

INTESTATE ESTATE OF THE SPOUSES JUAN C. PANGILINAN AND TERESA MAGTUBA. FILOMENO COCA, ADMINIS-TRATOR, PRIMA PANGILINAN, AND HEIRS OF CONCEPCION PANGILINAN-YAMUTA, NAMELY, MARIA...

G.R. No. L-27082. January 31, 1978

Ponente: AQUINO, J.

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AQUINO, J.:

These two cases involve the question of whether the ownership of a parcel of land, whether belonging to the deceased spouses or to their heirs, should be decided in the intestate proceeding or in a separate action. Also in issue in these two cases is the liability of the decedents' estate for the litigation expenses allegedly incurred in a case regarding that same land.

Being related cases, their adjudication in a single decision was allowed in this Court's resolution of August 13, 1969.

The spouses Juan Pangilinan and Teresa Magtuba died intestate in 1943 and 1948, respectively. They possessed a homestead, consisting of two parcels of land, located at Barrio Bunawan or Mauswagon, Calamba, Misamis Occidental.

One parcel is identified as Lot No. 1927. It has an area of 3.9791 hectares. It was covered by Original Certificate of Title (OCT) No. 10 of the registry of deeds of Oriental Misamis in the name of Juan Pangilinan issued in 1927. It is now covered by Transfer Certificate of Title No. 86 (T-10) of the registry of deeds of Misamis Occidental (p. 7, Appellees' brief in L-27082).

The other parcel is identified as Lot No. 1112. It has an area of 18.0291 hectares. It is covered by OCT No. P-8419 issued on November 21, 1961 in the name of the Heirs of Juan Pangilinan, represented by Concepcion Pangilinan de Yamuta (p. 73, Record on Appeal in L-27082).

According to Guadalupe Pizarra and her children, a third parcel, Lot No. 1920, with an area of eight hectares which was surveyed in the name of Concepcion Pangilinan and which adjoins Lots Nos. 1927 and 1112, also forms part of the estate of the deceased Pangilinan spouses (pp. 61-64, Record on Appeal).

The Pangilinan spouses were survived by the following heirs: (1) Prima Pangilinan, (2) Maria, Eusebio and Apolinar, all surnamed Yamuta, the children of Concepcion Pangilinan Yamuta who died in 1961, and (3) Francis, Algerian, Benjamin, Perla and Francisco, Jr., all surnamed Pangilinan, the children of Francisco Pangilinan who died in 1948 and who was also survived by his widow, Guadalupe Pizarra. (It is not clear whether Roseller, Demosthenes and Eliza, all surnamed Japay, were the children of the deceased Helen Pangilinan, presumably a daughter of Francisco Pangilinan. See pages 81-82, Record on Appeal).

Special Proceeding No. 508 of the Court of First Instance of Misamis Occidental was instituted on September 5,

1963 for the settlement of the estate of the deceased spouses, Juan C. Pangilinan and Teresa Magtuba.

On September 25, 1965 the administrator presented a project of partition wherein the combined areas of Lots Nos. 1112 and 1927, or 22.0082 hectares, were partitioned as follows:

- To Crispin Borromeo as payment of his attorney's fees in Civil Case No. 560 or CA-G.R. No. 6721-R, February 27, 1952, Crispin Labaria vs. Juan C. Pangilinan, in accordance with the lower court's decision dated July 19, 1965 in Civil Case No. 2440, Borromeo vs. Coca (p. 11, Appellees' brief in L-27082), three hectares which should be taken from Lot No. 1112 and designated as Lot No. 1112-A;
- To the heirs of Francisco Pangilinan (Mrs. Pizarra and children), 5.3361 hectares taken from Lot No. 1112 and designated as Lot No. 1112-B;
- To Prima Pangilinan, 6.3361 hectares, taken from Lot No. 1112 and designated as Lot No. 1112-C, and
- To the heirs of Concepcion Pangilinan, 7.3360 hectares, consisting of Lot No. 1927 and the remainder of Lot No. 1112, which remainder is designated as Lot No. 1112-D.

It was also provided in the project of partition that the sum of P5,088.50, as the alleged debt of the estate to Concepcion Pangilinan, should be divided equally among the three sets of heirs, or P1,696.16 for each set of heirs, and that Prima Pangilinan and the heirs of Francisco Pangilinan should pay that amount to the heirs of Concepcion Pangilinan.

The heirs of Francisco Pangilinan (Guadalupe Pizarra, et al.) opposed that project of partition. They contended that the proposed partition contravened the lower court's order of December 6, 1963 which recognized the right of the heirs of Francisco Pangilinan to a twelve-hectare portion of Lot No. 1112; that Prima Pangilinan, who sold her share to Francisco Pangilinan, should be excluded from the partition; that the total share of the heirs of Francisco Pangilinan in Lot No. 1112 is 12.6720 hectares, while that of the heirs of Concepcion Pangilinan is 6.3360 hectares, and that the claim of the heirs of Concepcion Pangilinan for P5,088.50 had not been properly allowed.

The lower court in its order of October 2, 1965 directed the administrator to pay the debt of the estate to the heirs of Concepcion Pangilinan. It deferred action on the project of partition until the ownership of the twelve hectares, which were claimed by the heirs of Francisco Pangilinan, and the six hectares, which were claimed by Crispin Borromeo (eighteen hectares in all which were excluded from the inventory in the court's order of December 6, 1963) is determined in an ordinary action.

On May 14, 1966 the heirs of Francisco Pangilinan filed a supplemental opposition wherein they asked that Lot No. 1920, with an area of eight hectares, which lot was surveyed at the instance of Concepcion Pangilinan, should be included in the project of partition.

On August 31, 1966 the lower court, apparently acting on its own volition, tackled once more the project of partition. After noting that no separate action had been filed to determine the ownership of the twelve hectares, it issued an order approving the project of partition but excluding the twelve hectares claimed by the heirs of Francisco Pangilinan.

That order on its face appears to be incomplete because, after excluding the twelve hectares, the lower court did not bother to decide how the remainder should be partitioned and whether Prima Pangilinan had a share in that remainder.

That is the order under appeal in L-27082 by Filomeno Coca as administrator, Prima Pangilinan and the heirs of Concepcion Pangilinan. However, the said appellants in their brief also assail the lower court's order of December 6, 1963, excluding eighteen hectares from the inventory, which order was sustained by the Court of Appeals in its

decision in *Atay vs. Catolico*, CA-G.R. Nos. 33165-R and 33426-R, May 14, 1964, 5 CAR 1200. This Court refused to review that decision in its resolution of July 29, 1964 in L-23088-89, *Atay vs. Court of Appeals*.

The other incident involves the lower court's order of May 11, 1968 which directed that the claim of the heirs of Francisco Pangilinan for reimbursement of litigation expenses (apart from the sum of P1,459.49, as the value of the produce of the twelve hectares already mentioned, which was appropriated by the special administrator), be referred to the clerk of court for reception of the evidence.

In another order, also dated May 11, 1968, the lower court reiterated its order of October 2, 1965 that the administrator should pay the heirs of Concepcion Pangilinan the amount to be reimbursed to her estate. The court further directed the administrator to account for the income of the estate, to recover any amount due from the special administrator, and to pay the claim of Crispin Borromeo and the amount due to the heirs of Concepcion Pangilinan, as directed in its order of August 31, 1966 and in its approval of the accounting of the special administrator.

The administrator, Filomeno Coca, Prima Pangilinan and the heirs of Concepcion Pangilinan also appealed from those two orders dated May 11, 1968 (L-29545).

The appellants contend that the lower court, as a probate court, has no jurisdiction to decide the ownership of the twelve-hectare portion of Lot No. 1112. On the other hand, the appellees or the heirs of Francisco Pangilinan counter that the lower court did not decide the ownership of the twelve hectares when it ordered their exclusion from the project of partition. So, the problem is how the title to the twelve hectares should be decided, whether in a separate action or in the intestate proceeding.

It should be clarified that whether a particular matter should be resolved by the Court of First Instance in the exercise of its general jurisdiction or of its limited probate jurisdiction is in reality not a jurisdictional question. In essence, it is a procedural question involving a mode of practice "which may be waived" (*Cunanan vs. Amparo*, 80 Phil. 227, 232, Cf. *Reyes vs. Diaz*, 73 Phil. 484 re jurisdiction over the issue).

As a general rule, the question as to title to property should not be passed upon in the testate or intestate proceeding. That question should be ventilated in a separate action. (*Lachenal vs. Salas*, L-42257, June 14, 1976, 71 SCRA 262, 266). That general rule has qualifications or exceptions justified by expediency and convenience.

Thus, the probate court may provisionally pass upon in an intestate or testate proceeding the question of inclusion in or exclusion from, the inventory of a piece of property without prejudice to its final determination in a separate action (*Lachenal vs. Salas*, *supra*).

Although generally, a probate court may not decide a question of title or ownership, yet if the interested parties are all heirs, or the question is one of collation or advancement, or the parties consent to the assumption of jurisdiction by the probate court and the rights of third parties are not impaired, then the probate court is competent to decide the question of ownership (*Pascual vs. Pascual*, 73 Phil. 561; *Alvarez vs. Espiritu*, L-18833, August 14, 1965, 14 SCRA 892; *Cunanan vs. Amparo*, *supra*; 3 *Moran's Comments on the Rules of Court*, 1970 Ed., p. 473).

We hold that the instant case may be treated as an exception to the general rule that questions of title should be ventilated in a separate action.

Here, the probate court had already received evidence on the ownership of the twelve-hectare portion during the hearing of the motion for its exclusion from the inventory. The only interested parties are the heirs who have all appeared in the intestate proceeding.

As pointed out by the appellees, they belong to the poor stratum of society. They should not be forced to incur additional expenses (such as filing fees) by bringing a separate action to determine the ownership of the twelve-hectare portion.

The just, expeditious and inexpensive solution is to require the heirs of Francisco Pangilinan to file in the intestate proceeding, Special Proceeding No. 508, a motion in the form of a complaint wherein they should set forth their claim for the twelve hectares in question, stating the ultimate facts in support of their claim, such as the partition made by Juan C. Pangilinan, their acquisition of the share of Prima Pangilinan and the usufructuary rights of their parents, their long possession of the said portion, their claim for the produce of the land, the expenses incurred by them in Civil Case No. 560, Labaria vs. Pangilinan, and their contention that Lot No. 1920 forms part of the estate of the Pangilinan spouses.

Copies of that motion should be served upon the administrator and upon Prima Pangilinan and the heirs of Concepcion Pangilinan (who are all represented by the same lawyers). They should answer the motion within fifteen days from service. In their answer the appellants should set forth the ultimate facts and the defenses (such as the violation of section 118 of the Public Land Law) to support their theory that Lot No. 1112 still forms part of the estate of the spouses Juan C. Pangilinan and Teresa Magtuba and that the heirs of Francisco Pangilinan should bear one-third of the expenses incurred by Concepcion Pangilinan in Civil Case No. 560.

After the issues have been joined and in case no amicable settlement has been reached, the probate court should receive evidence or, as indicated by the Court of Appeals in *Atay vs. Catolico*, supra, a full-dress hearing should be held.

Crispin Borromeo may set forth also his claim for the three hectares but only for the purpose of deciding what portion of the estate should be given to him in satisfaction of his share. His claim for the sum of P416 had already been adjudicated by the lower court in its order of August 31, 1966 (pp. 26-27, Record on Appeal in L-29545). No appeal was interposed from that adjudication.

After trial, the lower court's decision on the issue as to what constitutes the estate of the Pangilinan spouses should include the partition thereof and should indicate what portion of the estate should be allocated to Crispin Borromeo. If necessary, the validity of the donation or partition of Lot No. 1112, made by Juan C. Pangilinan during his lifetime, should be passed upon.

Considering that the respective claims of the heirs of Francisco Pangilinan and the heirs of Concepcion Pangilinan for reimbursement of the litigation expenses allegedly incurred in Civil Case No. 560 will be included in the trial, the two orders of the trial court dated May 11, 1968 regarding those matters (L-29545) should not be enforced. They should be set aside.

WHEREFORE, (1) the lower court's amended order of August 31, 1966, excluding twelve hectares from the partition of the estate of the deceased Pangilinan spouses (L-27082) and (2) the two orders dated May 11, 1968, regarding the claim of Guadalupe Pizarra and her children and the debt of the estate to Concepcion Pangilinan (L-29545) are reversed and set aside.

A new trial should be held on those matters after the filing of the proper pleadings and in case no amicable settlement is reached. The heirs of Francisco Pangilinan should file their motion within thirty days from notice of the entry of judgment in this case.

The case is remanded to the lower court for further proceedings in accordance with the guidelines already set forth. No costs.

SO ORDERED.

Fernando, (Chairman), Barredo, Antonio, and Concepcion, Jr., JJ., concur.

Santos, J., on leave.

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