

IN RE INTESTATE ESTATE OF THE DECEASED TAN SIN AN. KONG CHAI PIN, PETITIONER-ADMINISTRATRIX AND APPELLANT, VS. ANTONIO. C. GOQUIOLAY, MOVANT-CLAIMANT AND APPELLEE.*G. R. No. L-5303. June 30, 1953*

Ponente: REYES, J.

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Tan Sin An died intestate on June 26, 1942, in the province of Davao, and in the proceedings subsequently instituted in the Court of First Instance of that province for the administration of his estate, his widow, Kong Chai Pin, was appointed administratrix. To pay off certain obligations of the deceased, Kong Chai Pin, on March 29, 1949, petitioned the court for authority to sell to Washington Z. Sycip and Betty Y. Lee, of Manila, real property belonging to the conjugal partnership of herself and the deceased together with three parcels of land belonging to a partnership formed between the deceased and Antonio C. Goquiolay; and the petition having been granted, Kong Chai Pin, in her own behalf and in her capacity as administratrix of the estate of the deceased and as alleged manager of the aforementioned partnership, on April 4, 1949, executed the corresponding deed of sale, which was subsequently approved by the court in its order of April 26, 1949.

On July 25, 1949, Antonio C. Goquiolay, the surviving partner of the deceased, filed a petition in the administration proceedings, protesting against the approval of the deed above-mentioned, which according to him had come to his notice only on that day. Basis of protest was the allegation that the deed covered lands belonging to him and the deceased but without specifying that only the share of the latter was being conveyed, thereby depriving petitioner of his own share. Petitioner, therefore, prayed that the order approving the deed be set aside in so far as it affects his share of the property.

The petition was opposed by the administratrix, who alleged that the land referred to in the petition belonged to the co-partnership "Tan Sin An and Antonio C. Goquiolay" and that, as petitioner had no voice in the management of the co-partnership, he had no right to oppose the sale of its property. The administratrix further alleged that, as the order approving the sale had already become final, the court no longer had jurisdiction to set it aside.

Overruling the opposition, the court, in its order of December 29, 1949, granted the petition and set aside the order approving the sale in so far as it affects the share of Goquiolay in the lands in question, declaring the sale void with respect to said share and ordering the cancellation of such transfer certificates of title as may have been issued on the basis of said sale and the issuance in place thereof of new ones in the name of Antonio C. Goquiolay and the purchasers of Tan Sin An's share. A motion to reconsider this order having been denied, the administratrix appealed to the Court of Appeals, but that court has certified the case to us, stating that the question involved is one of law.

We note that the vendees in the sale annulled by the lower court, whose interest was necessarily affected by such annulment, were neither notified nor heard, for they were not made party to the proceedings for annulment, and

this is one of the points raised in the appeal. The point is vital. Section 7 of Rule 3, Rules of Court, provides that parties in interest without whom no final determination can be had of an action shall be joined either as plaintiffs or defendants. The vendees in the present case come under this rule, for without them the question of whether the sale should be annulled or not cannot with finality be determined. Being indispensable parties, they should have been joined in the proceedings. (*Ocejo, Perez & Co. vs. International Banking Corporation*, 37 Phil., 631; *Alberto et al. vs. Mananghala, et al.*, 89 Phil., 188; *Garcia vs. Reyes*, 17 Phil., 127.) As that was not done, it was error for the court to order the annulment of the sale and to have its transfer certificates of title already issued in their favor cancelled. For this reason, it is necessary to have the case remanded to the court below so that this defect in procedure may be corrected.

Wherefore, without for the present ruling on appellant's other specifications of error since all the parties who might be affected by such ruling are not before the court, it is our decision that the order complained of be, as it is hereby, set aside and the case remanded to the court below for a new trial after all indispensable parties have been joined in the proceedings in accordance with law. Without special pronouncement as to costs.

Paras, C, J., Pablo, Bengzon, Padilla, Tuason, Montemayor, Jugo, Bautista Angelo and Labrador, JJ., concur.

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