

PEDRO ERMAC, AND HIS CHILDREN, ELENA, CARLOS, ANTONIO, LUCIANO, HILARIO, INDALECIO AND FRANCISCA, ALL SURNAMED ERMAC, PETITIONERS, VS. CENON MEDELO AND JUDGE HERNANDO PINEDA, AS...

G.R. No. L-32281. June 19, 1975

Ponente: BARREDO, J.

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BARREDO, J.:

Petition for certiorari to set aside the order of respondent court of June 25, 1970, in its Special Proceedings No. 1517, approving the project of partition filed by private respondent, pursuant to the order of the same court providing for summary settlement of the intestate estate of the deceased spouses Potenciano Ermac and Anastacia Mariquit as well as of the order of July 15, 1970 denying reconsideration of the first order.

The above-named spouses both died leaving as the only property to be inherited by their heirs a parcel of land, Lot 1327, Cad. 292, covered by OCT No. RP-355 (262) of the Register of Deeds of Iligan City, with an assessed value of P590.00. Accordingly, herein respondent Cenon Medelo, one of the grandchildren of the said spouses, (being one of the children of their predeceased daughter Digna Ermac) filed a petition for summary settlement of said estate. All requirements having been complied with, and there being no opposition thereto, on January 21, 1970, respondent court issued an order granting the same, enumerating all the heirs entitled to participate in the inheritance and ordering petitioner to present the proper project of partition of the lot aforementioned. On February 2, 1970, however, petitioner Pedro Ermac, one of the children of the deceased spouses, moved for reconsideration of the order of settlement, praying for the elimination of Lot 1327 from the estate on the ground that it belongs to him and his wife. This motion was denied, the court ruling that the proper remedy is a separate suit. Accordingly, petitioner, together with his children, filed the corresponding action, Civil Case No. 1564 of the Court of First Instance of Lanao del Norte. And when upon submission of the project of partition, the respondent court approved the same over his objection predicated on the pendency of Civil Case No. 1564, petitioner moved for reconsideration, but the motion was denied. Hence, the present petition.

The sole question to be resolved here is whether or not respondent court exceeded its jurisdiction or gravely abused its discretion in approving the project of partition covering Lot No. 1327 notwithstanding that it is being claimed by petitioners in a separate civil action to be their property and not of the estate. Such being the case, the petition cannot prosper.

The policy of the law is to terminate proceedings for the settlement of the estate of deceased persons with the least loss of time. This is specially true with small estates for which the rules provide precisely a summary procedure dispensing with the appointment of an administrator together with the other involved and cumbersome steps ordinarily required in the determination of the assets of the deceased and the persons entitled to inherit therefrom and the payment of his obligations. Definitely, the probate court is not the best forum for the resolution of adverse claims of ownership of any property ostensibly belonging to the decedent's estate.[1] While there are settled

exceptions to this rule as applied to regular administration proceedings,[2] it is not proper to delay the summary settlement of a deceased person just because an heir or a third person claims that certain properties do not belong to the estate but to him.[3] Such claim must be ventilated in an independent action, and the probate court should proceed to the distribution of the estate, if there are no other legal obstacles to it, for after all, such distribution must always be subject to the results of the suit. For the protection of the claimant, the appropriate step is to have the proper annotation of lis pendens entered.

Accordingly, the instant petition is dismissed, without prejudice to petitioner having the proper annotation of lis pendens regarding Civil Case No. 1564 made on the title covering Lot 1327.

Costs against petitioners.

Fernando, Chairman, Antonio, Aquino, and Concepcion Jr., JJ., concur.

[1] Bernardo vs. Court of Appeals, 7 SCRA 367.

[2] Guzman vs. Anog, 37 Phil. 61.

[3] The case of Gutierrez vs. Cruz, 24 SCRA 69, relied upon by petitioner did not involve a summary settlement.

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