

**PETRONILA PINTO, AS JUDICIAL GUARDIAN OF THE MINOR
VICENTE TANTONGCO, PETITIONER, VS. COURT OF APPEALS, SY GO,
RICARDO TANTONGCO, JUANITA T. LIM, MARIA TANTONGCO, JOSE
TANTONGCO...**

G.R. No. L-20525. February 18, 1967

Ponente: DIZON, J.

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DIZON, J.:

Petition for certiorari filed by Petronila Pinto, as judicial guardian of the minor, Vicente Tantongco, to review the decision of the Court of Appeals in C.A.-G.R. No. 29764-R promulgated on May 26, 1962, ordering the Court of First Instance of Manila, Branch XII, "to refrain from further proceedings with Civil Case No. 46175 of that court, with orders for the setting aside of said court's order dated March 9, 1961 (Annex G) and March 27, 1961 (Annex I) for lack of jurisdiction of same, with costs against the other respondents".

Petitioner, as judicial guardian of the above-named minor, commenced Civil Case No. 46175 in the Court of First Instance of Manila against Sy Go, widow of the deceased Ramon Tantongco, and her legitimate children (respondents herein) (a) to annul the project of partition entered into by them and approved by the Court of First Instance of Rizal, Quezon City Branch, in Special Proceedings No. Q-1879, for the settlement of the intestate estate of said deceased, on the ground that her ward, the minor Vicente Tantongco, a compulsory heir of said deceased, was fraudulently preterited therein; (b) to recover his hereditary share in an amount not less than P400,000.00; (c) to require them to render an accounting of the profits realized in the business of said deceased and pay petitioner the sum appertaining to said minor, in no case not less than P150,000.00, and (d) to pay damages in the sum of P50,000.00 and attorney's fees for the same amount, plus the costs of suit.

The complaint alleged that Ramon Tantongco died intestate in Manila on May 16, 1956, leaving properties worth well over one million pesos; that the minor Vicente Tantongco, was the acknowledged natural child of the deceased with petitioner Pinto; that on April 22, 1957, the herein respondents Tantongcos partitioned the aforementioned estate among themselves, thereby depriving the said minor of his rightful share in the inheritance; and that Jose Puerto (also a respondent herein) was included as defendant in the action because of his refusal to withdraw the complaint against respondents Tantongcos for the recovery of the hereditary share of said minor in Civil Case No. Q-4093 of the Court of First Instance of Rizal, Quezon City Branch, filed by him, as the alleged guardian of the minor, without authority of law and to the prejudice of the latter.

The defendants filed a motion to dismiss the complaint on the ground that there was another action, namely, Civil Case No. Q-4093 (CFI, of Rizal, Quezon City Branch) mentioned heretofore, pending between the same parties for the same cause, wherein the respondent Puerto was duly appointed guardian ad litem for the minor Vicente Tantongco. The court, in its order of March 9, 1961, denied the motion on the ground that the causes of action in the two cases were not identical, the cause of action in Civil Case No. Q-4093 being based on the allegation that the minor was the legitimate son of the decedent, while the complaint before it alleged that he was the

acknowledged natural child of the deceased. Their motion for reconsideration having been denied by the court in its order of March 27, 1961, the defendants—the Tantongcos respondents herein—on April 8 of the same year, filed a motion for leave to file their answer to the complaint for certiorari with preliminary injunction against the order of denial of their motion to dismiss which they announced would be filed with the Supreme Court. However, instead of filing the aforesaid petition for certiorari with Us, they filed it with the Court of Appeals which rendered the appealed judgment.

The record clearly discloses that the estate left by the deceased Ramon Tantongco in which the minor represented by herein petitioner claimed his share either as a legitimate or an acknowledged natural son was well over P1,000,000.00 in value. Even the amounts for which the complaint filed by petitioner prayed for judgment exceed P600,000.00. Knowing this, the defendants in Civil Case No. 46175 of the Court of First Instance of Manila, who were not satisfied with the order of said court denying their motion to dismiss the complaint filed therein, announced in a motion properly filed that they would contest its validity by certiorari in the Supreme Court. For one reason or another, however, they filed it with the Court of Appeals.

Considering the value of the estate involved, it is obvious that the Court of Appeals had no original jurisdiction to hear and decide the petition for certiorari filed with it because the same could not be in aid of appellate jurisdiction which, as already stated, it did not have over the main case. Besides, it is clear that, as a rule, an order denying a motion to dismiss the complaint may not be reviewed by certiorari.

Wherefore, the writ prayed for is granted and, as a consequence, the decision under review is set aside, with costs.

Concepcion, C. J., Reyes, J.B.L., Regala, Makalintal, Bengzon, J. P., Zaldivar, Sanchez, and Ruiz Castro, JJ., concur.

Writ granted, decision set aside.

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