



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **November 10, 2021**, which reads as follows:*

“**G.R. No. 234450 (Heirs of Jose D. Cahigan, represented by Virginia Cahigan-Bascugin v. Gregorio Cahigan, et al.)**. – This Court resolves the Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assailing the Decision² dated March 16, 2017 and the Resolution³ dated September 8, 2017 of the Court of Appeals (CA) in CA-G.R. CV No. 102171, which reversed and set aside the Orders dated August 12, 2013⁴ and November 5, 2013⁵ of the Regional Trial Court (RTC) of Balayan, Batangas, Branch 10 and remanded the case to the court *a quo* to proceed with the actual partition of the subject properties, and denied petitioner’s motion for reconsideration.

Facts of the Case

This case stemmed from a complaint for partition, accounting, and damages filed by respondents Gregorio Cahigan, Victorino, Anastacio, Enrique, Angelina, Dolores, Isabel, and their nephew Felipe, all surnamed Cahigan (Gregorio, et al.) against Jose Cahigan (substituted by his Heirs) before the RTC.⁶

Respondents Gregorio, et al. along with the other sibling, petitioner Jose Cahigan (Jose), are the heirs of Modesta Cahigan (Modesta), their sister, who died intestate on June 5, 1989.⁷ Modesta left parcels of land principally consisting of sugarland (19,066 square meters) and riceland (13,163 square meters) both located in Barangay Balibago, Lian, Batangas, and a residential land located in Barangay Lipatan, Balayan, Batangas.⁸ The subject properties covered by Transfer Certificate of Title (TCT) Nos. T-4769 (riceland), T-4768

¹ *Rollo*, pp. 12-27.

² Penned by Associate Justice Ma. Luisa C. Quijano-Padilla, with the concurrence of Associate Justices Sesinando E. Villon and Rodil V. Zalameda (now a Member of this Court); *id.* at 32-43.

³ *Id.* at 7-8.

⁴ *Id.* at 93-97.

⁵ *Id.* at 104.

⁶ *Id.* at 81.

⁷ *Id.* at 32-33.

⁸ *Id.* at 93.

(sugarland), and T-48572 (residential land) were allegedly in the possession of Jose.⁹

The complaint was later on allowed to be amended to include other properties not listed in the original complaint, including those properties left by the predecessors of the parties.¹⁰

In his Answer, Jose countered that he became the owner of the riceland and sugarland one hour before Modesta passed away. He later amended his Answer claiming that he has been engaged in the annual production of sugarcanes and seasonal planting of palay on the subject properties, in the concept of an owner, for the last 48 years. He averred that he actually bought the parcels of land from a certain Atty. Baylosis and only asked Modesta, during her lifetime, to facilitate the transfer of the titles. However, instead of transferring the titles in his name as the real owner, Modesta caused the registration of said properties in her own name. Modesta allegedly undertook to rectify the mistake but unfortunately died before she could fulfill her promise.¹¹

Meanwhile, the RTC issued a Partial Judgment with respect to the residential house and lot covered by TCT No. T-7786 located in Lealtad St., Balayan, Batangas after the parties entered into a compromise. They agreed to sell said property and divide the proceeds into nine equal shares.¹²

As to the remaining properties, trial ensued for the reception of the parties' evidence.¹³

On September 14, 1999, the RTC rendered a Judgment in favor of herein respondents, the dispositive portion of which reads:

WHEREFORE, foregoing premises being considered, judgment is hereby rendered in favor of the plaintiffs, against the defendant, now his heirs represented by Virginia Cahigan-Bascuguin, as follows:

- a) Declaring that a state of co-ownership exists between and among the plaintiffs and the defendant/his heirs over the following properties of Modesta Cahigan, namely:
 1. Sugarland at Balibago, Lian, Batangas, covered by TCT No. T-4768, Batangas Registry;
 2. Riceland at Balibago, Lian, Batangas, covered by TCT No. T-4769, Batangas Registry;
 3. Residential land situated at Barangay Lipatan, Balayan,

⁹ Id. at 33.

¹⁰ Id.

¹¹ Id.

¹² Id.

¹³ Id.

Batangas, covered by TCT No. T-48572, Batangas Registry;

4. One-half (1/2) undivided share in the agricultural land at Biga, Calatagan, Batangas, covered by TCT No. T-41343, Batangas Registry;
5. Residential land at Barangay Canda, Balayan, Batangas, with an area of 728 square meters covered by OCT No. 571, Batangay Registry;
6. Residential land at Barangay Canda, Balayan, Batangas with an area of 425 square meters covered by Tax Declaration No. 017-0098;
7. Stall No. 118, Balayan Public Market covered by Tax Declaration No. 004-0064.

b) Ordering the partition of the above enumerated seven (7) properties between and among the plaintiffs and the defendant, as co-owners in accordance with the pertinent provisions of the New Civil Code and Rule 69 of the 1997 Rules of Civil Procedure.

c) Ordering the defendant, now his heirs, represented by Virginia Cahigan-Bascuguin, to pay or deliver to each of the plaintiffs, their respective one-ninth (1/9) share from the agreed net income of the properties under items 1 and 3 above, in the amount of P400,000.00.

d) Ordering the defendant/his heirs, to pay to the plaintiffs the sum of P20,000.00 as reasonable attorney's fees on quantum meruit and to pay costs.

The other claims for monetary awards in the amended complaint and in the amended answer are hereby dismissed for paucity of proof.

Upon receipt of this judgment, the parties may, if they are able to agree, make the ordered partition among themselves by proper instruments of conveyance and the Court shall confirm the same and/ such partition, together with the appropriate order confirming the same, shall be recorded in the Register of Deeds of Batangas, Nasugbu Branch Registry, Nasugbu, Batangas.

Otherwise, the Court shall, upon proper motion, constitute a committee of three (3) competent and disinterested persons as commissioners, to make such partition pursuant to Sec. 3 of Rule 69 of the Rules.

SO ORDERED.¹⁴

Petitioners appealed the decision to the CA. In a Decision dated March 29, 2005 in CA-G.R. CV No. 66779, the CA affirmed the ruling of the RTC

¹⁴ Id. at 33-35.

judgment declaring a state of co-ownership over the subject properties and sustained its finding that Jose did not acquire ownership over the litigated properties through acquisitive prescription. The case was remanded to the RTC. Thereafter, respondents filed a Motion for Accounting and Partition of Income of Parties and a Motion for Partial Execution, with particular reference to the income derived from the sugarland and riceland.¹⁵

Petitioners agreed that further proceedings should be conducted but insisted that commissioners should be appointed for the purpose of collating all the properties, fixing the value thereof, and dividing the same or its proceeds equally among the heirs of Modesta.¹⁶

A writ of execution was issued by the RTC. Petitioners also submitted an income statement for the sugarland and Riceland for the years 1998 to 2007. There was also a partial satisfaction of the judgment when petitioners gave to respondent the amounts of ₱100,000.00 and ₱275,555.00. The Sheriff of the RTC issued a return indicating full satisfaction of the writ.¹⁷

Respondents, however, objected to the amounts indicated in the income statement submitted by petitioners, claiming that the accounting did not reflect the actual and true income of the riceland and sugarland.¹⁸

To settle the matter, the RTC appointed three commissioners tasked to submit a report regarding the partition, namely: Lauro L. Ramos (respondents' nominee), Alfredo A. Pedrosa III (petitioners' nominee), and Atty. Rizalina Endozo, Branch Clerk of Court, as the third member. The commissioners held hearings, summoned witnesses, received documents and conducted an ocular inspection of the properties subject of the case. An initial Commissioner's Report dated November 3, 2011 was submitted by Atty. Endozo. However, in view of the death of Lauro Ramos, the RTC referred the initial report back to the commissioners for further study.¹⁹

On December 14, 2012, the Branch Clerk of Court, as Chairman of the court-appointed commissioners, submitted a Report to the RTC with recommendations,²⁰ but without the signature of the other two commissioners.²¹

Respondents then filed a motion to order petitioners to revert the sugarland and riceland to the common properties, praying as well that petitioners be cited in contempt for causing the registration of the sugarland and riceland in their names contrary to the final judgment on the existence of

¹⁵ Id. at 35.

¹⁶ Id.

¹⁷ Id. at 35-36.

¹⁸ Id. at 36.

¹⁹ Id.

²⁰ Id. at 36.

²¹ Id. at 67, 86.

a state of co-ownership among the parties.²²

Since there is already a separate case assailing the transfer of titles in the names of petitioners pending before the RTC of Nasugbu, respondents' motion was denied by the RTC of Balayan.²³

Ruling of the Regional Trial Court

On August 12, 2013, the RTC issued an Order²⁴ as regards the issue of partition, pertinent portion of which states:

Rule 69 of the Rules of Court allows the Court, to enforce the partition by itself, either by adopting the commissioner's report or rejecting it and making its own assessment of the matters. The Court rejects the foregoing reports, since the same is incomplete and not attested to by the other commissioner[s]. Furthermore, since this case has been dragging for so long, the court hereby makes its own evaluation of the facts and evidence on record.

After examination of the records it is hereby ordered that:

1. The agricultural sugarland in Balibago, which as per tax declaration has a value of P810,305.00 as well as the riceland with a value of P131,102.00 based on the tax declaration be allotted to its occupant, heirs of defendant (Jose Cahigan), with the latter paying the amount of P941,407.00, to be equally divided among the seven (7) heirs of Modesta Cahigan;
2. Since there is no known occupant of the property in Lipatan, since it appears that no heir is willing to buy it, let the same be sold at public auction with the proceeds of the sale shall be divided equally among the heirs.
3. Let the one half (1/2) undivided share in the agricultural land at Biga, Calatagan, Batangas covered by TCT No. 41343 be allotted to Gregorio Cahigan, who is directed to pay the heirs the sum of P144,444.40.
4. Let the lots in Canda with a market value of P338,384.00 based on the tax declaration be assigned to Isabel after paying the sum of P338,384.00 to be divided equally among the heirs;
5. With regard to the market stall, the plaintiffs are directed to pay the defendants the sum of P4,542.67.

SO ORDERED.²⁵

²² Id. at 36-37.

²³ Id. at 37.

²⁴ Penned by Presiding Judge Cristino E. Judit; id. at 93-97.

²⁵ Id. at 96-97.

Respondents moved for reconsideration²⁶ praying that the 1.3-hectares riceland and 1.9-hectares sugarland be physically divided among all the nine heirs, and that petitioners be ordered to pay their accrued shares of the income from said riceland and sugarland for the last nine years in the amount of ₱400,000.00.²⁷

The motion was denied in the Order²⁸ dated November 5, 2013.

Respondents filed an appeal before the CA.²⁹

Ruling of the Court of Appeals

In the Decision³⁰ dated March 16, 2017, the CA reversed and set-aside the RTC Orders dated August 12, 2013 and November 5, 2013, and remanded the case to the RTC of Balayan, Batangas to proceed with the actual partition of the subject properties with utmost dispatch.³¹

Citing Section 7³² of Rule 69 of the Rules of Court, the CA held that the judge may perform the options stated therein. *i.e.*, to accept the commissioner's report and render judgment based thereon, or recommit the report again to the same commissioners; or set aside the report and appoint new commissioners; or accept the report in part and reject it in part, only upon hearing, which was not done in this case. Even if the court condones the lack of hearing after the submission of the Commissioner's Report and treat this lapse as a mere procedural infirmity, the CA still cannot sustain the assailed RTC Orders because they are wanting in particulars on how the partition was arrived at.³³ The contested properties – the riceland and sugarland – were allotted to petitioners without any reason given except that they are the present occupants or cultivators of these lands. The RTC should have based its decision on Section 5³⁴ of Rule 69, in relation to Articles 495³⁵ and 498³⁶ of

²⁶ Id. at 98-102.

²⁷ Id. at 100-101.

²⁸ Id. at 104.

²⁹ Id. at 32.

³⁰ Supra note 2.

³¹ *Rollo*, p. 42A.

³² Section 7. *Action of the court upon commissioner's report.* – Upon the expiration of the period of ten (10) days referred to in the preceding section or even before the expiration of such period but after the interested parties have filed their objections to the report or their statement of agreement therewith the court may, upon hearing, accept the report and render judgment in accordance therewith, or, for cause shown recommit the same to the commissioners for further report of facts; or set aside the report and appoint new commissioners; or accept the report in part and reject it in part; and may make such order and render such judgment as shall effectuate a fair and just partition of the real estate, or of its value, if assigned or sold as above provided, between the several owners thereof.

³³ *Rollo*, pp. 39-40.

³⁴ Section 5. *Assignment or sale of real estate by commissioners.* – When it is made to appear to the commissioners that the real state, or a portion thereof, cannot be divided without prejudice to the interests of the parties, the court may order it assigned to one of the parties willing to take the same, provided he pays to the other parties such amount as the commissioners deem equitable, unless one of the interested parties asks that the property be sold instead of being so assigned, in which case the court shall order the commissioners to sell the real estate at public sale under such conditions and within such time as the court may determine.

the Civil Code on co-ownership. Further, the CA noted that the RTC avoided the issue on the income of the sugarland and riceland even if this was raised in respondents' motion for reconsideration. This is despite a clear showing that the parties already entered into a previous stipulation on the amount of the income which is ₱400,000.00, which accrued from the time of Modesta's death in June 5, 1989 until August 3, 1998.³⁷

Petitioners moved for reconsideration but it was denied in the Resolution dated September 8, 2017.³⁸

Hence, this petition for review on *certiorari* under Rule 45 filed by petitioners.³⁹

Issue

The issue in this case is whether the CA erred in setting aside the assailed Orders dated August 12, 2013 and November 5, 2013 of the RTC and remanding the case to the court *a quo* to proceed with the actual partition of the subject properties.

Petitioners' Arguments

Petitioners argue that a formal hearing before the issuance of an order of partition and accounting is not mandatory. The RTC is given a wide latitude of discretion in its determination of the proper partition and accounting of properties under its jurisdiction. The trial court's exercise of this discretion cannot be disturbed on appeal. Petitioners further claim that it was actually the suggestion of respondents for the RTC to adjudge the partition on its own and not to rely or refer the partition and accounting to the Commissioners. This was made during the conference held on October 4, 2012. Thus, the action of the RTC in issuing the assailed Order dated August 12, 2013 without any formal hearing is valid, proper and should not be disturbed on appeal.⁴⁰

Petitioners also assert that the assignment/allotment of the sugarland and riceland in Balibago exclusively to petitioners is lawful, sound and meritorious because the physical division of the sugarland and riceland into eight small portions, representing all the remaining heirs of the late Modesta, would render the said properties unserviceable for the use it was intended. Respondents cannot demand and insist on the physical division of the sugarland and riceland in Balibago as this is prohibited by Article 495 of the

³⁵ Article 495. Notwithstanding the provisions of the preceding article, the co-owners cannot demand a physical division of the thing owned in common, when to do so would render it unserviceable for the use for which it is intended. But the co-ownership may be terminated in accordance with article 498.

³⁶ Article 498. Whenever the thing is essentially indivisible and the co-owners cannot agree that it be allotted to one of them who shall indemnify the others, it shall be sold and its proceeds distributed.

³⁷ *Rollo*, pp. 41-42A.

³⁸ *Supra* note 5.

³⁹ *Rollo*, pp. 12-27.

⁴⁰ *Id.* at 23-24.

Civil Code.⁴¹

Respondents' Comment

Respondent contend that Commissioner's Report shall be set for hearing before an order of partition of the real estate. The physical division and partition of the riceland and sugarland among the heirs is practical. The sugarland (1.9 hectares) and riceland (1.3 hectares) have a total of 3.2 hectares. The respective portion for each heir will not be rendered useless or less valuable. Respondents and their children or grandchildren can construct their own residential house on the area allotted to them, just like petitioners whose houses are erected on the subject land. The portion to be assigned to petitioners is that portion where their houses are erected.⁴²

Had the Commissioner's Report been set for hearing, respondent would not agree to exclusively assign the sugarland and riceland to petitioners. They would not agree that they would be paid the small amount of ₱810,305.00 for the sugarland and ₱131,100.00 for the riceland to be divided equally among them. The total estimate proposed by the petitioners of the value of the sugarland (₱4,360,000.00) and riceland (₱4,120,000.00) is ₱8,480,000.00. The valuation made by the RTC is unfair and unjust.⁴³

Further, the income from the sugarland and riceland, after the death of Jose, was not included in the orders of the RTC.⁴⁴

Petitioners' Reply

Petitioners reiterate that the absence of a formal hearing will not suffice as basis for the CA to reverse the Orders of the RTC dated August 12, 2013 and November 5, 2013. Even though there was no formal hearing, both parties were given the opportunity to submit their respective Memoranda/Position papers to be considered in drafting the supplemental Commissioner's Report. Respondents failed to submit their Memorandum/Position Paper.⁴⁵ As to the valuation of the riceland and sugarland, there was no admission by respondents. The figures are mere estimations, subject to actual assessment and valuation to be determined by the appropriate government office.⁴⁶

Ruling of the Court

The petition is denied.

⁴¹ Id. at 24-25.

⁴² Id. at 68-70.

⁴³ Id. at 71.

⁴⁴ Id.

⁴⁵ Id. at 119-120.

⁴⁶ Id. at 120-121.

What was specifically assailed by respondents in the order of partition issued by the RTC pertain to the exclusive assignment/allotment of the sugarland and riceland to petitioners. Respondents aver that the sugarland and riceland are the most valuable properties left by Modesta. Be it noted that in their Motion for Reconsideration⁴⁷ from the Order dated August 12, 2013 of the RTC and even in their Appellant's Brief⁴⁸ before the CA, respondents maintain that they are not selling their respective share of the riceland and sugarland to petitioners; they want their respective share given to each of them to occupy use and utilize the same for their own benefit as owners thereof. In sum, they are asserting for the actual and physical subdivision of the riceland and sugarland to be divided equally among the nine heirs.⁴⁹

The CA held that the RTC should have conducted a hearing after submission of the Commissioner's Report; and even if this lapse is treated as mere procedural infirmity, the RTC Orders are wanting in particulars on how the partition was arrived at. There was no reason given why the riceland and the sugarland were allotted to the petitioners except that they are the present occupants or cultivators of these lands. The RTC should have based its decision on Section 5, Rule 69, in relation to Articles 495 and 498 of the Civil Code on co-ownership. Also, the CA noted that the RTC avoided the issue on the income of the sugarland and riceland.⁵⁰

The RTC should have conducted a hearing after the submission of the Commissioner's Report as provided for in Section 7, Rule 69 of the Rules of Court which reads:

*Section 7. Action of the court upon commissioners report. – Upon the expiration of the period of ten (10) days referred to in the preceding section or even before the expiration of such period but after the interested parties have filed their objections to the report or their statement of agreement therewith the court may, **upon hearing**, accept the report and render judgment in accordance therewith, or, for cause shown recommit the same to the commissioners for further report of facts; or set aside the report and appoint new commissioners; or accept the report in part and reject it in part; and may make such order and render such judgment as shall effectuate a fair and just partition of the real estate, or of its value, if assigned or sold as above provided, between the several owners thereof. (Emphasis supplied)*

The word "may" pertains to options given to the RTC after it received the Commissioner's Report, namely: (1) accept the report and render judgment in accordance therewith; (2) for cause shown recommit the same to the commissioner's for further report of facts; (3) set aside the report and

⁴⁷ Id. at 98-102.

⁴⁸ Id. at 81-92.

⁴⁹ Id. at 88.

⁵⁰ Id. at 40-42.

appoint new commissioners; (4) accept the report in part and reject in part; and (5) may make such order and render such judgment as shall effectuate a fair and just partition of the real estate, or of its value, if assigned or sold as above provided, between the several owners thereof.⁵¹ However, before exercising said options, the RTC should conduct a hearing, which was not done in this case. This is precisely what respondents were asking when they moved to reconsider the Order dated August 12, 2013 of the RTC and in their appeal before the CA. Respondents claim that had the RTC to set the case for hearing, it should have known that respondents would not agree to assign the sugarland and riceland only to petitioners. Respondent would not agree that they would be paid the small amount of ₱810,305.00 for the sugarland and ₱131,100.00 for the riceland, said amounts to be divided equally among them.

The Court cannot just accept the claim of petitioners that during the conference held on October 4, 2012, it was actually the suggestion of the respondents for the RTC to adjudge the partition on its own and not to rely on or refer the partition and accounting to the Commissioners. A hearing on the Commissioner's Report submitted by Atty. Rizalina Endozo, Branch Clerk of Court should have been scheduled considering that the Commissioner's Report did not bear the signature or conformity of the other two commissioners, and that there was no hearing set before the commissioners to determine the parties' preference in the partition of the subject properties.⁵²

In remanding the case to the RTC to conduct a hearing for the actual partition of the subject properties, the RTC should be guided by Section 5,⁵³ Rule 69 of the Rules of Court, in relation to the provisions of the Civil Code on co-ownership, particularly Articles 495⁵⁴ and 498⁵⁵ thereof in subdividing the riceland and sugarland, and the applicable jurisprudence.

⁵¹ Section 7, Rule 69, Rules of Court

⁵² Section 4, Rule 69 of the Rules of Court

Section 4. Oath and duties of commissioners. Before making such partition; the commissioners shall take and subscribe an oath that they will faithfully perform their duties as commissioners, which oath shall be filed in court with the other proceedings in the case. In making the partition, the commissioners shall view and examine the real estate, after due notice to the parties to attend at such view and examination, and shall hear the parties as to their preference in the portion of the property to be set apart to them and the comparative value thereof, and shall set apart the same to the parties in lots or parcels as will be most advantageous and equitable, having due regard to the improvements, situation and quality of the different parts thereof.

⁵³ Assignment or sale of real estate by commissioners. — When it is made to appear to the commissioners that the real state, or a portion thereof, cannot be divided without prejudice to the interests of the parties, the court may order it assigned to one of the parties willing to take the same, provided he pays to the other parties such amount as the commissioners deem equitable, unless one of the interested parties asks that the property be sold instead of being so assigned, in which case the court shall order the commissioners to sell the real estate at public sale under such conditions and within such time as the court may determine.

⁵⁴ Article 495. Notwithstanding the provisions of the preceding article, the co-owners cannot demand a physical division of the thing owned in common, when to do so would render it unserviceable for the use for which it is intended. But the co-ownership may be terminated in accordance with article 498

⁵⁵ Article 498. Whenever the thing is essentially indivisible and the co-owners cannot agree that it be allotted to one of them who shall indemnify the others, it shall be sold and its proceeds distributed.

WHEREFORE, premises considered, the instant petition is **DENIED**. The Decision dated March 16, 2017 and the Resolution dated September 8, 2017 of the Court of Appeals in CA-G.R. CV No. 102171 are hereby **AFFIRMED**.

SO ORDERED.” (Caguioa, J., designated as additional Member of the Third Division; Zalameda, J., took no part.)

By authority of the Court:

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Division Clerk of Court *09 1026622*

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