

**FILEMON RAMIREZ, MONICA RAMIREZ, AND JOSE EGUARAS,
PLAINTIFFS-APPELLANTS, VS. ARTEMIO BALTAZAR, ET AL.,
DEFENDANTS-APPELLEES.**

G.R. No. L-25049. August 30, 1968

Ponente: ANGELES, J.

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ANGELES, J.:

On appeal from an order dismissing the complaint, on a motion to dismiss, in Civil Case No. SC-319 of the Court of First Instance of Laguna.

It appears that on 6 January 1959, Victoriana Eguaras, single, made and executed a real estate mortgage over a parcel of land, owned by her in fee simple, as security for a loan of P2,170.00 in favor of the spouses Artemio Baltazar and Susana Flores.

Upon the demise of the mortgagor, the mortgagees, as creditors of the deceased, on 16 September 1960, filed a petition for the intestate proceedings of her estate, in the Court of First Instance of Laguna, docketed as Civil Case No. SC-99 wherein said mortgagees, as petitioners, alleged that Filemon Ramirez and Monica Ramirez are the heirs of the deceased. Filemon Ramirez was appointed administrator of the estate; however, having failed to qualify, on 16 January 1961, the court appointed Artemio Diawan, then a deputy clerk of court, administrator of the estate who, in due time, qualified for the office.

On 19 April 1961, the mortgagees, Artemio Baltazar and Susana Flores, filed a complaint for foreclosure of the aforesaid mortgage, against Artemio Diawan, in his capacity as administrator of the estate, docketed as Civil Case No. SC-292 of the Court of First Instance of Laguna. The defendant-administrator was duly served with summons but he failed to answer, whereupon, on petition of the plaintiffs said defendant was declared in default. The case was referred to a commissioner to receive the evidence for the plaintiffs, and defendant-administrator, as deputy clerk of court, acted as such hearing commissioner.

On 16 August 1961, decision was rendered decreeing the foreclosure of the mortgaged property and the sale thereof, if, within ninety days from finality of the decision, the obligation was not fully paid. The judgment not having been satisfied, a writ of execution was issued for the sale of the mortgaged-property, and after compliance with the requirements of the law regarding the sending, posting and publication of the notice of sale, the Sheriff sold the property at public auction to the highest bidder, who happened to be the plaintiffs themselves, for the sum of P2,888.50 covering the amount of the judgment, plus the expenses of the sale and the Sheriff's fees. On petition of the plaintiffs, the sale was confirmed by the court on 26 January 1962.

On 6 February 1962, Filemon Ramirez, Monica Ramirez and Jose Eguaras, the first two being the heirs named in the petition for intestate proceedings, filed a complaint designated "For the Annulment of all Proceedings in said Civil Case No. SC-292 for the Foreclosure of the Mortgage", against the spouses Artemio Baltazar and Susana Flores, and Artemio Diawan, in his capacity as administrator of the estate of Victoriana Eguaras, deceased, and Silverio Talabis, in his capacity as deputy provincial sheriff of Laguna, docketed as Civil Case No. SC-319 of

the Court of First Instance of Laguna.

The facts hereinabove narrated are, succinctly, contained in the complaint in said Civil Case No. SC-319, with the additional averments that the defendant Diawan, the deputy clerk of court appointed as administrator of the intestate estate of the deceased, acted in collusion with the other defendants Artemio Baltazar and Susana Flores, deliberately and in fraud of the plaintiffs: (a) in allowing the reglementary period within which to file an answer to lapse without notifying and/or informing the said plaintiffs of the complaint for foreclosure, as a result of which he was declared in default to the prejudice of the estate which he represents; (b) that had the plaintiffs (Monica and Filemon) been notified of the pendency of the case, the defendant-administrator could have interposed a counter-claim because payment in the sum of P1,548.52 had been made and received by the mortgagees on account of the debt; (c) in presiding as hearing officer in the ex-parte hearing in Civil Case No. 292, to receive evidence for plaintiffs therein, notwithstanding the fact that there was another deputy clerk of court available who could have acted in his stead, as a result of which an anomalous situation was created whereby he was a defendant and at the same time a commissioner receiving evidence against himself as administrator; (d) in allowing judgment to become final without notifying the plaintiffs; (e) in deliberately allowing the 90-day period within which to make payment to expire without notifying the heirs, as a result of which the said heirs were not afforded an opportunity to make payments ordered by the Court in its decision; and (f) in refusing to help the heirs seek postponement of the auction sale. It is also alleged that it was only when the property foreclosed was published for sale at public auction that the heirs came to know about the foreclosure proceedings.

The defendants spouses, Artemio Baltazar and Susana Flores, filed a motion to dismiss the complaint on the ground that the plaintiffs have no legal capacity to sue; defendant Diawan likewise moved to dismiss on two grounds: that plaintiffs have no legal capacity to sue and that the complaint states no cause of action.

Despite vigorous opposition interposed by the plaintiffs against the aforesaid motions to dismiss, the court, on 13 March 1962, dismissed the complaint with costs against the plaintiffs, reasoning thus: that "upon considering of the evidence, said defendant could not have offered any evidence to avoid the foreclosure of the mortgage which the Court found to be in order. Under the circumstances and with the apparent disinterestedness of Filemon and Rolando to qualify as administrator when appointed, there could not have been any connivance and/or collusion between plaintiffs in this case and Artemio Diawan as administrator"; and that plaintiffs have no legal capacity to sue since their status as legal heirs of the deceased has yet to be determined precisely in Special Proceedings No. SC-99, and until such status is so fixed by the Court, they have no cause of action against defendants.

In that order of 13 March 1962, the court also denied plaintiffs' petition for the issuance of a writ of preliminary injunction to enjoin defendants from entering and taking physical possession of the land in question on the ground "that possession thereof was effected and delivered by the Provincial Sheriff to Artemio Baltazar and Susana Flores on February, 1962."

Reconsideration of the aforesaid order having been denied, the plaintiffs took the present appeal where they assigned the following errors: (1) in holding that plaintiffs-appellants have no legal capacity to sue until their status as legal heirs of the deceased is determined in Special Proceeding No. SC-99; (2) in ruling that there was no collusion or connivance among the defendants-appellees, despite the fact that the issue in the motion to dismiss is purely legal, not factual; and (3) in denying the petition for a writ of preliminary injunction.

At the outset, let it be remembered that the defendants-appellees, in availing themselves of the defense that the plaintiffs-appellants had not been declared to be the heirs of the deceased Victoriana Eguaras, have overlooked the fact that they (defendants-appellees) themselves in their petition for intestate proceedings (Case SC-99) have

alleged that Filemon Ramirez and Monica Ramirez, two of herein plaintiffs-appellants, are the heirs of the deceased. Insofar as defendants-appellees are concerned, it is our opinion that they are estopped from questioning the heirship of these two named persons to the estate of the deceased.

There is no question that the rights to succession are automatically transmitted to the heirs from the moment of the death of the decedent.[1] While, as a rule, the formal declaration or recognition to such successional rights needs judicial confirmation, this Court has, under special circumstances, protected these rights from encroachments made or attempted before the judicial declaration.[2] In *Pascual vs. Pascual*,[3] it was ruled that although heirs have no legal standing in court upon the commencement of testate or intestate proceedings, this rule admits of an exception as "when the administrator fails or refuses to act, in which event the heirs may act in his place."

A similar situation obtains in the case at bar. The administrator is being charged to have been in collusion and connivance with the mortgagees of a property of the deceased, allowing its foreclosure without notifying the heirs, to the prejudice of the latter. Since the ground for the present action to annul the aforesaid foreclosure proceedings is the fraud resulting from such insidious machinations and collusion in which the administrator has allegedly participated, it would be farfetched to expect the said administrator himself to file the action in behalf of the estate. And who else but the heirs, who have an interest to assert and to protect, would bring the action? Inevitably, this case should fall under the exception, rather than the general rule that pending proceedings for the settlement of the estate, the heirs have no right to commence an action arising out of the rights belonging to the deceased.

On the second point raised, We fully agree with the plaintiffs-appellants that the lower court had gone too far in practically adjudicating the case on the merits when it made the observation that "there could not have been any connivance and/or collusion between plaintiffs in this case and Artemio Diawan as administrator." A thorough scrutiny of the allegations in the motions to dismiss filed by defendants-appellees does not indicate that that question was ever put at issue therein. On the other hand, the controversy – on the existence or inexistence of collusion between the parties as a result of which judgment was rendered against the estate – is the very core of the complaint that was dismissed. Undoubtedly, the cause of action is based on Section 30, Rule 132 of the Rules of Court.

We are not, however, in accord with the third assigned error – the denial of the motion for the issuance of preliminary injunction – for it puts at issue the factual finding made by the lower court that the defendants had already been placed in possession of the property. At this stage of the proceeding, and considering the nature of the case before Us, such a question is, at this time, beyond the competence of the Court.

PREMISES CONSIDERED, the order appealed from is hereby set aside insofar as it dismissed the complaint in Civil Case No. SC-319, and the records be remanded to the lower court for further proceedings. Costs against defendants-appellees.

The Clerk of Court is directed to furnish a copy of this decision to the Department of Justice for its information.

Concepcion, C.J., Reyes, Dizon, Makalintal, Zaldivar, Sanchez, Castro, and Fernando, JJ., concur.

[1] Art. 777, New Civil Code.

[2] *Morales et al. vs. Yañes*, 98 Phil. 677, citing *Coronel vs. Ona*, 33 Phil. 456; *Noble Jose vs. Noble Jose*, 41 Phil. 713; *Velasco vs. Vizmanos*, 45 Phil. 675. See also *Cabuyao vs. Caagbay, et al.*, 95 Phil. 614.

[3] 73 Phil. 561.

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