

IN THE MATTER OF THE INTESTATE ESTATE OF THE DECEASED MARIA PASTOR DE TEVES, AND PEDRO TEVES, PETITIONERS, TESTATE ESTATE OF THE DECEASED PEDRO TEVES, MARIANO J. TEVES, EXECUTOR...

G.R. Nos. L-16698 & 15726. March 31, 1964

Ponente: PAREDES, J.

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PAREDES, J.:

Pedro Teves and Maria Pastor were husband and wife, residing in Dumaguete City, Negros Oriental. Maria Pastor died on February 22, 1937, and was survived by her " husband and three children, named Concepcion Teves, of age; Jose Teves (now deceased), who left no legitimate heirs (except his father and a natural child); and Asuncion Teves, also deceased, who was survived by her husband Luciano Imbo and her children named Jesusa, 24; Jose, 23; Maria, 22; Remedios, 21; Corazon, 17; Mariano, 14; and Luciano, Jr., 13.

On December 12, 1949, Pedro Teves, applied for letters of Administration in the CFI of Negros Oriental, Sp. Proc. No. 675, and was appointed administrator of the estate of his deceased wife Maria Pastor on May 9, 1951. On June 2, 1951, Concepcion Teves, was appointed as co-administratrix of the estate.

On December 15, 1954, Pedro Teves died, leaving a will and testament, which was presented to the same Court for probate on January 8, 1955, in Sp. Proc. No. 1010 of said Court. The court on February 25, 1955, allowed the said will and admitted the same to probate. On January 26, 1955, Dr. Jose T. Imbo, was appointed as co-administrator of the estate in Sp. Proceeding No. 675, in place of the deceased Pedro Teves and said Dr. Imbo, qualified as such administrator on January 28, 1955. Mariano Teves, named executor of the will of Pedro Teves was, on February 24, 1955, appointed by the Court as such, with a will annexed in Sp. Proc. No. 1010. The properties of Maria Pastor inventoried under Sp. Proc. No. 675, and the properties of Pedro Teves inventoried under Sp. Proc. No. 1010, are the same conjugal properties of the deceased spouses.

The last will and testament of the late Pedro Teves, partitioned and divided most of the real properties of the deceased among the heirs (Paras. X to XVII of the Will). And among the adjudications in the will, were the ones made in favor of Concepcion Teves, to wit:

"XI. It is my wish to give as share of Concepcion Teves, lots Nos. 6272 (No. B) and 1.982 (No. 2) both large coconut plantations, situated near the land of Ramon Amores."

With respect to this adjudication, Dr. Imbo and all the heirs, on October 20, 1956, made a Joint Manifestation in Court, of the following tenor:

"5. That in view of the fact that the only properties of the intestate Maria Pastor de Teves now remaining and the testate Pedro Teves are their conjugal and undivided properties and in view of the further fact that the legal heirs of the said intestate in conformity with the disposition of the Will of the said testate, which also covers all said conjugal properties, thereby including tile intestate properties, it would be to the convenience of

all parties if the aforesaid two proceedings be considered either jointly or simultaneously."

In her capacity as heir and devisee of lots Nos. 1932 and 6272, Concepcion Teves, on June 28, 1955, sold, for valid and sufficient consideration, the said lots, to the spouses Dr. Conrado A. Habafia and Rosario Remollo. On August 10, 1956, Concepcion filed a motion asking that the executor be required to sell a part of the estate, for the purpose of finally liquidating and settling the estate in accordance with previous orders of the Court. On September 1, 1956, the executor and other heirs filed an opposition which partly reads as follows:

"2. That the disposal of the properties of the deceased is not reasonable inasmuch as said properties have already been adjudicated to the respective heirs of the deceased by virtue of a Will and a disposal of any of the properties aforementioned would be prejudicial to the interest of the heir to whom said property have been assigned";

"8. That the petitioner has lost all her rights and interest in the estate of the deceased due to the fact that she has already sold all her shares and participation in the properties of the deceased without getting the approval of this Hon. Court nor give notice to the herein executor."

On October 4, 1956, the Court granted the motion and ordered the sale of "some of the properties mentioned in the will, preferably those which are referred to in No. XVIII, page 5 of the same, within sixty (60) days from date of receipt by the executor of this Order". Paragraph XVIII of the Will, referred to by the Court, reads as follows:

"There are some parcels of land which are not mentioned in this will but it is my wish that these lands be divided in equal share by nine (9) children—these of my children by the first and second wife."

On November 8, 1956, the executor in an ex-parte motion, prayed for authority to sell lots 1932 and 6272, *inter alia*. "5. That it would be to the best interest of all the legal and testamentary heirs if the sale of the properties in the next preceding paragraph (lots 1932 and 672) were the ones sold, because the legatee Concepcion Teves has already disposed of her rights in the said premises". This information, notwithstanding, on December 10, 1956, the lower court, granted the motion and authorized the executor to sell again the two lots, together with the improvements thereon. On December 21, 1956 (10 days later), the said lots were sold to Dr. Jose T. Imbo, the Judicial Administrator. On the same day (Dec. 21, 1956), the Court approved the sale, by merely printing the phrase "granted as prayed for", with a rubber stamp, at the foot of the motion's last page. It does not appear that notice thereof was served to the parties.

On February 7, 1957, devisee-vendor Concepcion Teves asked the Court to declare the sale to Dr. Imbo, null and void. On February 15, 1957, upon hearing of such sale, and the approval of the Court, Dr. and Mrs. Habafia, also filed a motion in the consolidated Sp. Proceedings Nos. 675 and 1010, asking that the sale of lots Nos. 1932 and 6272 in favor of Dr. Imbo, be declared null and void, on the ground that such sale was made in bad faith, because the purchaser knew that said lots were adjudicated by will to Concepcion Teves as her share, with the conformity of all the heirs, and the same were already sold to Dr. and Mrs. Habafia, for valid and sufficient consideration. Oppositions were filed by the other heirs and on August 8, 1957, the lower court denied the said motion of Dr. and Mrs. Habafia, stating that "the said two lots were sold to the petitioners (Dr. and Mrs. Habafia) at the back of the Court," before the adjudication to the heirs of their respective shares in the testate estate, were effected, and such act did not give the said petitioners any personality to impugn or seek the annulment of the sale of the two lots in question which was known to the heirs. In said Order, the lower Court considered the petition of February 7, 1957, withdrawn; denied the motion of Atty. P. E. Remollo and ordered it stricken off the record.

Dr. and Mrs. Conrado Habafia, filed the corresponding Record on Appeal and appeal bond. However, before these were approved by the lower court, Dr. Imbo presented a "motion to rescind sale", paragraph 6 of which recites:

"6. That it would be to the interest of all persons concerned, therefore, if the sale of the abovementioned Lots Nog, 1932 and No. 6272 to the said Jose T. Imbo be rescinded, so that the said appeal would be abandoned and so that said lota would be reverted to their original condition as part of the estates of the deceased Pedro Teves and Maria Pastor de Teves."

Acting upon said motion, on November 7, 1957, the lower Court rescinded the sale of lots 1932 and 6272 to Dr. Imbo and for that reason, the appeal of Dr. Habana and his wife was discontinued and the cash appeal bond was ordered returned to them.

On March 19, 1958, barely four (4) months after said rescission, the executor filed another motion, playing that same lots 1932 and 6272 and all improvements thereon, be sold again for the same price of 110,000.00. So, in April, 1958, the spouses Dr. and Mrs. Habana again filed an opposition thereto, on the grounds that said lots 1932 and 6272 no longer belonged to the estate. This opposition was supplemented with a petition that the oppositors be given possession of said lots, subject only to a lien in favor of the estate, for the payment of any unpaid obligation of the estate, should other properties of the estate be insufficient to pay all debts.

On October 21, 1958, Concepcion Teves, surprisingly enough, filed a pleading styled "Conformidad", to the motion to sell anew said lots, filed by the executor, for which reason, on October 25, 1958, Dr. and Mrs. Habana presented a motion, praying that Concepcion Teves be cited for contempt of Court for "double dealing" and that the case be endorsed to the City Fiscal, for appropriate action.

On January 7, 1959, the Court issued an Order (a) over ruling the opposition and motion of Dr. and Mrs. Habana, and disregarding the sale of lots 1932 and 6272, executed by Concepcion Teves in favor of the appellants herein and (6) granting the petition of the executor to sell anew the said lots to any third person or persons, for a price not lower than P10,000.00. Hence, this appeal interposed by Dr. and Mrs. Conrado Habana.

Appellants, in their brief, submit that the lower court erred:

- 1) In not holding that Concepcion Teves, could validly sell her hereditary rights over lots 1932 and 6272 in question, in their favor, without prior approval of the Court;
- 2) In not holding that the executor and all the heirs of Pedro Teves are precluded from assailing the validity of the sale of said lots to appellants;
- 3) In not holding that the second petition to sell the same lota was filed in bad faith in order to circumvent the illegality of the previous sale executed in favor of Dr. Jose T. Imbo, judicial administrator, and
- 4) In ordering the sale of said two lots to pay debts of the estate despite the fact that they had previously been sold to them (appellants), and in not ordering instead the sale of the undisposed and unencumbered properties of the estate.

After a careful perusal of the facts as elicited from the pleadings and documentary proofs before us, for no testimonial evidence was presented, We are of the opinion that the stand of the lower court and the appellees herein, is untenable.

The distribution made in the Will of Pedro Teves, whereby, among others he said, it was his "wish to give as share of Concepcion Teves lots Nos. 1932 (No. 2) and 6272 (No. 5), both large coconut plantations, situated near the land of Ramon Amores", is in accordance with article 1080 of the Civil Code, which provides that "Should a person make a partition of his estate by an act inter-vivos, or by will, such partition shall be respected, insofar as it does not prejudice the legitime of the compulsory heirs". There was no showing that said distribution ever prejudiced the legitime of the compulsory heirs herein, and as a matter of fact all the heirs gave their express conformity to the said distribution (see joint manifestation, supra). There was not even a vague suggestion of

unfairness with respect to the disposition of the legitimes. Concepcion Teves by operation of law, became the absolute owner of said lots because "A partition legally made confers each heir the exclusive ownership of the property adjudicated to him" (Article 1091, New Civil Code), from the death of her ancestors, subject to rights and obligations of the latter, and, she can not be deprived of her rights thereto except by the methods provided for by law (Arts. 657, 659 and 661, Civ. Code). Concepcion Teves could, as she did, sell the lots in question as a part of her share of the estate of the deceased, even before the approval of the proposed partition of the properties, especially then, as in the present case, the sale has been expressly recognized by herself and her co-heirs; for "there is no provision of law which prohibits a co-heir from selling to a stranger his share of an estate held in common before partition of the property is approved by the Court" (Cea vs. C.A. G.R. No. L-1776, Oct. 27, 1949; Beltran vs. Doriano, 32 Phil. 66). An heir may also sell the rights, interest or participation, which he has or might have in the property under administration, or in custodia legis (Jakosalem vs. Rafols, 73 Phil. 628). The executor of the will and all other heirs of the late Pedro Teves should be precluded from questioning the validity of the sale of the lots in question in favor of appellants, Br. and Mrs. Habania; rather, they should comply with the lawful provisions of the Will of the testator, for it has been well provided that "should a person make a partition of his estate by an act inter-vivos, or by will, (as in this case), such partition shall be respected, in so far as it does not prejudice the legitime of the compulsory heirs." (Art. 1080, Civil Code).

But the appellees allege that other properties were not sufficient to pay the debts of the estate, and, therefore, it was necessary for the administrator to retain these two lots (sec. 3, Rule 85). The Executor informed the Court on June 9, 1955, that the total obligation of the estate was P9,976.00 and on August 10, 1956, Concepcion Teves told the court that out of this amount, only P5,000.00 remained unpaid, which was apportioned among the heirs and that her share was paid by her in full. The Executor also informed the Court on December 21, 1956 that the obligation of the estate to the Philippine National Bank, was paid and that the claim of Eng Suy Huat & Co. in the sum of P3,186.40 was left unpaid. Concepcion Teves can well be considered free from the obligation of the estate, and that lots 1932 and 6272 were also free, and could be sold, as they were sold, to any party "without any strings attached." However, should there be any doubt as to the full payment of the obligations of the estate, particularly the share of Concepcion Teves, who, according to un rebutted disclosure in the records, had paid her share, or as to the sufficiency of the remaining properties to pay all the obligations of the estate (which was not the case), a notation of a lien in favor of the estate, may/can be made on the T.C.T. of said Lots Nos. 1932 and 6272. It appears that appellants, without renouncing any of their rights granted by law, would be willing to allow such notation, to guarantee that all the obligations of the estate, will be met, and thus expedite the delivery of said lots to them. We are of the opinion that such procedure would not violate the rights of the parties concerned, in the present case.

It may be observed in passing, that the second petition to sell lots 1932 and 6272, was characterized with bad faith, and made to circumvent the illegality of the previous sale executed to Dr. Imbo, the judicial administrator. Dr. Imbo knew fully well that said lots were adjudicated by will to Concepcion Teves, to which adjudication he had given his conformity and that the said Concepcion had already disposed of her rights thereon. As judicial co-administrator of the estate (Sp. Proc. No. 675), Dr. Imbo was aware of these facts, but without apprising the Court about the status of these lots, had bought them, thereby causing prejudices upon the first purchasers-appellants Dr. and Mrs. Habania (Art. 1491, Civ. Code). And the rescission of alleged sale made to him, was tinged with even intenser color of bad faith, when he, as co-administrator, hastened to ask for such rescission so that the appeal of the appellants against the order given to sell again the said lots would be abandoned, and the same reverted to their original condition. Lulled by a feeling of false security appellants abandoned the appeal, only to be harassed again four (4) months later, with a petition of the executor and the heirs. Dr. Imbo, inclusive, to sell the same lots to pay the obligations of the estate. The subsequent conduct of

Concepcion Teves, heretofore mentioned, simply reveals a resolve on the "part of the heirs, particularly Concepcion Teves, to continue a questionable procedure to sell her said lots, as many times as she could benefit by the sale thereof. A double dealing should not be invoked as a justification for any act, or serve as a mantle of protection for any one.

As heretofore adverted to, the executor was ordered to sell the properties mentioned in paragraph XVIII of the Will (supra). It was the duty of the executor to sell properties belonging to the estate which had not been disposed of by the respective heirs. It is unfair, to say the least, to let Concepcion Teves shoulder the whole burden alone and pay more than her true and actual share in the obligations of the estate, which she claims to have been already paid, before she made a volte face. If she had not paid her share, she still has other properties which can be sold by the executor, such as the properties mentioned under paragraphs XVIII, XIV, XV and XVII of the Will. There was no justification for choosing the particular lots 1932 and 6272, which are now the subject of a litigation, to be sold. It seems to be a sound principle to follow that if there is need to sell properties of an heir to pay debts, the properties still belonging to such heir should be sold first.

WHEREFORE, judgment is rendered reversing the order of the Court, dated January 7, 1959, authorizing the executor to enter into a contract to sell anew lots 1932 and 8272, and remanding the case to the Court of origin for further proceedings, with instructions to sell other undisposed or unencumbered properties of the estate, or the undisposed or unencumbered properties of any of the heirs, should there be any obligation of the estate still unpaid, in conformity with law as in such cases provided, reserving the right, if any, upon any authorized party to question the validity of the sale made by Concepcion Teves to appellants herein, in the proper Court. Costs against the appellees.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes J. B. L., Barrera, Dizon, Regala, and Makalintal, JJ., concur. Padilla J., took no part.

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