

**PAULINA SANTOS, ASSISTED BY HER HUSBAND FERNANDO
PARREÑO, PETITIONERS, VS. GREGORIA ARANZANSO, DEME-TRIA
VENTURA, CONSUELO PASION, ASSISTED BY HER HUSBAND MARCOS
SUÑGA, AND PACI...**

G.R. No. L-26940. August 21, 1982

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

This is a petition to restrain the trial of Civil Case No. 66515 by the Court of First Instance of Manila, Branch IV.

Civil Case No. 66515 was filed by the private respondents herein against Paulina Santos, the herein petitioner, and other persons, praying that "the decree of adoption entered on August 25, 1949, in favor of respondents Paulina Santos and Aurora Santos be declared null and void ab initio." It is alleged in the amended petition for annulment, dated September 16, 1966, that the adoption decreed in Civil Case No. 8332 of the Court of First Instance of Manila is void because, among other things, the application for adoption was not signed by both adopting parents and by the natural parents; and the judgment was procured through and by means of fraud.

Paulina Santos, et al., moved to dismiss Civil Case No. 66515 on the following grounds:

1. the trial court has no jurisdiction of the subject matter;
2. the cause of action is barred by prescription; and
3. the petitioners have no legal capacity to sue and are in estoppel to question the adoption.

On October 18, 1966, the trial court issued the following Order:

"Upon consideration of respondents' motion to dismiss amended complaint, respondent's memo-randum in support thereto, and petitioners' opposi-tion as well as supplemental opposition, the Court finds no merit in the said motion to dismiss amended complaint and, consequently, hereby denies the same."

In this petition We are asked to reverse the above-quoted order and forbid the court a quo from hearing Civil Case No. 66515 upon the same grounds adduced in the motion to dismiss.

The petitioner claims that jurisdiction to try and decide the petition to annul the decree of adoption is vested not in the Court of First Instance of Manila but in the Juvenile and Domestic Relations Court of the same city. This contention is impressed with merit.

Republic Act No. 409, the Charter of the City of Manila, was amended on September 9, 1955, by R. A. No. 1401. The amendatory statute created a Juvenile and Domestic Relations Court in the City of Manila and vested it with "exclusive original jurisdiction to hear and decide the following cases x x x:

x x x

"(b) Cases involving custody, guardianship, adoption, paternity and acknowledgment; x x x ." (Sec. 38-A, Charter of the City of Manila .)

It is obvious that since Civil Case No. 66515 involves adoption or more precisely its annulment, it is the JDRC and not the CFI of Manila which has jurisdiction over the case. (See *Perez vs. Tuazon de Perez*, 109 Phil. 654 [1960].)

It is asserted by the respondents, however, that the governing provision is the last paragraph of Sec. 38-A of the aforesaid charter which reads:

"If any question involving any of the above matters should arise as an incident in any case pending in the ordinary courts, said incident shall be determined in the main case."

Suffice it to say that the question as to the validity of the adoption decreed in Civil Case No. 8332 is not "an incident pending in any case in the ordinary courts." It is a matter sought to be litigated in a civil action which has been independently and separately instituted.

The question of prescription of the action involves the ascertainment of factual matters such as the date when the period to bring the action commenced to run. Also relevant is the claim of the respondents that the adoption decree is null and void ab initio because it was obtained through fraud so that the action to nullify it can not prescribe, which requires ascertainment as to whether or not fraud was indeed committed. Under the circumstances the question involves factual matters which cannot be resolved by this Court; it should be resolved by a court which can ascertain the facts.

The petitioner claims that the private respondents are estopped from impugning the validity of the adoption because:

"Almost from their birth, the petitioner Paulina Santos de Parreño and her late sister had been living with the spouses Simplicio and Juliana Reyes; they had cared for and educated the children; they were the only parents the children knew. After the adoption, the relationship continued but in an intensified degree. The children, in gratitude to the adoption, gave their foster parents their services, their respect, their attention and care.

"Were Doña Juliana alive today, she would never have questioned the adoption; she would have fought with all the fury of a mother defending her young, against the respondents' incursions on her properties which she intended her adopted daughters to enjoy after she dies.

"Moreover, if any irregularity was perpetrated to achieve the adoption, the minors were its innocent victims; in the eyes of the law, as the petitioner for adoption, Doña Juliana was, at least in part, responsible for whatever wrongs may there have been committed; so that, even if she would wish to, she could not have taken advantage of the wrong to annul the decree of adoption she had sought and obtained.

"Suffice it to say, therefore, that the respondents, if they have any rights at all, can have no greater rights than Doña Juliana had. She could not and would not have questioned the adoption. What right then, what per-sonality now, do respondents have to what Doña Juliana could not and would not have done. Certainly, none."

The quotation is at best an argumentum ad hominem; it attributes, without basis, an attitude to someone long dead and which cannot be verified. It does not deserve consideration.

It appears that when Juliana Reyes died intestate and her estate was being settled, her husband Simplicio asked to be appointed administrator of the estate.

Gregoria Aranzanso and Demetria Ventura who are included among the several private respondents in this case,

opposed the request. They based their opposition on the claim that the marriage of Simplicio to Juliana was void because it was bigamous and that the adoption of Paulina and Aurora Santos was likewise void for want of written consent of their parents.

The Court of First Instance ruled that the validity of the adoption could not be assailed collaterally in intestate proceedings. Aranzanso and Ventura appealed to the Court of Appeals which ruled that the adoption was null and void due to lack of consent thereto by the natural parents of the minor children which it deemed a jurisdictional defect still open to collateral attack. On appeal to this Court by way of a petition for review, it was held that the adoption decree in favor of Paulina and Aurora Santos cannot be assailed in the settlement proceedings; that the attack on the decree cannot be made collaterally; and that a separate action for that purpose should be instituted. (Santos, et al. vs. Aranzanso, et al., 123 Phil. 160 [1966].)

We mention the decision because the petitioner claims that this Court had "promulgated a decision upholding the validity of the adoption of your petitioner Paulina S. de Parreño and her late sister, Aurora Santos."

While it is indeed true that the dispositive portion of the decision says:

"Wherefore, the judgment of the Court of Appeals is hereby reversed and the order of the probate court a quo sustaining the adoption, dated April 6, 1959, is affirmed. Respondents Gregoria Aranzanso and Demetria Ventura as well as Consuelo and Pacita Pasion are declared without right to intervene as heirs in the settlement of the intestate estate of Juliana Reyes. The preliminary injunction heretofore issued is dissolved, except insofar as it enjoins the intervention or allowance of withdrawals of property from the estate by Gregoria Aranzanso, Demetria Ventura, Consuelo and Pacita Pasion, in the concept of heirs, as to which it is hereby made permanent. No costs."

the law of the case is simply that the decree of adoption could not be assailed collaterally in the settlement proceedings. It does not foreclose a separate action instituted for that purpose.

WHEREFORE, the petition is hereby granted; the Court of First Instance of Manila shall desist from trying Civil Case No. 66515; and said case shall instead be transferred to the Juvenile and Domestic Relations Court of Manila for trial. No special pronouncement as to costs.

SO ORDERED.

Concepcion, Jr., Guerrero, De Castro, and Escolin, JJ., concur.

Aquino, J., concurs in the result.

Barredo, (Chairman), J., no part, as he is personally involved.

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