

LEONIDES S. ASUNCION AND AMADO CASTRO, PETITIONERS AND APPELLEES, VS. CELESTINO DE LA CRUZ, OPPOSITOR AND APPELLANT.*G.R. No. L-7855. November 23, 1955*

Ponente: LABRADOR, J.

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The above-entitled proceedings originated with a petition presented in the Court of First Instance of Tarlac for the summary settlement of the estate of the deceased Benedicta de la Cruz. The petition alleges that said deceased left at the time of her death five parcels of land all with original certificates of title in the name of the said deceased. When the petition was called for hearing, Celestino de la Cruz moved to dismiss the proceedings on the ground that the said oppositor had filed claims in the cadastral proceedings for three of the parcels of land mentioned in the petition. Subsequently the same oppositor filed another opposition on the ground that the said properties did not belong to the deceased Benedicta de la Cruz but to oppositor's father; that if the deceased had any rights over the three parcels of land the same had already been transferred by her to the oppositor; that an undivided two-thirds of the other two lots had also been ceded to the oppositor for a valuable consideration and the said decedent had not repurchased the same; etc. After hearing the said opposition the court found that two of the lots mentioned in the petition had been mortgaged to one Juan Cojuangco and another mortgaged also to one Santiago Nicolas, and for this reason the court denied the petition for summary settlement. But a motion for reconsideration was presented, and in accordance therewith the court reconsidered its order of dismissal and granted the summary distribution prayed for, declaring the children of the decedent as her heirs and assigning to all of them in equal shares, a one-half undivided interest in each of the parcels mentioned in the petition. A motion to reconsider the above order having been denied, an appeal from the order of summary distribution was taken to this Court. It is claimed that the lower court erred in finding that the three lots were owned by the deceased and ordering their distribution to her heirs, in the face of the claim of ownership asserted by the oppositor-appellant; that it erred in giving course to the settlement in spite of the fact that the petition in cadastral proceedings had been presented wherein the oppositor-appellant had claimed the three parcels of land in question; and that it erred in not denying the summary settlement in so far as the three lots claimed by the oppositor-appellant are concerned.

It is claimed in support of the first alleged error that the trial judge had no power to declare that the properties mentioned in the petition are properties of the deceased. A study of the order, however, shows that it did not make a definite finding or conclusion to that effect as against the oppositor-appellant. The court only went to say that there was a presumption that said properties were still owned by the deceased at the time of her death and are free from all incumbrances; but it makes the reservation in favor of the oppositor's claim of the right to a separate action if he claims proprietary rights over said properties. The court states thus in its order:

"If Celestino de la Cruz claims some proprietary rights over these properties, he can pursue his remedy in a separate and ordinary action which he should bring against the proper parties."

The next contention of the oppositor-appellant is that as the lower court had no jurisdiction to declare the decedent

as the owner of the properties in question, it can not legally distribute and deliver them to her heirs in the exercise of its probate jurisdiction; that such distribution and delivery of the properties is an unjust deprivation of the appellant's rights and interests over the same. The above argument is based on the mistaken concept of the proceedings for the distribution and settlement of the estate of a deceased person.

The purpose of a summary settlement is to proceed summarily with the "allowance of a will, if any there be, to determine who are the persons legally entitled to participate in the estate, and to apportion and divide it among them after the payment of such debts of the estate as the court shall then find to be due; and such persons * * * shall thereupon be entitled to receive and enter into the possession of the portions of the estate so awarded to them respectively. * * *." (Section 2, Rule 72, Rules of Court.) As held in the cases of *Intestate of the late Januaria Gonzales, Abarro vs. De Guia*, 72 Phil., 245 and *Intestate of Jimenez, Jimenez vs. Jimenez*, 67 Phil., 263, in a summary distribution the estate of the deceased is valued; his debts, if any, are paid; his will, if any, is allowed; the heirs and legatees are declared, and distribution is made, * * *. (II Moran, *Comments on the Rules of Court*, 1952 ed., p. 345. In distribution proceedings, the court has no jurisdiction to adjudicate or determine title to properties claimed to be a part of the estate by the heirs and distributees and also claimed by third parties. (*Mallari, et al. vs. Mallari*, [1] 40 Off. Gaz., No. 2, p. 503). In the same manner that the court in an administration proceeding determines only in a prima facie manner if a property alleged to belong to the state really belongs to the decedent (*Cordova Vda. de Mañalac vs. Ocampo*, 73 Phil., 661; *Baquial vs. Amihan*, [2] 49 Off. Gaz., No. 2, p. 511), so also the court in a summary settlement proceeding only determines prima facie the ownership and possession of the properties; but such determination does not prevent the heirs or third parties from claiming title adverse to the decedent's, which title or claims must be decided in a separate suit. (*Intestate estate of Miguel Guzman. Guzman vs. Anog and Anog*, 37 Phil., 61.) In consonance with these principles the orders appealed from found prima facie that the lots sought to be distributed among the heirs of the decedent belong to and were in the possession of the said decedent at the time of her death. The orders do not deprive the oppositor-appellant of his right to claim said properties as his own and to institute a separate action to assert his title thereto as against the decedent or her heirs. The claim of the appellant that the trial court had no power to enter the decree of distribution is, therefore, without merit.

The appeal is hereby dismissed and the order appealed from affirmed, with costs against oppositor-appellant.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo, Concepcion, and Reyes, J. B. L., JJ., concur.

[1] 92 Phil., 694.

[2] 92 Phil., 501.

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