

ROSALINA CUNANAN, IN HER CAPACITY AS ADMINISTRATRIX OF THE INTESTATE ESTATE OF ISAAC CUNANAN AND CANDIDA JOAQUIN—SPECIAL PROCEEDING NO. 8355 OF COURT OF FIRST INSTANCE OF NUEVA ...

G.R. No. L-1313. February 16, 1948

Ponente: TUASON, J.

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TUASON, J.:

The petitioner, Rosalina Cunanan, in her capacity as administratrix of the Intestate Estate of Isaac Cunanan and Candida Joaquin (Special Proceeding No. 8355 of the Court of First Instance of Nueva Ecija), seeks a review of two orders of the respondent Judge, Honorable Rafael Amparo, alleging that these orders were made "without and/or in excess of his jurisdiction, with grave abuse of discretion."

It results that in the aforesaid special proceeding, Bonifacio Soriano, one of the present respondents, under date of September 26, 1940, filed a money claim for P880 against the decedents' estate. He alleged that on various dates in 1937 and 1938, the deceased received from him diverse sums of money aggregating P880. (Exhibit "A.")

On April 17, 1941, Rosalina Cunanan, the administratrix, filed a motion setting out Bonifacio Soriano's claim and two others totalling P2,054, besides a debt of P1,600 in favor of one Filomeno Santos bearing 12 per cent interest per year. To pay these obligations, and because funds were needed to defray the expenses on the farm, she asked the court for authority to negotiate a loan in such amount or to sell so much of the property described in the inventory as might be sufficient to satisfy the said obligations. (Exhibit "B.") The Honorable Sotero Rodas, Judge, in an order dated April 23, 1941, granted the motion. (Exhibit "C".)

On June 1, 1944, Rosalina Cunanan manifested to the court that she had tendered to Bonifacio Soriano in March of that year P880 but that Soriano refused to accept it on the ground that the money she offered was Japanese notes and had no value. She prayed that the creditor be ordered to accept the amount tendered, to execute the necessary deed of cancellation, and to return the possession of two parcels of land which had been conveyed to him. (Exhibit "D.")

On June 15, 1944, the Honorable Quintin Paredes, Jr., Judge, authorized the administratrix to deposit with the clerk of court P880 in full payment of the obligation in favor of Bonifacio Soriano and ordered Soriano to deliver the property in his possession to the administratrix. (Exhibit "E.") This order was not appealed nor was any motion for its reconsideration filed, so far as the pleadings would reveal.

On July 17, 1944, the administratrix filed a complaint against Soriano for contempt of court, alleging that she had complied with the court's order of June 15, 1944, but that Soriano disobeyed that part of it which commanded him to return the two parcels of land to the estate of Isaac Cunanan and Candida Joaquin. (Exhibit "F".)

After hearing, Judge Paredes, on August 4, 1944, found Soriano not guilty of contempt, having "granted him the benefit of doubt" on the strength of Soriano's defense that he, in the words of the decision, "misunderstood, or

misconstrued, the order of this court, dated June 15, 1944." However, Judge Paredes reiterated his order that Soriano "deliver the property in question to the administratrix Rosalina Cunanan for the benefit of the Intestate Estate." He also directed the clerk of court to turn over to Soriano the P880 which had been deposited with him, "upon proper proof that the possession of the property has been actually delivered to the Intestate Estate." (Exhibit "G".)

On September 1, 1944, Bonifacio Soriano filed a motion for reconsideration of the order of August 4, 1944, that is, the last order of Judge Paredes. Soriano stated as grounds of his motion, first, that the title to those lots had been consolidated in his and his wife's names "by virtue of a deed of sale executed in their favor by Isaac Cunanan and Rosalina Cunanan on April 7, 1938, which was later on amended by another instrument dated July 28, 1938," and, second, that under the terms of the sale, the vendors were given the option to repurchase the said lots not later than April 7, 1944. Soriano also alleged that a transfer certificate of title to the two lots had been issued to him and his wife by the Register of Deeds of Nueva Ecija. (Exhibit H.)

On August 16, 1946, the Honorable Rafael Amparo, who now was presiding over the Court of First Instance of Nueva Ecija, in a lengthy order granted Soriano's motion (Exhibit "I"), and on September 16 following he confirmed that order. (Exhibit "K".) He justified the refusal of Bonifacio Soriano to accept Japanese military notes and Soriano's insistence on being paid in the same currency which he had paid for the land. In fine, he set aside the order of Judge Paredes of August 4, 1944 and denied "the petition of the administratrix dated July 25, 1946, praying, in effect, that said order be enforced."

One important thing that at once strikes attention upon reading the foregoing statement of the case, is that the order of Judge Paredes of June 15, 1944 "directing Bonifacio Soriano to accept from the petitioner Rosalina Cunanan the amount of P880 and to execute the necessary document in favor of said administratrix and to deliver the possession of the property in question," was not appealed or excepted to and is now final. It had already become final when, on August 16, 1946, Judge Amparo made his order, identified herein as Annex I. It was Judge Paredes' order of August 4, 1944, on the administratrix's motion for contempt of court filed on July 17, 1944, which Soriano sought to have reconsidered and which Judge Amparo set aside on August 16, 1946. Although the allegations do not show when Soriano received notice of Judge of Paredes' order of June 15, 1944, he must have been notified of it before the proceeding for contempt against him started, at the latest, proceeding in which he was absolved. And the tenor of the order acquitting Soriano gives rise to the inference that he abided by the order of June 15 which he was accused of disobeying, for the order gave as reason for his exoneration the fact that he had not properly understood the terms of the order said to have been disobeyed by him.

We do not agree with the respondents that the court lacked jurisdiction to order, the delivery of the possession of the lots to the estate. This power is a mere consequence of the power to approve Soriano's claim; a power which the court undoubtedly had and which Soriano himself invoked with full knowledge of the facts. As a general rule, with the consent of the parties matters affecting property under judicial administration may be taken cognizance of by the court in the course of the intestate proceeding provided the interests of third persons are not prejudiced. Determination of title to property is within the jurisdiction of Courts of First Instance. The respondent Soriano's objection relates exclusively to the procedure, which is distinct from jurisdiction. It affects only personal rights to a mode of practice which may be waived. Certainly, there is waiver where, as here, and as has been pointed out, the party who raises the objection was the one who set the court in motion, and who, by failing to disclose the existence of a sale under pacto de retro, suppressed jurisdictional facts that might be in the way of his claim's success.

Soriano is bound by his own petition and by the court's adjudication of his claim made in consonance with his prayer. A party can not trifle with a court's decision or order which he himself sought with full awareness of his

rights under the premises, by taking it or leaving it at pleasure. The allegations, statements, or admissions contained in a pleading are conclusive as against the pleader. A party cannot subsequently take a position contradictory of, or inconsistent with, his pleadings. (*McDaniel vs. Apacible*, 44 Phil., 248; 49 C. J., 122-124.) Specifically, he is not allowed to ask his money back when the peso value is good, and later say he wants to keep the land when the peso's purchasing power is down.

Under the theory on which the respondents would have the case decided; i. e., viewed in the light of a sale with the right of repurchase, the respondents' position is not a whit improved. The tender of payment by the administratrix, to say the least, operated to preserve her right of redemption. The court's ruling that the repurchase of the lots should have been effected in Commonwealth currency is bereft of reason and justice and is not the law. Japanese war notes were the only money in circulation in March, 1944. It seems to us extremely unjust and unreasonable to expect the administratrix at that time to repurchase the lots in any other means of exchange. If it be correct—a point which we do not decide—that the purchaser could not be compelled to accept payment in the currency in use at the time of repurchase, then the period of redemption should have been considered extended until that currency was replaced with one more acceptable to the creditor. Suspension of the time of repurchase should have followed the vendor's inability to effect the redemption in Commonwealth currency by reason of circumstances not of his own making. As we have said, this was the least that should have been conceded to the debtor. Thus given a grace, the administratrix had until within reasonable time after liberation to repurchase the property. It is fortunate, be it said to the credit of the administratrix, that she expressed to the respondent judge, before he made the orders complained of, her willingness to pay the debt or to repurchase the lots, as the case may be, in genuine Philippine money, forgetting the deposit and without insisting that it be regarded as a sufficient and valid exercise of her option. This attitude of the administratrix relieves us of the necessity of passing on what otherwise would be a more serious question—the question of who should bear the loss consequent on the destruction of the notes deposited or the subsequent evanescence of their utility.

The petition is granted and the orders of the respondent judge of August 16 and September 16, 1946, (Annexes I and "K"), are reversed, with costs against the respondent Bonifacio Soriano.

Paras, Perfecto, Hilado, and Briones, JJ., concur.

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