

BERNARDINA REYES VDA. DE LUSPO, AS ADMINISTRATRIX OF THE ESTATE OF RAFAEL REYES, PETITIONER, VS. JUANITA REYES, AND JESUSA REYES, BOTH THROUGH THEIR GUARDIAN-AD-LITEM DOLORES CAS...

G.R. No. L-4781. February 27, 1952

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is a petition which seeks to set aside the order of the Respondent Judge dated April 14, 1951, directing the administratrix to divide the estate of the late Rafael Reyes among the heirs with the warning that, if she should fail to do so within twenty days from notice, the court will remove her and appoint another administrator in her place.

Rafael Reyes died in Cebu City on July 14, 1939, without a will, but leaving as forced heirs the following: Bernardina, Rosario, Remedios, Joaquin, Vincent and Jose, all surnamed Reyes. Rafael Reyes left real and personal properties located in Misamis Oriental and in Bohol, valued at P50,000. Upon his death, Jose Reyes took possession of the properties situated in Bohol, and administered them and enjoyed their products to the exclusion of the other heirs.

Jose Reyes died in 1942, leaving as heirs his daughters Juanita and Jesusa and his widow Dolores Castro. Shortly before his death, Jose Reyes executed a deed of sale of said properties in favor of his wife, who later secured from the register of deeds the issuance in her name of the transfer certificate of title covering said properties. It is claimed that these transfers were fraudulent and fictitious.

On September 29, 1945, Bernardina Reyes was appointed administratrix of the estate of the late Rafael Reyes and immediately thereafter she commenced an action in the Court of First Instance of Bohol seeking the annulment of the allegedly fraudulent deed of sale executed by Jose Reyes and the cancellation of the title issued in the name of Dolores Castro Vda. de Reyes, and the payment of an indemnity for damages. The court decided that the sale was null and void and ordered the defendant to return the properties to the heirs of the late Rafael Reyes. The court did not entertain the claim for damages on the ground of insufficiency of evidence.

On December 27, 1950, the administratrix submitted a project of partition of the estate of the late Rafael Reyes wherein she deducted from the share of the heirs of Jose Reyes the fruits and income of the properties which remained in the possession and management of Jose Reyes and his heirs, amounting to the aggregate sum of P18,600, and asked the court that said project of partition be set for hearing. The administratrix also filed on April 4, 1951, a motion praying that the widow and heirs of the late Jose Reyes be required to render an accounting of the fruits and income received by them and by the deceased from 1939 to 1948 so that they may be considered in connection with the project of partition. But without acting on said motion, nor on the project of partition, the court on April 14, 1951, issued an order directing the administratrix to submit a new project of partition on the basis of the properties then existing with the warning that if she should fail to do so within twenty days from notice, the court will remove her and appoint another administrator in her place. This order is now the subject of

the present petition for certiorari.

Petitioner contends that the probate court committed an abuse of discretion in disregarding her motion for an accounting of the fruits and income of the properties which were possessed for sometime by the late Jose Reyes and his heirs in order that they may be considered in the distribution and settlement of the estate of their common ancestor Rafael Reyes because in so doing it ignored one of the fundamental purposes of an administration proceeding which consists in bringing into the administration all the properties and assets properly pertaining to the estate for their eventual distribution. And in support of her contention, she cites the case of *Lopez v. Garcia Lopez*, 40 Phil. 184, wherein it was held that all persons who came into possession of the property belonging to any decedent are liable therefore and accountable to the lawful administrator when the estate is finally drawn into judicial administration; and this responsibility extends to the restoration of the fruits, increase and accessions of such property as well as to the surrender of its proceeds where it has been sold, or exchanged, and to compensation for its value where it has been appropriated, converted, or consumed.

We have no quarrel with the doctrine set forth above relative to the duty of a judicial administrator to gather all the property belonging to an estate, including all the fruits, increase and accessions pertaining thereto, and to require every person who may have them in their possession to account for them and turn them over to his administration to enable him to effect a complete and just settlement of the estate. In fact, these are the duties of a judicial administrator; and in order that he may discharge them properly and carry them into effect, our Rules of Court have endowed him with the necessary power and authority (Rule 88). But in this particular case we find nothing that the probate court has done derogatory to the duties of a judicial administrator, it appearing that when it ordered the administratrix to submit a new project of partition the estate of the late Rafael Reyes was already completely liquidated and there were no more debts nor obligation to be paid. In fact, the administratrix had already succeeded in annulling the fraudulent sale made by Jose Reyes of the properties situated in the province of Bohol and said properties had already been returned in line with the decision of the court. There was nothing more to be done other than the distribution of the estate. True, the petitioner now desires that the heirs of Jose Reyes be made to account for the fruits and income of the properties in Bohol during the period they had been in their possession before she could be required to submit a project of partition, but we find that this matter has already been passed upon by the court in the annulment case. The record shows that this claim was brought up in said case but was not entertained in view of the petitioner's failure to present sufficient evidence to substantiate it. That decision is now final. It can no longer be revived under the rule of *res judicata*. To allow the petitioner to renew now such claim would only mean a dilatory move that would redound to the prejudice of all the heirs interested in the early settlement of the estate. Such a move should not be countenanced.

Wherefore, the petition is denied with costs against petitioner. The preliminary injunction issued is hereby dissolved.

Paras, Feria, Pablo, Bengzon, Padilla, Tuason, Montemayor, Reyes, and Jugo, JJ., concur.

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