

TESTATE ESTATE OF THE DECEASED TEODORO T. CRUZ, JUAN GUTIERREZ, ET AL., PETITIONERS-APPELLEES, VS. LUCIANO T. CRUZ, ET AL., OPPOSITORS-APPELLANTS.

G.R. No. L-21027. July 20, 1968

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

Acting on a petition duly filed, the Court of First Instance of Pangasinan (Lingayen Branch) rendered a decision on November 5, 1958 admitting to probate the document pur-porting to be the last will and testament of the deceased Teodoro T. Cruz. In the same decision the court also ordered the summary settlement of the deceased's estate, upon a finding that the testator left no outstanding debts or obliga-tions and that the approximate gross value of the estate war only P4,970.00. The dispositive portion of the decision reads:

"WHEREFORE, the document Exh. 'A' is hereby allowed and declared probated as the last Will and Testament of, the late TEODORO T. CRUZ, and the estate left by him consist-ing of thirteen (13) parcels of land, all situated in Bugallon and Aguilar, Pangasinan, and more specifically described in said Exh. 'A', is hereby ordered summarily settled and adjudicated in favor of the person therein mentioned in the manner, form and proportion set forth in the said last Will and Testa-ment of the above-mentioned decedent, subject, however, to the liability provided for in Sec. 4, Rule 74 of the Rules of Court.

"Let the Register of Deeds for Pangasinan be furnished with a certified copy of this decision and a true copy of the said last Will and Testament (Exh. 'A'), and its corresponding translation (Exh. 'A-1'), of the late Teodoro T. Cruz for purposes of registration thereof in his office, and let also the Internal Revenue Agent at Dagupan City be served with a true copy of said decision for collection, if any, of the corresponding inheritance tax."

On November 19, 1958 some of the heirs of the deceased moved for the elimination of that portion of the decision ordering the summary settlement and distribution of the thirteen (13) parcels of land listed in the will in the manner, form and proportion provided for therein. The said order was questioned on two principal grounds, namely: (a) that as the terms of the will indicated, the thirteen (13) parcels of land described therein belonged to the conjugal partnership of the testator and his first deceased wife, Honorata Aquino, for which reason the testator could not validly dispose of all of them; and (b) that inasmuch as the testator died when the new Civil Code was already in effect, the dispositions in the will made in accordance with the provisions of the old Civil Code must be altered to conform to the provisions of the New Civil Code.

In an order dated February 17, 1959, the court a quo denied the motion for reconsideration. Said the court:

"The basis for reconsideration are two, namely: that it is admitted in the Will that the thirteen (13) parcels of land include the 1/2 portion belonging to the deceased's first wife; and that, the disposition made in the will was in accordance with the provisions of the Old Civil Code when the testator died after the New Civil Code took effect.

"With respect to the first ground, there is no need for this Court to recon-sider, for the simple reason that the

probate of the will and the settlement thereof does not vest to the devisees and legatees mentioned in the will any property which does not belong to the testator and, hence, there is no need for this Court to make a pronouncement to that effect since the law on the matter is supreme.

"With respect to the second ground, there is no showing that the will has, by its provisions, granted more than what the devisees and legatees would receive or what the testator could dispose or that the legitime of the heirs was paired."

From this order of denial none of the parties appealed. It was not until about four months later, on June 29, 1959, that the same heirs who filed the motion of November 19, 1958 again filed a petition in the same case, this time praying for the appointment of one Narciso Abalos as administrator of the estate of the deceased spouses Teodoro T. Cruz and Honorata Aquino, alleging that an administrator was necessary "(a) to gather all the properties of the deceased spouses ... (whether described in the will or not) and to prepare a project of partition of the estate of Honorata Aquino in accordance with the provisions of the Civil Code on intestate succession, and the estate of the deceased Teodoro T. Cruz, in accordance with the Will (after eliminating the properties sold by him) as modified by the New Civil Code, and (b) to pay the estate and inheritance tax if any is to be paid." Besides reiterating the reasons advanced in support of their previous motion for reconsideration, petitioners alleged two new matters, to wit: (1) that aside from the properties enumerated in the will, there were three (3) other parcels of land - locally called TAROY, BARAO, and KISKISAN - belonging to the estate which has not been included in the will; and (2) that the inclusion of the parcel of land described under letter "f" of the will was erroneous since said parcel no longer belonged to the estate it having been earlier purchased by the predecessor of one of the petitioners.

Two other heirs of the deceased - Luciano T. Cruz and Cecilia T. Cruz, now appellants - did not join petitioners but filed an opposition instead, asserting that the same issue and subject-matter raised in the petition had been passed upon by the court in its decision dated November 5, 1958, which was already final and conclusive; that all of the heirs and legatees of Teodoro T. Cruz had accepted their respective shares of the estate in accordance with the terms of his last will and testament, and such acceptance could no longer be impugned at that late date; that the properties claimed to have been omitted in the will belonged not to the deceased but to appellants; and finally, that there was no need for an administrator since the heirs and legatees had already taken possession of their respective shares.

The court a quo overruled the opposition and favorably acted on the petition in an order issued on July 21, 1959, which reads:

"Considering that the properties described in the last will and testament of the late Teodoro T. Cruz were not his exclusive properties but were of the conjugal partnership of the testator and his wife, Honorata Aquino; considering that although the will has been allowed to probate, the probate of the will does not go into the intrinsic validity of the provision of the will; and considering further, that whenever the property of one of the spouses, both of whom are already deceased, is subject to a testate and intestate proceedings, the liquidation of the conjugal partnership shall also take place; as prayed for, Mr. Narciso Abalos of Aguilar, Pangasinan, is hereby appointed administrator of the estate of the spouses, Teodoro T. Cruz and Honorata Aquino, upon the filing of a bond in the sum of P2,000.00. Once a bond has been filed and the administrator has taken his oath of office, let the corresponding letters of administration issue in his favor.

Appellants moved to reconsider but were turned down, whereupon they brought the case to the Court of Appeals (CA-G.R. No. 26694-R) in a petition for certiorari to set aside the order.

On January 29, 1960 the Court of Appeals dismissed the petition as without merit and affirmed the appointment of Narciso Abalos as administrator in this wise:

"x x x The purpose of an administration of the estate of a deceased person is the liquidation of that estate and

the distribution of the residue thereof among the heirs and legatees after the payment of all debts and liabilities. Liquidation means determination of all the assets of the estate and payment of all debts and expenses. To effectuate this mandate of the law, the probate court has the authority and is duty-bound to appoint an administrator who would administer the estate. It appearing that three other properties (called locally as Taroy, Barao, and Kiskisan) allegedly belonging to the deceased spouses have not been brought into the administration of the estate or intestate estate of said deceased spouses, there exists good reason to warrant the appointment of an administrator."

This decision has since then become final.

Eventually, and pursuant to the authority granted him as administrator of the disputed estate, Narciso Abalos submitted on February 10, 1961 an inventory of all the properties allegedly belonging to the testator, including not only those enumerated in the will but also those not mentioned therein. On April 30, 1962 the administrator was required by the court a quo to submit to it a project of partition, which he did on July 25, 1962. Appellants opposed the project of partition on the principal ground that it practically disregarded the last will and testament of the testator which had been admitted to probate in the decision of November 5, 1958 and disregarded likewise the summary settlement of the estate made in the same decision.

On October 31, 1962 the court a quo approved the project of partition and explained:

"If the oppositors believe that there is any parcel of land not included in the project of partition, they may resort to court for the partition of said property. And finding the project of partition to be equitable, legal and in accordance with the existing law as well as the last will and testament of the late Teodoro T. Cruz, the same is hereby approved, and the parties are enjoined to be guided by the terms thereof."

The motion for reconsideration of this last order having been denied, appellants brought this case here on appeal.

The principal issue raised by appellants is that the estate of the deceased Teodoro T. Cruz, as well as that of his deceased wife Honorata Aquino, had been summarily settled by the decision of the Court of November 5, 1958, and therefore could no longer be partitioned anew. It is pertinent to note at this point that when herein appellees' motion to reconsider that decision was denied on February 17, 1959, the court a quo stated the following, *inter alia*, in its order of denial:

"With respect to the second ground, there is no showing that the will has, by its provisions, granted more than what the devisees and legatees would receive or what the testator could dispose of or that the legitime of the heirs was impaired."

In other words, the lower court found and so declared that the dispositions in the will, insofar as the shares of the heirs, devisees and legatees were concerned, were in accordance with law. And that declaration has long become final. Indeed, no appeal was taken from it. The order of summary settlement was, of course, justified under Section 2 of Rule 74; and there is no showing that the procedural requisites laid down therein had not been followed.

Reference has been made to the fact that the will of Teodoro T. Cruz, in accordance with which the decree of summary settlement was issued, disposed not only of his own share of the thirteen (13) parcels of land enumerated therein but also of the share of his deceased wife, the said lands being admittedly conjugal properties. However, this is not quite true. What the testator said in his will with respect to the properties of his deceased wife was that he had already given to his children their respective shares in those properties. Obviously their partition had been made by them *intervivos*. Where a child had not receive the full share, as in the case of the daughter named Juana T. Cruz, the testator made this special provision: "The fact that the share I gave to my daughter, Juana T. Cruz, as her share from her mother is very insufficient, I now give to her the lands covered by Tax Nos. 9894,

14083 and 14091, all valued at P630.00." This disposition, and the ones in favor of the other heirs, were duly mentioned in the will, and judicially approved when the Court ordered the summary settlement of the estate "in the manner, form and proportion set forth" in said will.

It is argued for appellees that the questioned project of partition is necessary because the dispositions made in the will are contrary to law. This is belied by the order of February 17, 1959, which held that "there is no showing that the will has ... granted more than what the devisees and legatees would receive or what the testator could dispose (of) or that the legitime of the heirs was impaired." In any case, herein appellees should have appealed from that order, as well as from the main decision itself, if they wanted to question the validity of the testamentary dispositions. Not only did they fail to appeal, but after the order of summary settlement had become final all the distributees - appellees included - accepted their respective shares of the estate. Some took actual possession, others had their shares transferred in their names and a few sold and disposed of their shares in favor of third persons. The summary settlement and distribution of the estate - both of the husband and his deceased wife - was therefore not only an adjudicated matter; it was actually accepted by the heirs and carried out. And under Article 1056 of the Civil Code, "the acceptance of an inheritance, once made, is irrevocable and cannot be impugned, except when it was made through any of the causes that vitiate consent or when an unknown will appears."

A new project of partition with respect to the same properties is no longer legally feasible.

With respect to the properties locally called Taroy, Barao and Kiskisan, it should be noted that they are not mentioned in the will. These parcels of land, according to appellees, also form part of the deceased's estate. Appellants assert otherwise and say they are the exclusive owners. In view of these conflicting claims, the question of ownership must first be ventilated in an appropriate proceeding, and hence their partition at this time is not in order.

WHEREFORE, the order of the court a quo approving the project of partition is hereby set aside, without prejudice to the administration and eventual partition of other properties not mentioned in the will of the deceased Teodoro T. Cruz and admittedly belonging to him and his deceased wife. Costs against appellees.

Concepcion, C.J, Reyes, J.B.L., Dizon, Zaldivar, Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.

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