

RUPERTA BOOL, PLAINTIFF AND APPELLEE, VS. PERPETUO MENDOZA AND DIONISIO MENDOZA, DEFENDANTS AND APPELLEES, EUGENIO EVANGELISTA AND PETRONA LIM, INTERVENORS AND APPELLANTS.

G. R. No. L-5539. April 17, 1953

Ponente: LABRADOR, J.

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LABRADOR, J.:

This is an appeal from an order of the Court of First Instance of Mindoro denying the petition of Eugenio Evangelista and Petrona Lim to intervene in this action. The action has been instituted by Ruperta Bool against defendants Perpetuo Mendoza and Dionisio Mendoza for the purpose of compelling them to render an accounting of the properties of Eustaquia Hebreo (deceased) and her surviving spouse, Perpetuo Mendoza, and for the partition of the same, plaintiff being a daughter of said Eustaquia Hebreo by first marriage and being Hebreo's only heir. The defendants denied the supposed character of the properties as conjugal properties, but on February 13, 1950, the parties presented an amicable settlement, one of the conditions of which was that the defendant Perpetuo Mendoza cedes, transfer, and conveys in favor of plaintiff Ruperta Bool his interest, title, and participation in a parcel of land (included in Lot No. 2443 of the cadastral survey of Naujan) containing an area of 220,887 square meters, and covered by Homestead Title No. 2360.

On March 27, 1950, the intervenors-appellants herein presented a petition to be allowed to intervene, alleging that that land ceded in the amicable settlement had already been adjudicated by the cadastral court in part to Juan Bool and in part to the said intervenors-appellants, and that said adjudication having become final and a partition of the lot being under the consideration of the cadastral court, the grant of the said land as homestead to Perpetuo Mendoza was null and void, and any agreement in relation thereto also void. But before this petition for intervention was received, the Court of First Instance of Mindoro had already approved the amicable settlement in its decision dated March 23, 1950, so the attorney for the intervenors-appellants presented a petition for the reopening of the case in order to allow the presentation of intervenors-appellants' petition for intervention. The trial court denied this petition on the ground that the petition for intervention was presented after trial and after a decision had already been rendered, and on the additional ground that the intervenors-appellants are not in any way bound by the decision rendered in the case. Against this judgment the intervenors-appellants have prosecuted this appeal, claiming that they have an interest in the subject of the litigation and amicable settlement, and that if they do not insist on their intervention they might later on be declared estopped by the proceedings had in this action and bound by them, because the present proceedings for partition are one in rem.

The intervenors-appellants do not have any material interest in the subject of the present action between Ruperta Bool and Perpetuo Mendoza and Dionisio Mendoza, which is the right, title, or interest that Perpetuo Mendoza may have acquired over the land covered by his homestead application. The subject is not the land itself. The action is not an action in rem like a registration or cadastral proceeding to determine title to the land; it concerns only the right, title, and interest of the parties to the said land, not the title of the land as against the whole world,

and, therefore, not affecting any right or interest that any other party may have to said land. The present action is not in rem but in personam, and would bind only the parties thereto. By the settlement one party cedes the land subject of the action to the other, and the mere fact that it takes place in a proceeding in court does not raise it to the category of a proceeding in rem, binding the land and all people claiming rights thereto. Neither are the intervenors-appellants necessary or indispensable parties to the action or to the settlement, nor are they in any way affected by the amicable settlement that was entered into by the plaintiff and the defendants in this action. As they have no interest in the subject of the action, nor are they bound thereby, they have no right to intervene therein.

The appeal must also be dismissed on other grounds. The petition for intervention was filed after the Court had decided the case. Intervention is allowed only "at any stage of the trial," the term "trial" being used in its restricted sense, that is, the period for the introduction of evidence by both parties. (I Moran 291, 1953 ed.) Besides, petitions for intervention are addressed to the sound discretion of the Judge, and as intervenors-appellants' rights to the property subject of the amicable settlement are not in any way affected by the judgment in this action, and as their claim to the land as against the parties to the action can be decided in another proceeding, it was not error for the trial court to refuse to permit the reopening of the case with a view to allowing them to intervene.

The order appealed from is hereby affirmed, with costs against the intervenors-appellants.

Paras, C. J., Pablo, Tuason, Montemayor and Bautista Angelo, JJ., concur.

Feria, JJ., concurs in the result.

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