

LUCENA MAGALLANES, PETITIONER, VS. HON. UNION KAYANAN, PRESIDING JUDGE OF BRANCH IV, CFI, QUEZON AND THE HEIRS OF ELIGIO MAGALLANES, RESPONDENTS.

G.R. No. L-31048. January 20, 1976

Ponente: MARTIN, J.

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MARTIN, J.:

The validity of a summary judgment rendered in the Court of First Instance of Quezon, in Special Proceedings No. 3913, entitled *Re: Summary Settlement of the Estate of Filomena Magallanes, Lucena Magallanes, petitioner, versus Heirs of Eligio Magallanes, oppositors*, is the main issue in this petition for review.

On August 4, 1960, petitioner Lucena Magallanes filed a "Solicitud" praying that Lot No. 2657 covered by Original Certificate of Title No. 1091 and one-half (1/2) of Lot No. 3465 covered by Original Certificate of Title No. 6447, both of the Register of Deeds of Tayabas (Quezon) be partitioned and distributed among the heirs of the deceased Filomena Magallanes.

On October 31, 1961, private respondents, the Heirs of Eligio Magallanes, namely: Maria San Buenaventura, Godofredo Magallanes and Carmen Magallanes de Ingente, filed their opposition and motion to dismiss the "Solicitud", claiming title and ownership over the parcels of land in question and raising the issue that the trial court is devoid of jurisdiction to resolve the issues raised in the pleadings.

On July 12, 1968, the private respondents filed a petition for summary judgment on the pleadings praying that their absolute right of ownership over the properties in question be recognized and confirmed. Petitioner filed her opposition to the petition for summary judgment on the ground that in a summary settlement of an estate, the Court has no jurisdiction to pass finally and definitely upon the title or ownership over the properties involved therein; and that summary judgment is not proper, there being a genuine issue or material controversy raised by the pleadings of the parties.

On March 21, 1969, the lower court rendered a summary judgment on the pleadings submitted by the parties confirming the private respondents' (Heirs of Eligio Magallanes) absolute and exclusive right of ownership and possession over the whole of Lot No. 2657 and the one-half undivided portion of Lot No. 3465 and ordering the Register of Deeds of Quezon Province to cancel the Notice of Lis Pendens on Original Certificate of Title No. 1091 covering Lot No. 2657.

On April 22, 1969, the petitioner moved for reconsideration of the aforesaid summary judgment and/or new trial but the lower court on June 19, 1969 denied the motion for reconsideration for being pro forma and declared its decision dated March 21, 1969 to be final and executory. Accordingly, a writ of execution was issued and served upon the petitioner on July 14, 1969. However, even before said date, petitioner was able to perfect her appeal on June 30, 1969, with the filing of the notice of appeal, appeal bond and record on appeal.

In her brief, petitioner presses upon the lower court the following errors:

I

"THE TRIAL COURT ERRED IN PASSING UPON FINALLY AND DEFINITELY THE TITLE TO OR OWNERSHIP OF LOT 2657 OF THE LUCENA CADASTRE, COVERED BY ORIGINAL CERTIFICATE OF TITLE NO. 1091 OF THE REGISTER OF DEEDS OF TAYABAS AND ONE-HALF (1/2) OF LOT NO. 3465 OF THE LUCENA CADASTRE, COVERED BY CERTIFICATE OF TITLE NO. 6447 OF THE REGISTER OF DEEDS OF TAYABAS, WHEN IT HAS NO JURISDICTION TO SO ACT, THE PETITIONER HAVING CONSISTENTLY REFUSED TO SUBMIT THAT ISSUE TO THE JURISDICTION OF THE TRIAL COURT.

II

"THE TRIAL COURT ERRED IN NOT MERELY DETERMINING IN THE DECISION DATED MARCH 21, 1969 WHETHER OR NOT THE PROPERTIES IN QUESTION SHOULD BE INCLUDED IN THE INVENTORY ASSUMING THE AFORESAID DECISION RENDERED THROUGH SUMMARY JUDGMENT WAS PROPER AND REGULAR.

III

"THE TRIAL COURT ERRED IN RENDERING THE DECISION DATED MARCH 21, 1969 THROUGH SUMMARY JUDGMENT, WITHOUT TRIAL, WHERE (THERE) ARE GENUINE ISSUES AND MATERIAL CONTROVERSY, THE PETITIONER CLAIMING IN HER PLEADINGS THAT SHE AND HER CO-HEIRS OWN THE REALTIES IN QUEZON BY INHERITANCE FROM THE DECEASED FILOMENA MAGALLANES WHILE THE RESPONDENTS CLAIM OWNERSHIP OVER THE AFORESAID REALTIES BY PURCHASE FROM THE DECEASED FILOMENA MAGALLANES DURING HER LIFETIME.

IV

"THE TRIAL COURT ERRED WHEN IT HELD IN ITS ORDER ON JUNE 19, 1969 THAT THE MOTION FOR RECONSIDERATION DATED APRIL 21, 1969 IS PRO FORMA AND DID NOT SUSPEND THE RUNNING OF THE PERIOD TO APPEAL.

V

"THE TRIAL COURT ERRED IN HOLDING THE DECISION DATED MARCH 21, 1969 FINAL AND EXECUTORY.

VI

"THE TRIAL COURT ERRED IN ORDERING THE ISSUANCE OF A WRIT OF EXECUTION IN THE SAME ORDER OF JUNE 19, 1969.

VII

"THE TRIAL COURT ERRED IN ISSUING THE WRIT OF EXECUTION DATED JUNE 19, 1969 WHICH IS VOID AND OF NO EFFECT."

We find merit in the petitioner's argument that the lower court has no jurisdiction to pass finally and definitely upon the title of ownership of the properties involved in the summary settlement of the estate of the deceased Filomena Magallanes instituted by the petitioner. Well established is the doctrine that the property, whether real or personal, which are alleged to form part of the estate of a deceased person but claimed by another to be his property by adverse title to that of the deceased and his estate and not by virtue of any right of inheritance from the deceased, cannot be determined by the probate court. Such questions must be submitted to the Court of First Instance in the exercise of its general jurisdiction to try and determine ordinary actions.[1] The probate court may

do so only for the purpose of determining whether or not a given property should be included in the inventory of the estate of the deceased, but such determination is not conclusive and is still subject to a final decision in a separate action to be instituted between the parties.[2] Likewise, the probate court may also determine questions of title to property if the parties voluntarily submitted to its jurisdiction and introduced evidence to prove ownership.[3]

In the case at bar, the action instituted by the petitioner was not for the purpose of determining whether or not a given property should be included in the inventory of the estate of the deceased. The action was for partition and distribution of the properties left by the deceased. Neither have all of the parties voluntarily submitted the issue of ownership for resolution by the court. As a matter of fact the petitioner opposed the petition of private respondents to have the issue of ownership or title decided in the proceeding for the settlement of the estate of the deceased. It was therefore erroneous for the lower court to resolve the question of title or ownership over the properties in said proceeding. It could only pass upon such a question in the exercise of its general jurisdiction in an ordinary action.

Petitioner faulted the lower court for rendering summary judgment on the case. Summary judgment can be availed of where no genuine issue as to any material fact is raised in the pleadings.[4] Where there is an issue or issues of fact joined by the parties or where the facts pleaded by the parties are disputed or contested, neither one of them can pray for a summary judgment to take the place of a trial.[5] Summary judgment can be rendered only where there are no questions of fact in issue or where the material allegations of the pleadings are not disputed.

An examination of the pleadings in this case clearly shows that there is a genuine issue or material controversy raised therein. Thus, petitioner claims that she and her co-heirs have the right to inherit the properties in question as they form part of the estate of Filomena Magallanes. On the other hand, herein private respondents contend that they acquired the ownership over the said properties by purchase from Filomena Magallanes during her lifetime. In the face of the conflicting claims of both petitioner and respondents a factual dispute certainly arises which can only be properly settled by means of a trial on the merits. Summary judgment was, therefore, uncalled for in the premises.

Petitioner also assailed the order of the lower court denying her motion for reconsideration of the summary judgment in question as pro forma. A motion for new trial or reconsideration on the ground that the judgment is contrary to law, which does not point out the supposed defects in the judgment is pro forma. Section 2, Rule 37 of the Rules of Court requires the movant for the new trial to point out the findings of fact or conclusions of law supposed to be insufficiently borne out by the evidence or contrary to law.[6] A reading of the motion for reconsideration of the aforesaid summary judgment shows specifically the conclusions reached by the lower court which are contrary to law, the lack of jurisdiction on the part of the lower court to resolve the issue of ownership and possession of properties left by a deceased person in the settlement of his estate proceeding and the propriety of the rendition of the summary judgment on the pleadings submitted by the parties. Although the former pleadings of the petitioner already contained allegations on the question of jurisdiction and the propriety of the summary judgment, this fact does not make the motion for reconsideration pro forma because it expressly made reference to what portion of the lower court's conclusion are contrary to law and to established jurisprudence. In a case[7] the Supreme Court held that the motion for new trial or reconsideration cannot be considered as simply pro forma where it not only states that the decision is contrary to law but also explains in detail relevant facts for seeking its revocation. Since the motion for reconsideration is not pro forma, the filing of the same on time stopped the running of the period within which to appeal the decision. It was therefore an error on the part of the lower court to issue a writ of execution of the decision in question before it has become final and executory.

Finally, private respondents claim that the trial court erred in approving petitioner's record on appeal after it had

lost jurisdiction over the case. There is no need to resolve the assigned error. It is elementary that in a petition for certiorari like the case before Us, the submission of a record on appeal is not necessary.

Wherefore, in view of all the foregoing judgment is hereby rendered:

1. Declaring the decision of the lower court dated March 21, 1968 and the writ of execution dated June 19, 1969 null and void; and
2. Remanding the case to the lower court as a court of general jurisdiction to settle the title and ownership over the parcels of land in question between Lucena Magallanes who claims to have inherited the same from Filomena Magallanes and the heirs of Eligio Magallanes who claim to have purchased them.

Costs against the private respondents.

So ordered.

Teehankee (Chairman), Makasiar, Esguerra, and Muñoz Palma, JJ., concur.

[1] Bauerman vs. Casas, 10 Phil. 386; Chanco vs. Madrilejos and Abreu, 12 Phil. 543; Devesa vs. Arbes, 13 Phil. 373; Franco vs. O'Brien, 13 Phil. 359; De los Santos vs. Jarra, 15 Phil. 147; Guzman vs. Anog, 37 Phil. 61; Lunsod vs. Ortega, 46 Phil. 644; Santiago vs. Court of First Instance of Rizal, 55 Phil. 62; Mercado vs. Mercado, 65 Phil. 543; Jocson vs. Nava, 69 Phil. 1; Ferraris vs. Rodas, 65 Phil. 732; Mallari vs. Mallari, 92 Phil. 694; Baquial vs. Amihan, 92 Phil. 501; Ongsingco vs. Tan, 97 Phil. 330; also Pascual vs. Pascual, 73 Phil. 561; Cordova Vda. de Mañalac vs. Ocampo, 73 Phil. 661; Padilla vs. Natela, L-7479, 51 O.G. 5136.

[2] Marcelino vs. Antonio, 70 Phil. 388; Garcia vs. Garcia, 67 Phil. 353; Cordova Vda. de Mañalac Ocampo, supra.; Bercena vs. Ocampo, 74 Phil. 227; Heirs of Gregoire vs. Baker, 51 Phil. 75; Fulgencio vs. Perez, 49 O.G. 5477; Martin de Guanzon vs. Jalandoni, 93 Phil. 1089; Bernardo vs. Court of Appeals, L-18247, Feb. 28, 1963; Junquera vs. Borromeo, L-18498, March 30, 1967.

[3] Cordova Vda. de Mañalac vs. Ocampo, supra.; Cunanan vs. Amparo, 45 O.G. 3796; Pascual vs. Pascual, supra.

[4] Enervida vs. De la Torre, et al., 55 SCRA 339; De Leon vs. Faustino, L-15804, Nov. 29, 1969.

[5] Singleton vs. Phil. Trust, 99 Phil. 91; Ibalez vs. North Negros Sugar Co., et al., 96 Phil. 980; Gatchalian vs. Pavilin, L-17619, Oct. 31, 1962; Agcanas vs. Nagum, 32 SCRA 298.

[6] Villalon, et al. vs. Ysip and Golangco, 98 Phil. 851; United Employees Welfare Association vs. Isaac Bowling Alley, 102 Phil. 219.

[7] Carbonel vs. Padilla, et al., 75 Phil. 95.

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