

INTESTATE ESTATE OF THE LATE EULALIO ILAGAN BISIG, SANTOS ILAGAN, ADMINISTRATOR.

G.R. No. L-349. September 30, 1948

Ponente: TUASON, J.

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TUASON, J.:

This is an appeal from an order of the Court, of First Instance of Nueva Ecija in an intestate proceeding disapproving the sale of two parcels of land by the administrator to the present appellant and her husband, since deceased.

It appears that under date of September 5, 1941, the administrator, one of the children and heirs of the decedent, executed "an absolute deed of sale" over two parcels of land for P18,000.00 in favor of Severo Cruz and his wife. On September 18, the administrator submitted the deed to the court with a corresponding motion tearing the same date as the deed of conveyance for approval. All the other children and heirs of the decedent, four in number and all of lawful age, gave their approval and conformity to the sale and to the administrator's motion by signing with appropriate expressions both papers. The motion with the deed attached was set for hearing for September 22, 194, but for reasons not appearing on the record, it seems that this motion was not acted upon.

On December 18, 1943 the heirs of the deceased, except Santos Ilagan, the administrator, filed a written opposition to the sale. On June 30, 1944, Judge Quintin Paredes, Jr. sustained the opposition holding that the sale was "improper." Judge Paredes said that "the sale was, in effect, primarily intended to pay the mortgage debt, and to sell the aforesaid property preferentially to the mortgagee."

The grounds of the opposition were that "the price fixed in the motion is not reasonable under the present condition, because now the two (2) parcels of land command a better and higher price than P18,000 as fixed in the executory contract of sale in favor of the mortgagees, Severo Cruz and Estefania Rodriguez de Cruz, which will not be beneficial to the estate." In this instance, the appellees maintain that the properties, which were the subject matter of the sale, being in custodia leg la, the sale "could only be validly effected under and by virtue of an express authority of the Court having cognizance of the proceedings and only upon strict compliance with the formalities prescribed by law."

A case in point is *Generosa Teves de Jakosalem vs. Nicolas Rafols*,[1] No. 28372, July 24, 1942, 2 Off. Gaz., 31, 32. We will quote at length from that decision as we think it is decisive of the main issue in the present case.

"The lower court absolved Nicolas Rafols upon the theory that Susana Melgar could not have sold anything to Pedro Cui because the land was then in custodia legis, that is, under judicial administration. This is error. That the land could not ordinarily be levied upon while custodia legis, does not mean that one of the heirs may not sell the right, interest or participation which he has or might have in the lands under administration. The ordinary execution of property in custodia legis is prohibited to avoid interference with the possession by the court. But the sale made by an heir of his share in an inheritance, subject to the result of the pending administration, in no wise, stands in the way of such administration.

"Article 440 of the Civil Code provides that the possession of hereditary property is deemed to be transmitted to the heir without interruption from the instant of the death of the decedent, in case the inheritance be accepted. And Manresa with reason states that upon the death of person, each of his heirs becomes the undivided owner of the whole estate left with respect to the part or portion which might be adjudicated to him, a community of ownership being thus formed among the co-owners of the estate which it remains undivided. ' (3 Manresa, 3575 Alcala vs. Alcala, 35 Phil. 679). And according to article 399 of the Civil Code, every part owner may assign or mortgage his part in the common property, and the effect of such assignment or mortgage shall be limited to the portion which may be allotted to him in the partition upon dissolution of the community. Hence in the case of Ramirez vs. Bautista, 14 Phil., 528, where some of the heirs, without the concurrence of the other, sold a property left by their deceased father, this Court, speaking through its then Chief Justice Cayetano Arellano, said that the sale was valid, but the effect thereof was limited to the share which may be allotted to the vendors upon partition of the estate.

"Its results therefor that the sale made by Susana Melgar in favor of Pedro Cui was valid, but it would be effective only as to the portion to be adjudicated to the vendor upon partition of the property left by her deceased father, Juan Melgar. And as on December 12, 1920, upon partition of said property the land in question was adjudicated to Susana Melgar, the sale of the whole land which the latter made in favor of Pedro Cui was entirely confirmed."

The appellees distinguish the above case from the case at bar in that, it is argued, in the former the heir personally made the sale while in the latter the seller was the judicial administrator. But the distinction thus noted goes to form. In their effects and in the underlying principles, the two cases are analogous. The appellees by signing the deed of sale in token of approval bound themselves as completely and as effectively as if they had signed the document as vendors, or co-vendors with the administrator. If they had executed a separate document authorizing the sale the result could not have been any different. What else could be the meaning and effect of their approval and conformity? "A sale which the representative makes, with the written assent of all legatees or distributees of the estate, is in effect their sale as well as his, and, if made in good faith, ought to bind strongly, provided that all the persons assenting are sui juris." 3 Schouler on Wills, Executors and Administrators, section 2366, Executors and Administrators, Sec. 2366, p. 2187.

We believe that estoppel is well pleaded. "Heirs, by their conduct in remaining silent when a sale of a decedent's property is made by the executor or administrator, or by so conducting themselves as to consent or assent in the consummation of the sale, may estop themselves from subsequently questioning the validity of the sale," 21 Am. Jur. p. 756.

The applicable estoppel is estoppel by deed, a bar which precludes a party from denying the truth of his deed. Prejudice is not an essential element of this kind of estoppel.

However, equitable estoppel or estoppel by misrepresentation fits as well into the facts of this case. Disapproval of the sale would result in material injury or detriment to the vendees.

It will be noted that, although neither the administrator nor the other heirs received any part of the proceeds upon the consummation of the sale or afterward, except a promissory note for P2,100.00 payable in 60 days, it is a fact that the estate owed the vendees P12,000.00 exclusive of interest. Of this amount P500.00 had been received by the decedent himself in his lifetime, and the remainder P500.00, by the administrator avowedly for the benefit of the estate. The latter amount was secured by a mortgage on the lands sold and authority for the loans by the administrator and the execution of a mortgage was obtained with the express and written conformity of all the heirs. All the loans bore 12 per cent interest per annum.

By reason of the sale, and relying on the good faith of these heirs, the vendees, it is inferred from the contract,

agreed to the cancellation of the mortgage and stopped collecting interest. With the loans cancelled, the mortgage or mortgages were not foreclosed upon the expiration of their terms. According to the administrator, in his request for authority to sell, he had not paid interest on the entire loan since 1939.

To disallow estoppel against the appellees in the face of these circumstances would be to allow them to profit by their own wrong and inconsistency at the expense of innocent parties.

Under the circumstances, the probate court should have approved the sale. The subsequent increase in value of the property was not a sufficient reason for turning down the conveyance. This should be true particularly where, as in this case, the alleged inadequacy of price was based on war-time and invasion money in which standard inadequacy which emerged after the sale and which could not have been availed of if the court had not unduly delayed action on the motion for approval of the sale. The prime factor in the approval or disapproval of a sale by an administrator is the interest of innocent heirs, legatees, devisees and, above all, creditors. In the present case, it is an admitted fact that there are neither claims against the estate nor heirs other than the administrator and the appellees. Unless fraud, mistake or duress intervened in the sale - and there is no charge that any of these vices intervened - the heirs by their assent placed themselves outside the protection of the court. They can not be heard to say that the sale was detrimental to their interest.

The heirs being estopped from blocking the sale, and the opposition disregarded, the court had before it an agreement, not contrary to law, entered into by the only parties interested in the estate regarding the disposition of the estate's assets. Viewed in this light, the court had no discretion to disapprove the agreement. It has been held that, when there are no creditors or all the debts have been paid, "the heirs have the right to ask the probate court to turn over to them both real and personal property without division; and where such request is unanimous, it is the duty of the court to comply with it, and there is nothing "in section 753 of the Code of Civil Procedure (now Section 1, Rule 9, of the Rules of Court) which prohibits it." (Del Val vs. Del Val, 29 Phil. 53-539.) The right to demand the delivery of property includes the right to dispose of it in the manner the heir please.

The court seemed to believe that the administrator, rather than sell the mortgaged property to the creditor, as he did, should have allowed the mortgage to take its course. Disregarding the fact that it is no concern of the court to inquire into the judiciousness of a sale when all interested parties have given their assent, the evidence is against the belief that if the mortgage had been foreclosed, the property could have commanded a better price at an auction sale. The administrator said in his request for permission to sell, a request concurred in by all the other heirs, that the lands which he proposed to convey to the mortgagees "cannot command a better and higher price, there being a possibility of its being eroded by the Pampanga river." The administrator was presumed to know whereof he spoke, and so were the appellees. They were all of age and must have been familiar with the prevailing prices of lands in their municipality. Moreover, the administrator was a lawyer and signed some of his motions both as administrator and as attorney for his brothers and sisters. Experience shows that public sales seldom bring better results than private sales.

It is said that the sale was conditional. The alleged condition is said to be embodied in this clause of the deed of sales "That from the approval of this sale, the said Severo Cruz and Estefania Rodriguez de Cruz, their heirs and assigns, shall have the sole and absolute dominion and ownership and actual and legal possession of the above described properties, good and valid title thereto being hereby warranted."

The question ceases to have any practical value after it is ruled that the court is bound to approve the sale. Nevertheless, we will take it up if only to show that this contention is without merit.

We do not construe the aforesaid stipulation as a condition precedent to the validity and effectiveness of the sale. It is merely a covenant that, as the lands were in the custody of the court and might not be taken out of that

custody without the courts permission, even though the granting of the permission be mandatory, material possession of the parcels should not be delivered till the court's approval was secured. This is the view that accords with the words of the entire instrument and the purposes of the parties as gathered from their action. The heading of the conveyance is "Deed of Absolute Sale", and the vendors stated in the deed, "I do hereby sell, cede, transfer and convey by way of absolute sale, etc." The facts that, as has been seen, all the previous transactions and pending accounts between the parties were liquidated, that the balance resulting from the liquidation was charged to the sale price, and that the loans liquidated ceased to earn any interest, add to the cogency of the proposition that the sale was final and definite in the minds of the parties, leaving nothing but the pro forma sanction of the probate court.

Pushing the argument further, it should be noted that the disapproval, (granting that approval was a condition precedent), was caused by the heirs themselves, and that had no objection been offered by them there would have been little likelihood of the approval being withheld. The point is that a party to a contract may not be excused from performing his promise by the non-occurrence of an event which he himself prevented.

The order appealed from is reversed and the court below shall enter a new order approving the sale and ordering the delivery of the lands in question to the vendees or their successors in interest, with costs against the appellees.

Paras, Pablo, Perfecto, Bengzon, and Briones, JJ., concur.

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