

JUAN EDADES, PLAINTIFF AND APPELLANT, VS. SEVERINO EDADES, ET AL., DEFENDANTS AND APPELLEES.*G.R. No. L-8964. July 31, 1956*

Ponente: BAUTISTA ANGELO, J.

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Plaintiff brought this action before the Court of First Instance of Pangasinan seeking a declaratory judgment on his hereditary rights in the k property of his alleged father and incidentally the recognition of his status as an illegitimate son of Emigdio Edades.

In his complaint, he alleges that he is an illegitimate son of Emigdio Edades with Maria de Venecia, having been born when said Emigdio Edades was legally married to Maxima Edades with whom Emigdio Had eight legitimate children; that he had always enjoyed the continuous and uninterrupted possession of the status of illegitimate child by direct and positive acts of his father and of the legitimate children of the latter; that as such illegitimate child he is entitled to share in the inheritance of his father tinder the law; and that as the legitimate children of his father will deny, as in fact they have denied his right to inherit, and such denial may ripen into a costly litigation, he brought the present action for, the determination of his hereditary rights.

Defendants, instead of answering, filed a motion to dismiss on the ground that the complaint does not state facts sufficient to constitute a cause of action. The court sustained the motion holding that "An action for declaratory relief just for the purpose of clearing away doubt, uncertainty, or insecurity to the plaintiff's status or rights would seem to be improper and outside the purview of a declaratory relief. Neither can it be availed of for the purpose of compelling recognition of such rights, if disputed or objected to." Consequently, the court dismissed the complaint, without costs. From the order of dismissal, plaintiff has appealed and the case was certified to this court because only questions of law are involved in the appeal.

Under the law, an action for declaratory relief is proper when any person is interested "under a deed, will, contract or other written instrument, or whose rights are affected by a statute or ordinance" in order to determine, any question of construction or validity arising under the instrument or statute, or to declare his rights or duties thereunder (section 1, Rule 66). Moreover, the action should be predicated on the following conditions: (1) there must be a justiciable controversy; (2) the controversy must be between persons whose interest are adverse; (3) the party seeking declaratory relief must have a legal interest in the controversy; and (4) the issue involved must be ripened for judicial determination. (Tolentino vs. Board of Accountancy, 90 Phil., 83)

The present case does not come within the purview of the law authorizing an action for declaratory relief for it neither concerns a deed, will, contract or other written instrument, nor does it affect a statute or ordinance, the construction or validity of which is involved. Nor is it predicated on any justiciable controversy for admittedly the alleged rights of inheritance which plaintiff desires to assert against the defendants as basis of the relief he is seeking for have not yet accrued for the simple reason that his alleged father Emigdio Edades has not yet died. In fact, he is one of the herein defendants. And the law is clear that "the rights to the succession are transmitted from

the moment of the death of the decedent" (Article 777, new Civil Code). Up to that moment, the right to succession is merely speculative for, in the meantime, the law may change, the will of the testator may vary, or the circumstances may be modified to such an extent that he who expects to receive property may be deprived of it. Indeed, the moment of death is the determining point when an heir acquires a definite right to the inheritance (5 Manresa, 5th ed., 324) ? This action therefore cannot be maintained if considered strictly as one for declaratory relief.

But the present action, though captioned as one for declaratory relief, is not merely aimed at determining the hereditary right of the plaintiff to eventually preserve his right to the property of his alleged father, but rather to establish his status as illegitimate child in order that, should his father die, his right to inherit may, not be disputed, as at present, by the other defendants who are the legitimate children of his father. In fact, in paragraph 2 of complainant's prayer he asks that defendants be ordered to recognize his status as illegitimate child with right to inherit. It is true that there is no express provision in the new Civil Code which prescribe the step that may be taken to establish such status as in case of a natural child who can bring an action for recognition (Article 285), but this silence notwithstanding, we declare that a similar action may be brought under similar circumstances considering that an illegitimate child other than natural is now given successional rights and there is need to establish his status before such rights can be asserted and enforced. This right is impliedly recognized by Article 289 which permits the investigation of the paternity or maternity of an illegitimate child in the same manner as in the case of a natural child. Considering that the rules of procedure shall be liberally construed to promote their object and avoid an expensive litigation (section 2, Rule 1), we hold that the present action may be maintained in the light of the view herein expressed.

Wherefore, the order appealed from is revoked. The case is remanded to the trial court for further proceedings in connection with the determination of the alleged status of the plaintiff as an illegitimate son of Emigdio Edades, without pronouncements as to costs.

Paras C. J., Bengzon, Padilla, Montemayor, Reyes, A., Labrador, Concepcion, Reyes J. B. L., Endencia, and Felix, JJ., concur.

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