

SANTIAGO RODRIGO, PETITIONER, VS. ISABEL CANTOR AND PERFECTO R. PALACIO, JUDGE OF THE COURT OF FIRST INSTANCE OF CAMARINES, SUR, RESPONDENTS.

G.R. No. L-4398. May 28, 1952

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is a petition for certiorari seeking to annul the order of the respondent Judge dated November 3, 1950, admitting as part of the judicial record of civil case No. 6673, the order of the court dated July 19, 1943, on the ground that he has no longer jurisdiction to do so because the record of said case had already been finally reconstituted by an order entered on March 8, 1947, which became final for lack of appeal.

On December 16, 1936, Santiago Rodrigo filed a complaint in the Justice of the Peace Court of Cabusao charging his wife, Isabel Cantor, and Jose Area, with the crime of adultery. After the corresponding preliminary investigation, the case was elevated to the Court of First Instance of Camarines Sur, where both accused were found guilty. They appealed to the Court of Appeals which, however, affirmed the judgment of conviction.

On February 25, 1938, Santiago Rodrigo instituted an action for divorce against Isabel Cantor in the same Court of First Instance which was docketed as civil case No. 6673. After due trial, the court pronounced them legally divorced. Then the court proceeded to determine what constituted the community property of the spouses, dissolved the conjugal partnership existing between them, and made' the corresponding adjudication.

On May 11, 1941, or almost one year after the decree of divorce had become final, Isabel Cantor filed a motion for the reopening of the case asserting that there were other conjugal properties which were not included in the liquidation. The petition for reopening was vigorously objected to by Santiago Rodrigo. In the meantime war came, and then liberation.

On January 4, 1946, Isabel Cantor filed a petition for the reconstitution of the record in civil case No. 6673, and on March 8, 1947, when the parties appeared before the court in connection with the petition of Isabel Cantor for the reopening of the case so that other conjugal properties may be included in the liquidation, said Isabel Cantor contended that it was no longer necessary to do so because, according to her, that question had already been determined in an order of July 19, 1943, with the only hitch that, according to her, said order was not included in the record of said civil case No. 6673 when the same was reconstituted. She consequently prayed that said order be admitted as part of the reconstituted record. Counsel for Santiago Rodrigo vigorously objected to this pretense contending that said supposed order never existed and hence cannot be considered as part of the record of civil case No. 6673, and in the supposition that said order had existed, it is null and void for having been rendered without notice to the other party. After hearing, and after the parties had submitted their respective memoranda, the court decided that the supposed order of July 19, 1943, was non-existent, and, therefore, the question as to what constitutes the community property of the parties was still open for discussion and determination, and issued an order of this tenor on March 9, 1948. Isabel Cantor was notified of this order, but did not appeal therefrom, nor

did she take any action to impugn its correctness or validity.

On July 7, 1950, or more than two years after the issuance of the order of March 9, 1948, Isabel Cantor filed a new petition for the readmission of the disputed order of July 19, 1943, invoking in her favor the provisions of Republic Act No. 441, which has been recently approved, praying that it be admitted and considered as part of the reconstituted record of civil case No. 6673. In spite of the vigorous objection interposed by Santiago Rodrigo to this new attempt to have the disputed order readmitted, the court reconsidered its previous order by readmitting the disputed order as part of the reconstituted record, holding the view that it can be done under the provisions of Republic Act No. 441. Hence this petition for certiorari.

The important questions posed by petitioner in his memorandum which we believe sufficient to decide the controversy are: (1) Has the respondent Judge jurisdiction to admit the supposed order of July 19, 1943, after its previous order declaring it non-existent had become final?; and (2) Does Republic Act No. 441 authorize the admission of said supposed order under the facts and circumstances of the present case?

The disputed order of July 19, 1943, reads as follows:

"ORDER

From the evidence submitted by the defendant, it appears that the following properties belong to the conjugal partnership of the plaintiff and the defendant, and as such, should be included in the inventory so that same may be liquidated together with the other properties of the conjugal partnership:

- "1. Un terreno en Magarao, C.S., Tax No.15928, avaluado en P660.00 (Exh. A);
2. Otro terreno en Cabusao, C.S., tax No. 2933, avaluado en P190.00 (Exh. B);
3. Otro terreno en Naga, C.S., Reg. Of. Terrenos No. 1061, avaluado en P1,000.00 (Exhibits C, C-1 y C-2);
4. Un terreno en Cabusao, C.S. Tax, No. 2245, avaluado en P _____;
5. Otro terreno en Cabusao, C.S. Tax No. 2274, avaluado en P270.00;
6. Otro terreno en Cabusao, C.S., Tax. No. 3014, avaluado en P3,710.00;
7. Otro terreno en Cabusao, C.S., Tax No. 3017, avaluado en P240.00;
8. Otro terreno en Cabusao, C.S. Tax. No. 3016, avaluado en P690.00 (Exhs. D, D-1 y D-2); y
9. Terreno solar con todgs sus mejoras, situado en el centro de la poblacion del municipio de Libmanan, provincia de Camarines Sur, de 487.5 m.c. declarado bajo el Tax No. 13484 y avaluado en P550.00 (Exh.E).'

In view of the foregoing the above described properties are hereby declared properties belonging to the conjugal partnership between the plaintiff and the defendant and same are hereby ordered included in the inventory of the properties of the conjugal partnership of the litigating spouses.

The defendant is hereby ordered to submit the liquidation of the properties of the conjugal partnership within twenty (20) days from now and, if he refuses to comply with this order, the Court will appoint the Clerk of this Court to liquidate these properties under the provisions of section 13 of the new Divorce Law, Executive Order No. 141.

SO ORDERED.

Given at Naga, Camarines Sur, this 19th day of July, 1943.

(Sgd.) VICENTE DEL ROSARIO
Judge"

It should be noted that in the order transcribed above it is stated that there are other conjugal properties which have not been included in the inventory, properties that appear enumerated therein, and it was ordered that they be included so that they may be considered in the liquidation of the assets of the conjugal partnership. These

additional properties must undoubtedly be the same ones which respondent Isabel Cantor had in mind when she filed a motion for the reopening of the reconstituted record to enable her to present proof as to the existence of said additional properties but that later she changed her mind when she discovered the existence of the disputed order which would meet the very purpose of her petition, for which reason she moved that said disputed order be readmitted and the question as to what constitutes the community property of the parties be considered res judicata. But when the matter was submitted to the court for determination, the court ruled that said disputed order was non-existent inasmuch as it has not been included as part of the reconstituted record, whereas on the other hand the order declaring the record reconstituted is already final and can no longer be reopened. Then Republic Act No. 441 was approved, and invoking the benefit of its provisions, Isabel Cantor renewed her plea for the readmission of the disputed order. This plea has been favorably provided, and Santiago Rodrigo now disputes that this cannot be done because the respondent Judge has no longer jurisdiction to act on the matter.

The question to be determined is whether the court can still grant the petition of Isabel Cantor to have the disputed order of July 19, 1943, readmitted as part of the reconstituted record notwithstanding the fact that the order originally declaring its reconstitution entered on March 6, 1947, as well as the order declaring said disputed order non-existent has already become final.

It is our considered opinion that the respondent Judge in allowing the readmission of the disputed order has acted in the exercise of a sound discretion and has not violated the letter, nor the spirit, of Commonwealth Act No. 3110, as in doing so he merely made use of the administrative power and authority granted to him by said Act in completing the reconstitution of a judicial record by allowing the readmission of documents and papers which have not been originally produced by the interested parties because of circumstances beyond their control in order that the record may be completed and real justice be done to the parties. The proceedings relative to the reconstitution of a judicial record are not, strictly speaking, judicial in character but rather administrative in nature, its main purpose being merely to see to it that a judicial record be restored to its status quo. In these proceedings no issue affecting the merits of the controversy is involved. The only aim is to see that the record be reconstituted and restored to the same situation it was before its destruction in order that the case may be continued where it was left off by the parties. If this objective could be attained even at the expense of technicalities, equity requires that it be done provided that the proper pleadings or documents are submitted and no undue advantage or bad faith is allowed to the prejudice of either party. In this particular case no such bad faith for advantage is imputed in connection with the introduction of the disputed order, for the objection is merely predicated on a technical ground. For obvious reasons, this technical objection should be brushed aside if for no other reason than the desire to bring out the truth.

It is true that when Isabel Cantor moved for the readmission of the disputed order which calls for the reopening of the case concerning the reconstituted record the period provided for by law to obtain such relief has already expired. But this is of no consequence in this case in view of the approval of Republic Act No. 441, which grants to an interested party an additional period of one year within which he can take steps to reconstitute a judicial record that has been destroyed by the war. The claim that this law only contemplates the reconstitution of a record, and not merely of a part thereof, cannot be entertained, as it would give a narrow interpretation to the extent and scope of said Act contrary to the well known rule that an Act that involves a matter of procedure should be given a liberal interpretation to promote the interests of justice (*Manila Railroad Co. v. Attorney General*, 20 Phil. 523, 530).

All things considered, it is our opinion that the respondent Judge did not act illegally, nor abuse his discretion, in issuing the order subject of the present petition for certiorari.

Wherefore, the petition is dismissed, with costs.

Paras, Feria, Pablo, Bengzon, Tuason, Montemayor, and Labrador, JJ., concur.

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