

**TESTATE ESTATE OF ALEJAN-DRO GONZALES Y TOLENTINO,
DECEASED, LORETO ESGUERRA (GONZALES) MANGALIMAN,
PETITIONER-APPELLANT, VS. MANUEL I. GONZALES,
RESPONDENT-APPELLEE.**

G.R. No. L-21033. December 28, 1970

Ponente: ZALDIVAR, J.

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ZALDIVAR, J.:

Appeal, on a question of law, from the order of the Court of First Instance of Manila in its Special Proceedings No. 42412. This case is one of the many incidents in the testamentary proceedings for the settlement of the estate of the late Alejandro Gonzales y Tolentino.

Petitioner-Appellant Loreto Esguerra (Gonzales) Mangaliman, an illegitimate daughter of Alejandro Gonzales y Tolentino, was given a legacy of one-eighth (1/8) undivided portion of the Hacienda Evangelista located at Umingan, Pangasinan having an area of 137 hectares. Because she was a minor when her father died, petitioner's share was placed under the guardianship of her half-bro-ther, Alejandro Gonzales, Jr., a legitimate son of the testator.

Respondent-appellee Manuel I. Gonzales is a legiti-mate son of the testator, and was for some time the ad-ministrator of the estate. For the payment of the ser-vices of said respondent as administrator, it was agreed on November 5, 1943 among the testator's widow and legi-timate children that he would be paid the sum of P11,000.00. This agreement was approved by the probate court on Decem-ber 2, 1943. Alleging that he had not been paid his fee of P11,000.00, as provided in the compromise agreement, respondent filed before the probate court a motion for execu-tion on July 28, 1948, which motion was granted in an order issued by the court on August 23, 1948. Eventually, on July 27, 1950 the Hacienda Evangelista, which had previously been levied on execution, was sold by the sheriff to res-pondent for the sum of P2,307.46. The one-year redemption period having elapsed without petitioner's guardian having taken any step to redeem her undivided share of the hacien-da, the sheriff executed, on October 31, 1951, a final deed of sale in favor of respondent.

After coming of age, petitioner sought to recover her legacy by filing a motion in the probate court to set aside the sale of the Hacienda Evangelista. Having found, how-ever, that her guardian was duly notified of such sale, the court a quo denied her motion on October 15, 1954. Peti-tioner did not appeal from this order, instead she filed an action in the Court of First Instance of Manila against her former guardian for damages for the loss of her share in the hacienda (Civil Case No. 25986).[1]

Much later, or in April, 1962, petitioner allegedly learned that before the sale to respondent of the Hacienda Evangelista, including her one-eighth undivided share thereof, said respondent had actually been paid for his services as administrator an amount more than the P11,000.00 claimed by him. Contending that respondent, through fraud and misrepresentations had obtained the order of payment for his services and the subsequent writs of execution which ultimately led to his acquisition of the property, thereby enriching himself at her expense,

petitioner, on April 21, 1962, filed a petition before the same probate court for the reconveyance to her of her one-eighth undivided share in the Hacienda Evangelista by the respondent. After the filing by respondent of his opposition, and the respective memorandum of the parties herein, the probate court, on November 12, 1962, issued an order, as follows:

"After considering the petition for re-conveyance of Loreto Esguerra (Gonzales) Mangaliman, dated April 21, 1962, and the opposition thereto, dated May 14, 1962, of Manuel Gonzales, in support of which opposition said Manuel Gonzales filed his memorandum on September 12, of this year, and in reply to which Loreto Esguerra (Gonzales) Mangaliman filed hers on October 24, same year, the Court is of the opinion that in as much as the question of title or ownership is involved, said Manuel Gonzales may not be divested of his title within these probate proceedings but in an independent suit filed with a competent court."

Hence the present appeal by the petitioner.

The only question to be resolved in this appeal is, whether or not the Court of First Instance of Manila, as a probate court, has jurisdiction to entertain petitioner's petition for reconveyance.

We hold that the probate court has no jurisdiction to take cognizance of the petition for reconveyance, in question. The remedy sought by petitioner for the reconveyance to her of her share in the Hacienda Evangelista upon the ground that the same was acquired by respondent through fraud or misrepresentation cannot be obtained by a mere petition in the probate proceedings. The court of first instance, acting as a probate court, has limited jurisdiction and can take cognizance only of "matters of probate, both testate and intestate estates, * * * and all such special cases and proceedings as are not otherwise provided for."^[2] The jurisdiction of a probate court is limited and special, and this should be understood to comprehend only cases related to those powers specified in the law, and can not extend to the adjudication of collateral matters.³

The petition filed by petitioner before the probate court which seemingly seeks merely the reconveyance to her of her undivided share in a parcel of land which originally formed part of the estate of her father in fact calls for the nullification, of the order of execution issued by the probate court which is already final, and of the subsequent sale of a property to respondent, upon the alleged ground of fraud. The defense interposed by respondent is that petitioner's action to recover the property is already barred by prescription, laches, and res judicata. The petition for reconveyance has given rise to a controversy involving rights over a real property which would require the presentation of evidence and the determination of legal questions that should be ventilated in a court of general jurisdiction.

We, therefore, find no merit in this appeal.

WHEREFORE, the order appealed from is affirmed, without prejudice to petitioner-appellant's filing an action in the proper court. No pronouncement as to costs.

IT IS SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Fernando, Teehankee, Villamor, and Makasiar, JJ., concur. Castro and Barredo, JJ., did not take part.

[1] Trial of this case was suspended pending decision of the present incident.

[2] Sec. 44, par. (e), Republic Act 296. See *Register of Deeds of Pampanga v. Philippine National Bank*, 84 Phil., 600, 607.

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