

G.R. No. L-11914

[G.R. No. L-11914. September 19, 1957]

CONCHITA S. VDA. DE LEGARDA PETITIONER VS. HON. JULIO VILLAMOR, ET. AL., RESPONDENTS, MANOTOK REALTY, INC. AND DR. GREGORIO A. VENTURANZA, INTERVENORS.

D E C I S I O N

BAUTISTA ANGELO, J.:

This is a petition for *certiorari* seeking a modification of the order of respondent judge dated. January 14, 1957 in the sense of allowing, petitioner an extension of forty-five (45) days to exercise her option to purchase the "Legarda-Tambunting Subdivision" and other persons who may enter the bid for the sale thereof in order to obtain the best price possible for the benefit of the estate and of all the heirs of the deceased.

Dña. Clara Tambunting died on April 2, 1950 in the City of Manila leaving a will which was probated in due time (Special Proceedings No. 10808). Her husband Don Vicente L. Legarda was appointed special administrator and among the properties he included in the inventory submitted to the court as part of the conjugal property is the "Legarda-Tambunting Subdivision" located at Rizal Avenue Extension, City of Manila, containing an approximate area of 80,000 square meters and described in Transfer Certificates Of Title Nos. 59585, 29578, 62042, 45149 said 40957 or the land records of said. city.

On February 24, 1956, Don Vicente L. Legarda also died in the City of Manila leaving likewise a will which in due time was also duly probated (Special Proceeding No. 29062). In that will, the surviving widow, herein petitioner, was given one-half (1/2) of the entire estate. As a result, the heirs of the estate of the late Clara Tambunting which was still pending distribution became as follows: the minor Clara Tambunting, Conchita S. Vda. de Legarda, herein petitioner; and the nephews of Dña. Clara Tambunting, namely, Augusto, Benjamin, Romeo and Julieta, all surnamed Tambunting.

On November 21, 1951, the probate court authorized the sale of the "Lesarda-Tambunting

Subdivision" at a price of P30 to P50 per square meter upon petition of the then judicial administrator Vicente L. Legarda. As no purchaser has been found, the probate court on July 31, 1956 again ordered the administrator Philippine Trust Company to sell "as is" the property at the best obtainable price. It was not until the early part of January, 1957, or on January 5, 1957, to be exact, that Dr. Gregorio Venturanza offered to purchase the property for P650,000 under certain terms and conditions. No action was taken thereon until January 10, 1957 when on open bidding was held before the probate court at which two more bids were submitted," one by Manotok Realty Company and the other by A.U. Valencia Realty Company. Upon agreement of the bidders and the heirs, action, on the bids was postponed to January 14, 1957. On the latter date, the courts again postponed action to January 25, 1957, in an order wherein it provided, among other things, that "any or all of the heirs may have a preferential option to purchase the property for themselves under the same terms and conditions as those considered most favorable by the Court of all the offers, provided that the offer to buy is submitted not later than 12:00 o'clock noon on January 35, 1957."

On January 22, 1957, counsel for petitioner filed an urgent motion for reconsideration praying, among other things, that an extension of forty-five (45) days be given within which the heirs may exercise their preferential option considering that the time given by the court for them to do so was short; praying at the same time for such additional and reasonable time as the judge may deem proper to allow outsiders to take part in the bid so as to obtain the best price for the property considering that the three bids already submitted offered a price of not more than P10 per square meter which was considered low taking into account that the property is located in a semi-commercial place. In the morning of January 25, 1957, the Land Tenure Office likewise filed an urgent petition seeking for an opportunity to take part in the bid emphasizing therein that if the government is allowed to acquire the property it would resell the same to bonafide tenants or occupants and in that way "long protracted litigations may be avoided," Both motions having been denied, petitioner interposed the present petition for *certiorari*.

Petitioner contends that respondent judge acted with grave abuse of discretion in denying her motion for extension of the period within which the heirs may exercise their preferential option to purchase the property considering that the period so given was so short that it becomes useless having in mind the enormous value of the property which is located in a semi-commercial place and the fact that the three bids so far submitted only offered a price of P12.00 per square meter which could be greatly improved if mores time is allowed to the heirs a no to other interested persons. Petitioner further contends

that as a rule the sale of a property of a deceased person is authorized when necessary to pay the debts and charges against the estate and when beneficial to the heirs (Buenaventura v. Ramos, 43 Phil., 704), and here such situation does not obtain because the judicial administrator has in its possession more than one million pesos (P1,000,000) representing the proceeds of other properties which is more than sufficient to pay the obligations and charges of the estates and so there is no reason for the undue hurry in the sale of the property in question.

The claim of petitioner does not find support in the record. It appears that as early as November 21, 1951, the probate court had already authorized the sale of the property at a price of P30 to P50 per square meter upon petition, of the former administrator. As no offer was forthcoming, the probate court on July 31, 1958 again directed the new administrator, Philippine Trust Company, to sell it at the best obtainable price. To implement this order, the Philippine Trust Company contacted several brokers in the city, advertised the property in several newspapers, offered it to the Philippine American Life Insurance Company and the Insular Life Assurance Company, Ltd., and even tried to interest the Land Tenure Administration considering that there were many squatters on the land. Notwithstanding these efforts, no bid came forth until January 5, 1957, or after a lapse of almost six years, when Dr. Gregorio A. Venturanza made an offer of P650,000. On January 10, 1957, an open bidding was held before the probate court in the presence of all the heirs and other interested parties but on that occasion only two more bids were submitted, and the best offer only reached as high as P12.00 per square meter. During all this time, any of the heirs, including the petitioner, who was given preferential option, could have taken part in the bid, or looked for a buyer who could offer a satisfactory price, but they failed to do so and only in the last minute did they make a hasty move for additional time in a frantic effort to improve the bids. Considering the foregoing circumstances, it is doubtful if petitioner could accomplish her purpose even if her request is acceded. We are not therefore prepared to conclude in the circumstances that respondent judge committed an abuse of discretion in denying her motion.

There are several reasons why apparently a better offer cannot be obtained for the property. They are: (1) the property is largely occupied by squatters; (2) there is no up-to-date subdivision plan; (3) there is no definite information as to the exact salable area of the subdivision; and. (4) there is need for a resurvey and relocation of the subdivision.

It is true that the Land Tenure Administration has also intervened in an effort to acquire the land for the benefit of the actual occupants, but at the hearing, held on January 25,

1957, it was revealed that said office did not have the money with which to buy the land. Moreover, it appears that this land had been offered to said office by the Philippine Trust Company as early as May 8, 1956 but since then that office did not take any action. At any rate, even if this property were sold now, the government may still intervene if necessary to protect the interest of the occupants.

Petition is denied, without pronouncement as to costs. The injunction issued by this Court is hereby dissolved.

Paras, C.J., Bengzon Padilla, Montemayor, Reyes, A., Labrador, Concepcion, Reyes, J.B.L., Endencia, and Felix, JJ., concur.
