

[G.R. No. 2764. December 16, 1905]

ENRIQUE SERRANO AND SEBASTIANA SIVILA, AS EXECUTORS OF THE WILL OF MARGARITA SIVILA, PETITIONERS, VS. DIONISIO CHANCO, JUDGE OF THE COURT OF FIRST INSTANCE OF THE SECOND JUDICIAL DISTRICT, AND LEANDRO SERRANO, RESPONDENTS.

D E C I S I O N

WILLARD, J.:

The will of Margarita Sivila was duly proved and allowed in the Court of First Instance of Ilocos Norte. Commissioners were appointed by that court before whom the creditors of the said Margarita were required to present their claims. The defendant Leandro Serrano presented before these commissioners a claim for 41,404.30 pesos. The commissioners disallowed the claim. He appealed from this disallowance to the Court of First Instance of Ilocos Norte under the provisions of section 773 of the Code of Civil Procedure. In that court he filed a complaint, as required by section 776. The executors, Enrique Serrano and Sebastiana Sivila, the plaintiffs in this action, filed an answer to said complaint denying all the allegations therein. Up to this point the proceedings were entirely regular and in strict conformity with the provisions of the code. The executors, however, in addition to the general denial contained in their answer, set up a counterclaim against the claimant Leandro Serrano. In this counterclaim they alleged, among other things, that the estate which they represented was the owner of certain lands situated in Ilocos Sur, of which Leandro Serrano was in possession, and as part of the relief they asked that the court determine that the estate was such owner, and that it be given possession of the property. To this counterclaim Leandro Serrano demurred, on the ground, among others, that the court had no

jurisdiction thereof. The court sustained the demurrer. The decision is in part as follows :

“De lo expuesto se ve que este Juzgado carece de jurisdiccion para conocer de la reconvencion establecida por los demandados, por cuanto la mayor parte de las fincas que se reivindican en la misma, radican en el municipio de Cabuyao, Ilocos Sur, I. F., donde son a la vez vecinas las partes, no obstante de que por razon de la reclamacion del demandante que trae su origen de la testamentaria de la finada Sra. Margarita Sivila pendiente ante este citado Juzgado, es competente el mismo; cuya reconvencion tiene intima relacion con la indicada reclamacion del demandante por cuanto se dice que los frutos que se reclaman por este sonde los mencionados terrenos; y por tanto al inhibirse este aludido Juzgado del conocimiento de la expresada reconvencion a favor del de Ilocos Sur, I. F., debe hacerse lo propio de la demanda principal, porque de conocer separadamente de las dos reclamaciones se dividira la continencia de la causa, lo que no debe ser; no siendo procedentes los demas motivos de demurrer alegados.

“En su consecuencia se estima el primer fundainento del *demurrer* propuesto, y en su virtud se inhibe este Juzgado del conocimiento de la presente causa a favor del de Primera Instancia de Ilocos Sur, I. F., para conocer tanto de la demanda principal como de la reconvencion.”

Neither of the parties had asked for this relief, and neither excepted to the order. Copies of the complaint, answer, and counterclaim were filed in the Court of First Instance of Ilocos Sur; the executors appeared therein and asked that a day be set for the hearing of the case. Before that was done, however, they commenced in this court this action of *certiorari* and prohibition. By the order of the 10th of July, 1905, we held that *certiorari* would not lie, but ordered the defendants to answer the complaint so far as it related to the prohibition. Leandro Serrano has appeared and answered, and the case been submitted for decision.

Stated most favorably for the defendants the question is, Can the

parties by consent confer jurisdiction to try an appeal from the decision of the said commissioners upon a Court of First Instance other than the one which appointed the commissioners?

Section 602 of the Code of Civil Procedure is as follows:

“The court, once taking, to retain jurisdiction.—When a Court of First Instance in any province has first taken cognizance of the settlement of the estate of a deceased person, as mentioned in the preceding sections, such court shall have jurisdiction of the disposition and settlement of such estate, to the exclusion of all other courts.”

Applied to this case that section says that the Court of First Instance of Ilocos Norte shall have jurisdiction of the administration and settlement of the estate of Margarita Sivila, to the exclusion of the Court of First Instance of Ilocos Sur. The words *“disposition and settlement of such estate”*

used in this section are not doubtful. They refer to and include everything necessary to be done in the matter of the estate from the time the will was proved until the final decree was made. The reason for this provision of the law is obvious. The settlement of the estate of a deceased person in court constitutes but one proceeding. For the successful administration of that estate it is necessary that there should be but one responsible entity, one court, which should have exclusive control of every part of such administration. To entrust it to two or more courts, each independent of the other, would result in confusion and delay. If the contention of the defendant should be sustained the administration of this estate might, by the consent of the persons who happened at the time to be interested in some particular questions raised therein, be divided up among several different courts of the Islands. That contention leads to the conclusion that by consent of the parties the appeal from the order of the commissioners in this case could have been taken to the Court of First Instance of Pangasinan; that by such consent the court of another

province could have appointed the commissioners; the court of another province hear and decide an application to remove the executors; the court of another province appoint a special administrator; the court of another province order the executor to render an account under section 672 of the Code of Civil Procedure; the court of another province determine the value of the services of the executor under section 680; the court of another province order a sale of real estate for the purpose of paying debts; the court of another province extend the time for the settlement of the estate under section 743, and the court of another province make a final decree in the proceeding under section 753.

If jurisdiction to do any one of these things can be conferred upon another court by the consent of the parties, we do not see why jurisdiction to do all of them could not be conferred in that manner. The delay that would be caused in the settlement of an estate under such circumstances is very apparent. The court of Ilocos Norte would have no authority to compel any one of these other courts to proceed. It could take no action concerning the final settlement of the estate until the other courts had taken action in the matters pending before them. It was for the purpose of avoiding this and other evils that the Commission declared in section 602 that the court which took original jurisdiction of the estate should continue to exercise it to the exclusion of all others. It intended to prevent the division of what is one case, into several distinct and separate parts, and the assignment of those parts to the different Courts of First Instance throughout the Islands.

This is made more apparent by the provisions of section 377 of the Code of Civil Procedure. That section relates to actions brought against executors or administrators. Such actions are separate and distinct from the one special proceeding for the settlement of the estate, and yet the section provides that even these actions must be brought in the court where the special proceeding is pending. It further expressly provides that the failure of the defendant to object to the bringing of the action in another place shall not be a waiver of the defense of want of jurisdiction. This indicates that jurisdiction

could not by consent be conferred upon another court to try such an action.

The provision of section 602, giving one court exclusive jurisdiction of the settlement of the estate of a deceased person, was not inserted in the law for the benefit of the parties litigant, but in the public interest for the better administration of justice. For that reason the parties have no control over it.

The practical results of a contrary holding are well illustrated in this case. After the appeal had been transferred to Ilocos Sur that court made an order directing the court of Ilocos Norte to transfer to that of Ilocos Sur all the papers connected with the estate of Margarita Sivila, and that they should remain in Ilocos Sur until the appeal and counterclaim in question were finally determined. This order would effectually stop all further proceedings in the administration of the estate in Ilocos Norte until the determination of this case in Ilocos Sur. Other persons interested in other questions arising in the estate could take no action until this particular branch of it had been disposed of in Ilocos Sur.

The fact that the same person happens to be the judge of both courts is not important. They are separate and independent tribunals.

The law authorizing a judge to decide a case outside of his province has nothing to do with the question.

Final judgment should be entered in this case perpetually prohibiting the Court of First Instance of Ilocos Sur from trying or deciding the appeal taken by Leandro Serrano from the order of the commissioners appointed in the estate of Margarita Sivila, without prejudice to an action for the recovery of the lands which are the object of the counterclaim before a competent court. The plaintiffs are entitled to recover costs against the defendant Leandro Serrano. So ordered.

Arellano, C. J., Mapa, Johnson, and Carson, JJ., concur.

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