

**INTESTATE ESTATE OF THE DECEASED GELACIO SEBIAL,
BENJAMINA SEBIAL, PETITIONER AND APPELLEE, VS. ROBERTA
SEBIAL, JULIANO SEBIAL AND HEIRS OF BALBINA SEBIAL,
OPPOSITORS AND APPELL...***G.R. No. L-23419. June 27, 1975*

Ponente: AQUINO, J.

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Gelacio Sebial died intestate in 1943 in Pinamungajan, Cebu. According to the appellants, Gelacio Sebial, by his first wife Leoncia Manikis, who allegedly died in 1919, begot three children named Roberta, Balbina and Juliano. By his second wife, Dolores Enad, whom he allegedly married in 1927, he supposedly begot six children named Benjamina, Valentina, Ciriaco, Gregoria, Esperanza and Luciano.

On June 17, 1960 Benjamina Sebial filed in the Court of First Instance of Cebu a verified petition for the settlement of Gelacio Sebial's estate. She prayed that she be appointed administratrix thereof (Spec. Proc. No. 2049-R). Roberta Sebial opposed the petition on the ground that the estate of Gelacio Sebial had already been partitioned among his children and that, if an administration proceeding was necessary, she, Roberta Sebial, a resident of Guimbawian, a remote mountain barrio of Pinamungajan, where the decedent's estate was supposedly located, should be the one appointed administratrix and not Benjamina Sebial, a housemaid working at Talisay, Cebu which is about seventy kilometers away from Pinamungajan. In a supplemental opposition the children of the first marriage contended that the remedy of Benjamina Sebial was an action to rescind the partition.

After hearing, the lower court in its order of January 16, 1961 appointed Benjamina Sebial as administratrix. It found that the decedent left an estate consisting of lands with an area of twenty-one hectares, valued at more than six thousand pesos, and that the alleged partition of the decedent's estate was invalid and ineffective.

Letters of administration were issued to Benjamina Sebial on January 19, 1961. On the same date, a notice to creditors was issued. The oppositors moved for the reconsideration of the order appointing Benjamina Sebial as administratrix. They insisted that the decedent's estate had been partitioned on August 29, 1945, as shown in Exhibits 5, 6, 7 and 1, and that the action to rescind the partition had already prescribed. The lower court denied the motion in its order of February 11, 1961.

The oppositors filed on March 16, 1961 a motion to terminate the administration proceeding on the grounds that the decedent's estate was valued at less than six thousand pesos and that it had already been partitioned and, therefore, there was no necessity for the administration proceeding.

On April 27, 1961 Benjamina Sebial filed an inventory and appraisal of the decedent's estate allegedly consisting of seven unregistered parcels of land, covered by Tax Declarations Nos. 04477, 04478, 04490, 04491, 04492, 04493 and 04500, with a total value of nine thousand pesos, all located at Barrio Guimbawian, Pinamungajan. The oppositors registered their opposition to the inventory on the ground that the seven parcels of land

enumerated in the inventory no longer formed part of the decedent's estate.

On May 6, 1961, the administratrix filed a motion to require Lorenzo Rematado, Demetrio Camillo and the spouses Roberta Sebial and Lazaro Recuelo to deliver to her the parcels of land covered by Tax Declarations Nos. 04478, 04490, 04491 and 04493.

On June 24, 1961 the probate court issued an order suspending action on the pending incidents in view of the possibility of an amicable settlement. It ordered the parties to prepare a complete list of the properties belonging to the decedent, with a segregation of the properties belonging to each marriage. Orders of the same tenor were issued by the lower court on July 8 and October 28, 1961.

On November 11, 1961 the oppositors, Roberta Sebial, Juliano Sebial and the heirs of Balbina Sebial, submitted their own inventory of the conjugal assets of Gelacio Sebial and Leoncia Manikis, consisting of two parcels of land acquired in 1912 and 1915. They alleged that the conjugal estate of Gelacio Sebial and Dolores Enad consisted of only one parcel of land, containing an area of seven hectares, allegedly purchased with money coming from the conjugal assets of Gelacio Sebial and Leoncia Manikis. They further alleged that the said seven-hectare land was sold by the children of the second marriage to Eduardo Cortado (Tax Declaration No. 2591).

The oppositors claimed that the aforementioned two parcels of land acquired during the first marriage were partitioned in 1945 among (1) Roberta Sebial, (2) Juliano Sebial, (3) Francisco Sebial as the representative of the estate of Balbina Sebial and (4) Valentina Sebial as the representative of the six children of the second marriage, some of whom were minors. They clarified that under that partition the three children of the first marriage received a three-fourths share while the six children of second marriage received a one-fourth share (Tax Declaration No. 06500). They also alleged that Eduardo Cortado, Emilio Sialongo, Lorenzo Rematado and Lazaro Recuelo were the third persons involved in the transfer of the lands pertaining to the estate of Gelacio Sebial (Tax Declarations Nos. 04493, 06571 and 04471). To the inventory submitted by the oppositors, the administratrix filed an opposition dated November 18, 1961.

In an order dated November 11, 1961 the lower court inexplicably required the administratrix to submit another inventory. In compliance with that order she submitted an inventory dated November 17, 1961, wherein she reproduced her inventory dated April 17, 1961 and added two other items, namely, two houses allegedly valued at P8,000 and the fruits of the properties amounting to P5,000 allegedly received by the children of the first marriage. The oppositor interposed an opposition to the said inventory.

On November 24, 1961 the oppositors filed a "motion for revision of partition" which was based on their own inventory dated November 7, 1961.

The lower court in its order of December 11, 1961 approved the second inventory dated November 17, 1961 because there was allegedly a "prima facie evidence to show that" the seven parcels of land and two houses listed therein belonged to the decedent's estate. In another order also dated December 11, 1961 the lower court granted the motion of the administratrix dated May 4, 1961 for the delivery to her of certain parcels of land and it directed that the heirs of Gelacio Sebial, who are in possession of the parcels of land covered by Tax Declarations Nos. 04493, 04491, 04490 and 04478, should deliver those properties to the administratrix and should not disturb her in her possession and administration of the same. The lower court denied the oppositors' motion dated November 20, 1961 for "revision of partition".

On December 29, 1961 Roberta Sebial moved for the reconsideration of the two orders on the grounds (1) that the court had no jurisdiction to approve an inventory filed beyond the three-month period fixed in section 1, Rule 84

of the Rules of Court; (2) that the said inventory is not supported by any documentary evidence because there is no tax declaration at all in Gelacio Sebial's name; (3) that the two houses mentioned in the inventory were nonexistent because they were demolished by the Japanese soldiers in 1943 and the materials thereof were appropriated by the administratrix and her brothers and sisters; (4) that the valuation of P17,000 indicated in the inventory was fake, fictitious and fantastic since the total assessed value of the seven parcels of land amounted only to P3,080; (5) that Gelacio Sebial's estate should be settled summarily because of its small value as provided in section 2, Rule 74 of the Rules of Court and (6) that an ordinary action is necessary to recover the lands in the possession of third persons.

The oppositors without awaiting the resolution of their motion for reconsideration filed a notice of appeal from the two orders both dated December 11, 1961. The notice of appeal was filed "without prejudice to the motion for reconsideration". Benjamina Sebial opposed the motion for reconsideration. The lower court in its order of January 18, 1962 denied oppositors' motion for reconsideration. It approved Roberta Sebial's amended record on appeal. The case was elevated to the Court of Appeals.

The Court of Appeals in its resolution of July 31, 1964 in CA-G.R. No. 31978-R certified the case to this Court because in its opinion the appeal involves only the legal issues of (1) the construction to be given to section 2, Rule 74 and section 1, Rule 84 (now Rule 83) of the Rules of Court and (2) whether an ordinary civil action for recovery of property and not an administration proceeding is the proper remedy, considering oppositors' allegation that the estate of Gelacio Sebial was partitioned in 1945 and that some of his heirs had already sold their respective shares (Per Angeles, Gatmaitan and Concepcion Jr., JJ.).

The Clerk of Court of the lower court in his letter of January 15, 1963, transmitting the amended record on appeal, said "there was no presentation of evidence by either parties concerning the two orders appealed from".

This case involves the conflicting claims of some humble folks from a remote rural area in Cebu regarding some unregistered farm lands. Because of her poverty Roberta Sebial wanted to appeal in forma pauperis. Her husband Lazaro Recuelo and her nephew, Candelario Canillo, in order to justify the filing of a mimeographed brief, swore that their families subsisted on root crops because they could not afford to buy corn grit or rice.

Oppositors' contention in their motion for reconsideration (not in their brief) that the probate court had no jurisdiction to approve the inventory dated November 17, 1961 because the administratrix filed it after three months from the date of her appointment is not well-taken. The three-month period prescribed in section 1, Rule 83 (formerly Rule 84) of the Rules of Court is not mandatory. After the filing of a petition for the issuance of letters of administration and the publication of the notice of hearing, the proper Court of First Instance acquires jurisdiction over a decedent's estate and retains that jurisdiction until the proceeding is closed. The fact that an inventory was filed after the three-month period would not deprive the probate court of jurisdiction to approve it. However, an administrator's unexplained delay in filing the inventory may be a ground for his removal (Sec. 2, Rule 82, Rules of Court).

The other contention of the oppositors that inasmuch as the value of the decedent's estate is less than five thousand pesos and he had no debts, the estate could be settled summarily under section 2, Rule 74 of the Rules of Court or that an administration proceeding was not necessary (the limit of six thousand pesos was increased to ten thousand pesos in section 2, Rule 74 effective on January 1, 1964) rests on a controversial basis. While in the verified petition for the issuance of letters of administration, it was alleged that the gross value of the decedent's estate was "not more than five thousand pesos", in the amended inventory the valuation was P17,000. Indeed, one of the lower court's omissions was its failure to ascertain by preponderance of evidence the actual value of the estate, if there was still an estate to be administered. The approval of the amended inventory was not such a

determination.

Anyway, in the present posture of the proceeding, no useful purpose would be served by dismissing the petition herein and ordering that a new petition for summary settlement be filed. Inasmuch as a regular administrator had been appointed and a notice to creditors had been issued and no claims were filed, the probate court could still proceed summarily and expeditiously to terminate the proceeding. With the cooperation of the lawyers of the parties, it should strive to effect an amicable settlement of the case (See arts. 222 and 2029, Civil Code).

If the efforts to arrive at an amicable settlement prove fruitless, then the probate court should ascertain what assets constituted the estate of Gelacio Sebial, what happened to those assets and whether the children of the second marriage (the petitioner was a child of the second marriage and the principal oppositor was a child of first marriage) could still have a share, howsoever small, in the decedent's estate.

The lower court's order of December 11, 1961, approving the amended inventory of November 11, 1961, is not a conclusive determination of what assets constituted the decedent's estate and of the valuations thereof. Such a determination is only provisional in character and is without prejudice to a judgment in a separate action on the issue of title or ownership (3 Moran's Comments on the Rules of Court, 1970 Ed., 448--449).

The other order dated December 11, 1961 requires the delivery to the administratrix of (1) two parcels of land covered by Tax Declarations Nos. 04491 and 04493 in the possession of the spouses Lazaro Recuelo and Roberta Sebial, an oppositor-appellant; (2) the parcel of land covered by Tax Declaration No. 04490 in the possession of Lorenzo Rematado and (3) the parcel of land described under Tax Declaration No. 04478 in the possession of Demetrio Camillo (Canillo), a child of the deceased Balbina Sebial, one of the three children of the first marriage.

We hold that the said order is erroneous and should be set aside because the probate court failed to receive evidence as to the ownership of the said parcels of land. The general rule is that questions of title to property cannot be passed upon in a testate or intestate proceeding. However, when the parties are all heirs of the decedent, it is optional upon them to submit to the probate court the question of title to property and, when so submitted, the probate court may definitely pass judgment thereon (3 Moran's Comments on the Rules of Court, 1970 Ed., pp. 448, 473; *Alvarez vs. Espiritu*, L-18833, August 14, 1965, 14 SCRA 892).

Lorenzo Rematado and Lazaro Recuelo are not heirs of the decedent. They are third persons. The rule is that matters affecting property under administration may be taken cognizance of by the probate court in the course of the intestate proceedings provided that the interests of third persons are not prejudiced (*Cunanan vs. Amparo*, 80 Phil. 227; *Ibid*, 3 Moran 473).

However, third persons to whom the decedent's assets had been fraudulently conveyed may be cited to appear in court and be examined under oath as to how they came into the possession of the decedent's assets (Sec. 6, Rule 87, Rules of Court) but a separate action would be necessary to recover the said assets (*Chanco vs. Madriles*, 12 Phil. 543; *Guanco vs. Philippine National Bank*, 54 Phil. 244).

The probate court should receive evidence on the discordant contentions of the parties as to the assets of decedent's estate, the valuations thereof and the rights of the transferees of some of the assets. The issue of prescription should also be considered (see p. 84, Record on Appeal). Generally prescription does not run in favor of a coheir as long as he expressly or impliedly recognizes the coownership (Art. 494, Civil Code). But from the moment that a coheir claims absolute and exclusive ownership of the hereditary properties and denies the others any share therein, the question involved is no longer one of partition but that of ownership (*Bargayo vs. Camumot*, 40 Phil. 857).

At the hearing of the petition for letters of administration some evidence was already introduced on the assets

constituting the estate of Gelacio Sebial. The petitioner testified and presented Exhibits A to J and X to Y-3. The oppositor also testified and presented Exhibits 2 to 10-A. The stenographic notes for the said hearing should be transcribed. In addition to that evidence, the probate court should require the parties to present further proofs on the ownership of the seven parcels of land and the materials of the two houses enumerated in the amended inventory of November 17, 1961, on the alleged partition effected in 1945 and on the allegations in oppositors' inventory dated November 7, 1961.

After receiving evidence, the probate court should decide once and for all whether there are still any assets of the estate that can be partitioned and, if so, to effect the requisite partition and distribution. If the estate has no more assets and if a partition had really been made or the action to recover the lands transferred to third person had prescribed, it should dismiss the intestate proceeding.

WHEREFORE, (a) the probate court's order of December 11, 1961, granting the administratrix's motion of May 4, 1961 for the delivery to her of certain properties is set aside; (b) its other order of December 11, 1961 approving the amended inventory should not be considered as a final adjudication on the ownership of the properties listed in the inventory and (c) this case is remanded to the lower court for further proceedings in accordance with the guidelines laid down in this decision. No costs. So ordered.

Fernando, (Chairman), Antonio and Concepcion Jr., JJ., concur.

Barredo, J., concurs, considering the small value of the estate herein involved.

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