

ADELA SANTOS GUTIERREZ, MOVANT AND APPELLEE, VS. JOSE D. VILLEGAS AND RIZALINA SANTOS RIVERA, OPPOSITORS AND APPELLANTS.*G. R. No. L-11848. May 31, 1962*

Ponente: PAREDES, J.

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On November 11, 1954, Irene Santos died intestate, leaving as her only heirs her surviving spouse Jose D. Villegas and two nieces daughters of a deceased brother, Rizalina Santos Rivera and Adela Santos Gutierrez. Thereafter, the surviving spouse filed with the Rizal CFI, Pasay City Branch, a petition for Letters of Administration (Sp. Proc. No. 2100), and was appointed administrator of the estate. In the petition, he named as intestate heirs, besides himself, Rizalina Santos Rivera and Adela Santos Gutierrez. Under date of January 15, 1955, in the above-mentioned Special Proceedings, an unverified manifestation signed by Adela Gutierrez, accompanied by a public instrument entitled "Kasulatan ng Bilihan at Salinan", dated January 12, 1955, was presented to the Probate Court, stating among others, the following

"The undersigned hereby solemnly manifests * * * that all her rights, interests and participation in the estate subject of this proceeding now belong to her sister, Rizalina Santos-Rivera, and that hereafter she will not take part in the above-entitled proceedings and is not entitled to the service of any pleadings, motion, order or decision filed or promulgated therein."

In a verified manifestation presented before the probate Court on January 25, 1955, Adela averred that the deed of assignment of her rights, participation and interest in the estate of Irene Santos and the first manifestation were obtained thru fraud practiced by the administrator upon her and were vitiated by mistake or undue influence. Therein, she narrated that sometime in December, 1954, due to stringent financial conditions, she (Adela), requested the administrator for an advance of P2,000.00 from the estate. The administrator refused on the ground that it is against the law, but suggested that she might obtain a loan from her sister Rizalina, offering to help. After Christmas of 1954, the administrator informed Adela that he was able to secure the conformity of Rizalina to give her a loan of P10,000.00 instead of only P2,000.00. When Adela expressed surprise over the amount, the administrator replied that he only wanted to help her get started in business. On January 12, 1955, Adela was brought by Villegas and Rizalina to the office of their lawyer, where she was made to sign a document she could not read. On January 13, 1955, the lawyer asked Adela to sign another document, which he said was to be presented in Court and explained the contents of the document signed the day before. It was only then that Adela came to know that said document was a deed of sale. [1] When Adela protested, Villegas told her that the matter could be discussed better in his house in Malabon. On arriving at Malabon, Villegas informed Adela that the amount of P50,000.00 which Rizalina was paying for her share in the inheritance, was probably more than what she would get in the estate, because the estate is not valuable and had plenty of debts. Villegas handed to Adela P6,800.00 in cash and a check drawn by Rizalina on the Prudential Bank for P3,200.00. Although Adela did not want to accept the money, Villegas refused to take them back. When she was made to sign the deed of

assignment, Adela did not know the true value of the estate, which she now estimates to be no less than P1,000,000.00. In the same manifestation, Adela stated that a complaint for annulment of the Deed of Assignment was being prepared; that she was tendering the full amount of P10,000.00 to Villegas or Rizalina; that she was placing the above facts within the knowledge of the Court so that no action be taken giving value to the alleged deed of assignment and in order that she (Adela) might be notified of each and all the pleadings or orders connected with the proceedings. The administrator Villegas and Rizalina filed exceptions and/or objections to the Manifestation, denying the allegations of fraud, undue influence and the like.

In a motion dated September 7, 1955, filed with the CFI of Pasay, Adela asked the Court to transfer Special Proceedings No. 2100, to Branch I (Pasig), alleging that the complaint for the nullity of the Deed of Assignment filed with the Rizal CFI had been assigned to- said Branch I; and that the transfer would save time and effort on the part of all concerned. The motion was strongly opposed by the administrator who stated, among others—

"That in the final distribution of the estate to the heirs, the share corresponding to the movant Adela Santos Gutierrez may be ordered withheld by this Court (if due motion therefor shall have been presented to this Court) until the validity of the deed of assignment shall have been resolved by Branch I of the Court of First Instance of Rizal".

On September 16, 1955, the motion to transfer was denied.

On February 9, 1956, Adela presented with the Probate Court, a motion praying that the administrator and/or his attorneys be required to furnish her all copies of pleadings filed or to be filed in the intestate proceedings, it appearing that the administrator presented pleadings in Court without serving her copies thereof.

An opposition was interposed by the administrator, who alleged that the movant, although originally a party to the probate proceedings, has voluntarily and expressly desisted from being so, and that having assigned by sale, all her rights, interests and participations in the estate, she has no longer any legal standing in the case. On March 12, 1956, the Court (Judge Emilio Rilloraza, presiding), promulgated the following order—

"* * *, the Court is of the opinion that the said motion should be, as it is hereby, granted and the said administrator and/or his attorneys are hereby directed to furnish Adela Santos Gutierrez, through counsel, all copies of the pleadings filed and to be filed in this case, except those mentioned in said motion within a reasonable time upon notice hereof.

The Clerk of Court should see to it that before receiving for filing by the administrator or the other legal heir, Rizalina Santos Rivera, and/or their respective counsel, any pleadings, motions etc., that copies thereof have been furnished Adela Santos Gutierrez through counsel".

A series of long pleadings were presented by the parties, following a motion of reconsideration, containing arguments and authorities sustaining their respective theories.

On June 2, 1956, vacation Judge Jesus Y. Perez, handed down an Order, the material portions of which follow—

* * * * *

"The only question for determination in this incident is whether or not Adela Santos Gutierrez has a right to intervene in this probate proceeding. The Administrator contends that she has no such right because she had already assigned all her rights to her sister, Rizalina Santos Rivera.

Although at the outset, Adela Santos Gutierrez had the right to intervene herein as one of the legal heirs of the deceased Irene Santos, yet, when she filed her manifestation, accompanied by the Deed of Sale and Assignment, informing this Court that she had assigned all her rights and interests as such heir to her sister, Rizalina Santos

Rivera, said Adela Santos Gutierrez had ceased to have any interest in this estate and without such interest, she could no longer intervene in this proceeding. The assignment, a copy of which is attached to the record, is in the form of a public deed which is entitled to be accorded the presumption of validity so that until the same is annulled in the corresponding action filed by Adela Santos Gutierrez in the Pasig Branch of this Court, her interest would merely be a contingent one, that is, depending upon the contingency of a decision declaring such annulment of the deed of assignment. This contingent interest of Adela Santos Gutierrez is not sufficient to make her an interested party in this proceedings, unless otherwise provided by law, the interest required in order that a person may be a party, must be material and direct, and not indirect or contingent (II Moran's Rules of Court, 1952 Ed., pp. 391-92). We quote the following from Moran's Rules of Court:

* * * * *

In the same way, since the interest of Adela Santos Gutierrez to be considered as heir is dependent upon the contingency that she would succeed in her case for annulment of the Deed of Assignment in the Court of First Instance of Rizal, her contingent interest is not sufficient to make her an interested party in this proceeding.

WHEREFORE, the Court hereby sustains the motion for reconsideration filed by the administrator and hereby sets aside the order of March 12, 1956".

Adela Santos Gutierrez, on June 26, 1956, moved for the reconsideration of the above Order, contending that her motion on February 8, 1956, was not a leave for intervention (Rule 13). At most, the rule on transfer of interest pendente lite (Sec. 20, Rule 3), should be applicable, not that of intervention. On August 10, 1956, Judge Rilloraza, who had already returned from vacation, set aside the order of Judge Perez, stating:

"* * *, this Court is of the opinion that the order of this Court dated June 2, 1956 should be, as it is hereby set aside.

Let the administrator and/or his attorney furnish henceforth Adela Santos Gutierrez, through counsel, copies of all pleadings, motions, etc., to be filed in this case."

The above Order is now the subject of instant appeal, the administrator and Rizalina Santos Rivera

assigning three (3) errors allegedly committed by the court a quo, all of which pose a singular issue, viz, whether Adela Santos Gutierrez is still entitled to be furnished with pleadings filed by the administrator in the probate proceedings and orders therein issued by the lower court.

The order appealed from being interlocutory, cannot be the subject of an appeal. Even on this plane alone, the appeal should be dismissed. Of course, appellants cited the case of Tengco vs. San Jose, (97 Phil., 491), wherein We considered the appeal as petition for certiorari. That case, however, has no parallel to the one now under consideration. It was one for mandamus for the purpose of compelling the Judge to give due course to an appeal. Considering that in order for certiorari and mandamus to prosper, allegations to the effect that the court has no jurisdiction, or it acted in excess thereof or with grave abuse of discretion, must appear, which is not obtaining in the instant case (because it is an ordinary appeal), it becomes peremptory that the present appeal is not in order.

Moreover, it cannot be successfully denied that Adela Santos Gutierrez is an indispensable party to the proceedings in question. Her interest in the estate is not inchoate, it was established at the time of death of Irene Santos on November 11, 1954. While it is true that she executed a deed of assignment, it is also a fact that she asked the same to be annulled, which action is now pending before the Rizal CFI, Pasig Branch. Although Adela had filed a manifestation dropping herself from the proceedings and presenting therewith the supposed Deed of Assignment, the record, nevertheless fails to show that action thereon had been taken by the probate Court. Every act intended to put an end to indivision among co-heirs and legatees or devisees is deemed to be a partition,

although it should purport to be a sale, an exchange, a compromise, or any other transaction (Art. 1082, NCC). No serious argument can be offered to deny the co-heirship of appellee in the estate under probate. It appearing (if we assume the due execution of the Deed of Assignment), that the transaction is in the nature of extra-judicial partition, court approval is imperative, and the heirs cannot just divest the court of its jurisdiction over the estate and over their persons, by the mere act of assignment and desistance. Thus, in the case of *Sandoval vs. Santiago*, (83 Phil., 789; 46 Off. Gaz., [11] 236), this Court said: * * * and the heirs of the deceased Marquez could not divest the Court of First Instance of its already acquired jurisdiction by the mere fact of dividing and distributing extrajudicially the estate of the deceased among themselves". But even' if the partition had been judicially approved on the basis of the alleged deed of assignment, an aggrieved heir does not lose her standing in the probate court.

"In our opinion, the court that approved the partition and the agreement in ratification thereof may annul both whenever, as it is here alleged, the approval was obtained by deceit or fraud, and the petition must be filed in the courts of the intestate proceedings, for it is generally admitted that probate courts are authorized to vacate any decree or judgment procured by fraud, not only while the proceedings in the course of which it was issued were pending, but even, as in this case, within a reasonable time thereafter." (*Trillana vs. Crisostomo*, 89 Phil., 710; *Espinosa vs. Barrios*, 70 Phil. 311).

We agree with appellee that the motion, in question is not one of intervention, but solely a plea to enforce a right and that is to receive pleadings and orders related to the case. Evidently, the use of the word "intervention" in the manifestation and pleadings presented by Adela was resorted to for that of another appropriate word. In effect, all she wanted to convey was that she should participate or continue taking part in the case for being an original party therein. It was her belief that in filing the manifestation dropping-herself from the proceedings (but which she later informed the court to have been secured thru fraud), her standing might have been affected. Intervention as contemplated by the Rules is a proceeding in a suit or action by which a third person is permitted by the court to make himself a party, either joining plaintiff in claiming what is sought by the complaint or uniting with defendant in resisting the claims of plaintiff, or demanding something adversely to both of them; the act or proceeding by which a third person becomes a party in a suit pending between others; the admission, by leave of court, of a person not an original party to pending legal proceedings, by which such person becomes a party thereto for the protection of some right or interest alleged by him to be affected by such proceedings (*Judge of Camarines Sur, et al., vs. David, et al.* G.R. No. 45454, April 12, 1939, cited in *Francisco's Rules of Court*, Vol. I, Part I, p. 639, *Italics supplied*). The circumstances stated above do not fit the status of Adela in the probate proceedings; she was not a third person; she was an original party therein.

We see no prejudice to be suffered by the administrator and Rizalina, if they are required to furnish copies of their pleadings to appellee. On the contrary, doing so, will give appellee her day in court and provide protection to the administrator himself.

In view of the foregoing, We find the Order appealed from to be in conformity with the law and jurisprudence. The same should be, as it is hereby affirmed, in all aspects, with costs against the appellants Jose D. ViUegas and Rizalina Santos Rivera, in both instances.

Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera and Dizon, JJ., concur.

[1] Transferring all her rights and participation in the estate to Rizalina, P10,000.00 upon signing of the deed and P40,000.00 within one year.

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