

ADELA ONGSIACO VDA. DE CLEMEÑA AND LYDA, ALICIA AND OLGA, ALL SURNAMED CLEMEÑA, PETITIONERS, VS. AGUSTIN ENGRACIO CLEMEÑA, AND HON. JUDGE PEDRO C. NAVARRO, JUDGE OF COURT OF FIR...*G.R. No. L-24739. May 22, 1969*

Ponente: FERNANDO, J.

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On July 13, 1965, a special civil action for certiorari and prohibition was filed by petitioners Adela Ongsiaco Vda. de Clemeña, the widow, and Lyda, Alicia and Olga Clemeña, the children of the deceased Engracio Clemeña. An order of respondent Judge Pedro C. Navarro denied a motion to dismiss filed by the other respondent Agustin Engracio Clemeña, who claimed to be an illegitimate child of the aforesaid Engracio Clemeña. In such pending case for partition, inventory, accounting and delivery of share,[1] respondent Agustin Engracio Clemeña, as plaintiff, sought that after due hearing the defendant therein, now petitioner Adela Ongsiaco Vda. de Clemeña, be ordered to submit a true inventory of the conjugal properties; to submit an accounting of the income of the conjugal properties as well as her paraphernal proper-ties from the time she took administration of the same by reason of the sickness of the deceased; to submit a project of partition of the estate left by the deceased and to deliver to plaintiff his legal share.

Respondent Judge denied the motion to dismiss filed by petitioners before us on the ground that the suit before him was instituted before the special proceeding for settlement and distribution of the estate filed in the Court of First Instance of Manila,[2] and that there was no pendency of another action, as what was sought in his court was the inventory, account-ing and delivery of the share as inheritance which respondent Agustin Engracio Clemeña claimed as his by virtue of his being an illegitimate child of the deceased.

To show that there was either lack or excess of jurisdiction or that there was grave abuse of discretion in the issuance of the challenged order, petitioners before us would stress that the Court of First Instance of Manila, wherein the intestate proceeding was instituted, had exclusive jurisdiction of the settlement and distribution of the estate of the deceased. Respondent Judge ought to have, in their opinion, dismissed the case then.

The writ must be granted but not by virtue of such a plea. For in a decision rendered by us on August 22, 1968,[3] the opinion being penned by Justice J. B. L. Reyes, it was held that the action of Agustin Engracio Clemeña as an alleged illegitimate child, not natural, to secure a judicial investigation and declaration of his paternity may not be instituted beyond the time limits prescribed by Article 285 of the Civil Code which deals with the compulsory acknow-ledgment of natural children.

As set forth in the opinion: "Thus, to hold with the court below that an illegitimate child not natural, already over 21 years of age at the death of its alleged parent, may still implead the latter's legal heirs or representatives to obtain a declaration that the deceased is his progenitor is certainly to upset the carefully categorized scheme of rights ordained by the Civil Code for the various classes of children. Because such a holding would not only place

the spurious child on a more advantageous position vis-a-vis the illegitimate but natural child, but actually place him on an equal footing with legitimates, whose paternity suits last as long as they live; and this advantage would be granted to the illegitimates not natural children on no other basis than the mere silence of the Code, when the right of legitimate sons and daughters to file paternity suits despite the death of their progenitors had to be expressly conferred by Article 268. In our opinion, the ruling under appeal goes against the spirit, the system, and the logic of the Civil Code."

The dispositive portion of our decision reads thus: [In view of the foregoing], the ruling of the Court of First Instance of Manila admitting evidence of the paternity of the private respondent, over and against the objections of the legal representative of the deceased alleged parent, is in grave abuse of discretion, and is hereby set aside; hence, said respondent must be declared without legal interest in the estate of the decedent. The records of the case are ordered remanded to the court of origin for further proceedings conformably to this opinion. No costs."

It being clear, therefore, that respondent Agustin Engracio Clemeña had been judicially declared by us to be without legal interest in the estate of the decedent, no useful purpose would be served by his pending action in the sale of respondent Judge Navarro for partition, with inventory, accounting and delivery of shares. Accordingly, the order of respondent Judge refusing to dismiss such a case would clearly appear, under the circumstances, to be devoid of any support in law and amount to a grave abuse of discretion.

WHEREFORE, the writ of certiorari prayed for to set aside such order denying the motion to dismiss as well as the writ of prohibition prayed for to command respondent Judge from proceeding further in the aforesaid Civil Case No. 8538 pending before him are granted. With costs against respondent Agustin Engracio Clemeña.

Reyes, J.B.L., Acting C.J., Dizon, Makalintal, Zaldivar, Sanchez, Capistrano, and Barredo., JJ., concur.

Teehankee, J., did not take part.

Concepcion, C.J., and Castro, J., on official leave.

[1] Civil Case No. 8538 of the Court of First Instance of Rizal.

[2] Special Proceeding No. 59712.

[3] Vda. de Clemeña v. Clemeña, L-24845.

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