels, sold to third parties.

The claim of Cesario Velasquez that he was adopted by the Spouses Cornelio Aquino and Leoncia de Guzman is not supported by evidence.

The Court finds plaintiff Santiago Meneses credible; and his testimony, credible by itself. Santiago Meneses who is 80 years old testified spontaneously in a clear, straight forward and convincing manner.

The version of the defendants to the effect that spouses Cornelio de Guzman and Leoncia de Guzman left no properties cannot be given serious consideration. It is incredible and unbelievable.

How did the spouses Cornelio Aquino and Leoncia de Guzman support and maintain themselves if they disposed of their valuable properties, the six (6) parcels of land in question, during their lifetime? Did they really leave no properties? These questions remained unanswered.

The defendants failed to prove their allegations that the Spouses Cornelio Aquino and Leoncia de Guzman disposed of their properties during their lifetime.

Defendant Eliseo Velasquez is a lawyer and his co-defendant brothers are retired government officials.

On the other hand, the plaintiffs are simple, innocent country folks who have not obtained substantial level of education.

The Court believes and so holds that the defendants manipulated the transfer unto themselves all the properties of Spouses Cornelio Aquino and Leoncia de Guzman; thus, depriving the plaintiffs their shares in the inheritance, to their prejudice and damage.

Insofar as the issue of whether or not partition prescribes, the court believes and so rules that it does not.

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"WHEREFORE, judgment is hereby rendered in favor of the plaintiffs:

(1) Declaring Anatalia de Guzman and Tranquilina de Guzman as the legal heirs of Spouses Cornelio Aquino and Leoncia de Guzman; and that the former succeeded the latter over the six (6) parcels of land in question in equal shares - 1/2 belongs to Anatalia de Guzman or to her heirs; and 1/2, to Tranquilina de Guzman or to her heirs;

(2) Declaring the Donation *Intervivos* in favor of Jose Velasquez and Anastacia Velasquez over the first parcel of land; the Deed of Sale to Cesario Velasquez and Camila de Guzman over the second parcel; the Deed of Donation to Cesario Velasquez and Camila de Guzman over the 3rd and 6th parcels; the Deed of Sale to third parties over the 4th and 5th parcels as null and void insofar as 1/2 of the six (6) parcels are concerned which legitimately belong to the plaintiffs;

(3) Ordering the defendants to reconvey to the plaintiffs 1/2 each of the six (6) properties in question and if this is not possible, to reconvey the whole of the sugar cane and coconut land situated at Poblacion, Mangaldan, Pangasinan, containing an area of 27,849 square meters, covered by Tax Declaration No. 978 (Exhibit "C") - parcel B, par. 2 of the complaint; and

(4) Ordering the defendants jointly and severally to pay to plaintiffs P50,000.00, as damages, P5,000.00, as attorney's fees and P3,000.00, as litigation expenses."

Dissatisfied, defendants appealed the decision to the respondent Court of Appeals which affirmed the same in a decision dated December 29, 1995.

The Court of Appeals rejected the defense of *res judicata* which was never pleaded nor raised earlier, and for that reason was deemed waived. The appellate court also