

SIMEON A. LEE AND ABUNDIA RAGANAS, PETITIONERS, VS. COURT OF APPEALS, DOLORES R. SALDANA, SALVADOR SALDANA, CESAR T. VILLAREAL, EPITASIA TAN AND ALBERTO TABAR TABADA, RESPONDENTS.

G.R. No. L-37135. December 28, 1973

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

The Court of Appeals' decision under review upholding the Cebu court's order archiving petitioners' pending action before it to quiet title and ordering the parties instead to reopen the long closed intestate proceeding of the deceased Andres Tabar is herein set aside. Since there is no dispute among the heirs of the estate who have no claims and have long disposed of their inherited properties, and the pending action to quiet title was filed precisely for the purpose of determining who among the conflicting parties (who claim either by right of purchase from an heir or from an entirely different source opposed to said heir) has a better legal right and title to the properties, and such conflict of ownership is beyond the probate court's authority and jurisdiction to determine, the Cebu court is called upon not to archive the case but to hear and determine the issue of ownership properly pertaining to its jurisdiction and submitted to it for adjudication.

The undisputed facts of the case as stated by respondent court of appeals in its decision under review are as follows:

"The record shows that respondent Alberto Tabar Tabada is one of the three heirs of the late Andres Tabar whose estate was being settled by the respondent Court of First Instance of Cebu in Special Proceeding No. 1962-0; that during the pendency of the above-mentioned proceeding and before the partition of the estate among the three heirs, one of the said heirs, respondent Alberto Tabar Tabada, sold all his rights and interests over the estate of the late Andres Tabar to the petitioners; that on July 6, 1963 Special Proceeding No. 1962-G was terminated without partitioning and distributing the estate allegedly because the heirs preferred to receive the properties proindiviso; that Esteban Tabar, Valentina Tabar Cansan-cio and respondent Alberto Tabar, the three heirs of the deceased Andres Tabar, executed an extra-judicial partition of the estate; that on the same date, July 6, 1963, respondent Alberto Tabar Tabada, allegedly in connivance and collusion with the spouses Dolores R. Saldana and Salvador Saldana, private respondents herein, executed a deed of sale in favor of the said spouses of all the real properties he was supposed to receive as his share from the estate of Andres Tabar; that petitioners filed Civil Case No. R-9247 in the Court of First Instance of Cebu against private respondents Alberto Tabar Tabada, Dolores R. Saldana and Salvador Saldana for the annulment of the deed of sale executed by respondent Alberto Tabar Tabada in favor of respondent Dolores R. Saldana and Salvador Saldana; that the respondent court then presided by Judge Mateo Canonoy rendered its decision in Civil Case No. R-9247 declaring the sale in favor of the petitioners as valid and binding and as null and void the sale of respondent Alberto Tabar Tabada in favor of respondents Dolores R. Saldana and Salvador Saldana and ordering the said respondents to return the properties in question to the petitioners; that on appeal the said decision was affirmed by the Court of Appeals; that the petition for review by certiorari of the decision of the

Court of Appeals to the Supreme Court was denied for lack of merit; that the decision of the respondent court in Civil Case No. R-9247, after becoming final, was executed x x."[1]

Respondent appellate court's decision further narrated -

"x x that after Special Proceeding No. 1962-0 was declared terminated, the heirs discovered some more real properties belonging to the estate of the deceased Andres Tabar; that the three heirs, without reopening Special Proceeding No. 1962-0 executed an extra-judicial partition of said discovered real properties; that respondent Alberto Tabar Tabada executed a deed of sale covering his share over the remaining properties of the estate of Andres Tabar in favor of respondents Dolores R. Saldana and Salvador Saldana consisting of 1/2 proindiviso of Lot 4960. Lot 8416 and Lot 5154, all of the Cadastral Survey of Cebu; that respondents Dolores R. Saldana and Salvador Saldana in turn sold the said share to respondents Cesar T. Villareal and Epitasia Tan who are allegedly buyers in bad faith because they knew that the subject matter of the sale had been previously sold to the petitioners; that petitioners had to institute Civil Case No. R-10989 with the respondent court to quiet their title over the three lots conveyed by respondent Alberto Tabar Tabada to respondents Dolores R. Saldana and Salvador Saldana; that when the petitioners were about to finish the presentation of their evidence, they were directed by the respondent court to submit evidence showing that all taxes and other obligations of the intestate estate of Andres Tabar in Special Proceeding No. 1962-0 had already been paid and also to show that the said special proceeding had already been terminated and the estate distributed; that in compliance with the said order of the respondent court, the petitioners filed with the said court a certified copy of the manifestation of the counsel for the administrator dated January 22, 1957 and a certified copy of the order of the respondent court, Branch I, dated January 22, 1957; that a certain Constancio Cabrerros filed a motion to intervene in Civil Case No. R-10989 with respect to Lot No. 5154 claiming to be the owner thereof."[2]

It then stated that after petitioners as plaintiffs rested their case, the Cebu court of first instance issued its Order to Archive Case dated September 18, 1972, as follows:

"ORDER TO ARCHIVE CASE

"In compliance with this Court's requirement, Atty. Gaudioso C. Villagonzalo submitted a 1957 Order of this Court showing that in Sp. Proc. No. 1962-0, Intestate Estate of Andres Tabar, the Court distributed the properties pro indiviso to the heirs of Andres Tabar. The order, however, does not indicate what properties were distributed, but counsel of all the parties in this case have agreed that the properties here being liti-gated belong to the Intestate Estate of Andres Tabar, with the manifestation of Atty. Villagonzalo, that the three parcels, the properties under litigation in this case, were discovered after the order of the intestate court dated January 22, 1957 was issued.

"In view of this fact, the parties in this case are required to reopen the Intestate Estate of Andres Tabar and there settle the distribution of the properties since it is undisputed that these three (3) parcels of land as described in paragraph 12 of the complaint belong to the Intestate Estate of Andres Tabar. In the meantime, this case shall be archived, the final disposition of which depend on what the Intestate Estate Court in Sp. Proc. No. 1962-0 would finally determine.

"Parties are required to submit to this Court the final disposition of said three parcels of land within fifteen (15) days after the Intestate Estate Court makes its final order.

"This case is therefore archived."

Upon an action for certiorari instituted by plaintiffs-petitioners, respondent appellate court denied relief per its decision of April 10, 1973 stating that "(T)he respondent court [of Cebu] did not dismiss Civil Case No. R-10989. It simply directed that 'this case shall be archived x x .' The respondent court acted properly in holding in abeyance action on Civil Case No. R-10989 pending the final determination of Special Proceeding No. 1962-0." It

ruled that such course of action of the Cebu court was in consonance with this Court's ruling in *Macias vs. Uy Kim*[3] reiterating the rule in *Guilas vs. Judge, CFI of Pampanga*,[4] that:

"The probate court loses jurisdiction of an estate under administration only after the payment of all the debts and the remaining estate delivered to the heirs entitled to receive the same. The finality of the approval of the project of partition by itself alone does not terminate the probate proceeding x x x . As long as the order of the distribution of the estate has not been complied with, the probate proceedings cannot be deemed closed and terminated x x x ; because a judicial partition is not final and conclusive and does not prevent the heir from bringing an action to obtain his share, provided the prescriptive period therefor has not elapsed x x x . The better practice, however, for the heir who has not received his share, is to demand his share through a proper motion in the same probate or administrative proceedings, or for reopening of the probate or administrative proceedings if it had already been closed, and not through an independent action, which would be tried by another court or judge which may thus reverse a decision or order of the probate or intestate court already final and executed and re-shuffle properties long ago distributed and disposed of x x ."[5]

Reconsideration having been denied by the appellate Court, petitioners filed the present petition for review by Certiorari. The Court required comment of the respondents per its resolution of July 19, 1973. Notwithstanding its subsequent resolution of October 1, 1973, giving respondents another opportunity to do so, respondents with the exception of Alberto Tabar Tabada failed to file their comments. The Court thereafter resolved to treat the case as a special civil action and to consider the case submitted for decision with Tabada's comment, for a prompt determination of the simple jurisdictional issue involved.

It is obvious from the undisputed facts as stated in respondent appellate court's decision that the proceedings for the intestate estate of the deceased Andres Tabar have long been closed since 1957 with the payment of all taxes and debts and with the distribution of the net remainder of the estate pro-indiviso among the three heirs thereof, namely respondent Alberto Tabar Tabada, Valentina Tabar Cansancio and Esteban Tabar.

When three more parcels of land of the estate were discovered after such distribution, the three heirs partitioned the same among themselves in extra-judicial partition in 1963 instead of reopening the closed intestate proceeding. None of the three heirs nor any affected third party has ever questioned the said extra-judicial partition.

The issue in the pending case before the Cebu court does not in any way involve the estate nor its heirs or creditors. What is involved therein is simply a question of conflicting claims of ownership between petitioners-plaintiffs spouses as vendees of all the rights, interests and participation of the share of the heir Alberto Tabar Tabada in said three parcels of land (which Alberto recognizes) and respondents-spouses Dolores R. Saldana and Salvador Saldana who claim to be the vendees of the same parcels in a second sale allegedly executed by Alberto in their favor (which Alberto repudiates)[6] together with their co-respondents, spouses Cesar T. Villareal and Epitasia Tan as vendees-transferees in turn of the Saldana spouses. Thus petitioners-plaintiffs filed their action below against said respondents as defendants to quiet their title over the three parcels conveyed to them by Alberto Tabar Tabada.[7]

Respondent appellate court therefore gravely erred in upholding the Cebu court's order, archiving the petitioners' pending action to quiet title and requiring the parties to reopen the intestate estate of the deceased Andres Tabar and "there settle the distribution of ... the three (3) parcels of land."

The cited cases of *Macias* and *Guilas*, *supra*, are totally inapplicable and were wrongly invoked since the probate court had already lost jurisdiction over the estate. There is no dispute among the three heirs of the estate who have already partitioned the estate and have since sold their respective share in the same to third parties. Hence, there is no longer any property of the estate to administer or distribute and settle among the recognized three heirs who

have no claims whatsoever for the probate court to adjudicate. As distinguished in *Macias* itself, the doctrine therein reiterated applies to a preterited heir or legatee whose proper recourse is to demand his share through a proper motion in the same estate proceedings or for reopening thereof if it had already been closed but such reopenings were also denied in a host of cited cases "because the actions therein were filed by the preterited heir or legatee or co-owner long after the intestate or estate partition proceedings had been closed or terminated." [8]

What remains is a conflict of ownership between petitioners and respondents (except Alberto Tabar Tabada) who claim title to the same parcels by right of purchase from Alberto. This conflict is properly the subject matter of the action to quiet title filed by petitioners against respondents in the Cebu court, which should be duly determined and adjudicated by it instead of ordered archived. This conflict of ownership between the parties by alleged right of purchase from the heir Alberto is beyond the jurisdiction of the probate court to determine. It is manifest, therefore, that what properly applies in the case at bar is the controlling doctrine that probate courts have no jurisdiction to determine with finality conflicts of ownership. As stressed in *Junquera vs. Borromeo* [9] and *Borromeo vs. Canonoy* [10] "(T)hat such matter [of question of ownership] must be litigated in a separate action has been the established jurisprudence in this jurisdiction x x x , except where a party merely prays for the inclusion or exclusion from the inventory of any particular property, in which case the probate court may pass upon provisionally, the question of inclusion or exclusion, but without prejudice to its final determination in an appropriate action."

By the same token, the claim of the intervenor in the action below, one Constancio Cabrereros, who claims ownership to the same parcels by right of purchase from the heirs of Antonio and Maria Sadorra who, he claims, are the legal owners of the lands in question as against the deceased Andres Tabar involves a conflict of ownership that is beyond the jurisdiction of the probate court and should properly be determined and adjudicated in the petitioners' action below to quiet title. As already indicated it is well settled that the probate court has no authority to decide in the estate proceedings (even if they were to be reopened) whether property disputed between the estate and a third party belongs to one or the other but that such question of ownership has to be resolved in an appropriate separate action. [11]

Since it is patent that there remain no properties of the estate of the deceased Andres Tabar to be administered or settled, and that the action to quiet title pending in the Cebu court below is precisely for the purpose of determining who among the conflicting parties (petitioners as against respondents who claim the same properties by right of purchase from the heir Alberto Tabar Tabada as against the intervenor who claims title from a different source opposed to Alberto's) has a better legal right and title to the properties - which conflict is beyond the jurisdiction of the probate court - nothing but undue and fruitless delay will be gained by the Cebu court's order to archive the case rather than to discharge its task of determining and deciding the conflict of ownership properly pertaining to its jurisdiction and submitted to it for adjudication.

ACCORDINGLY, the decision of respondent Court of Appeals is hereby set aside. The questioned order of the Cebu court of first instance to archive Civil Case No. R-10989 thereof is hereby ordered set aside and said court is directed to proceed with the hearing and determination of the said action to quiet title on its merits. With costs in both instances jointly and severally against respondents spouses Dolores R. Saldana and Salvador Saldana and spouses Cesar T. Villareal and Epitasia Tan. so ordered.

Makalintal, C.J., Ruiz Castro, Makasiar, Esguerra, and Muñoz Palma, JJ., concur.

[1] Rollo, pp. 9-10, emphasis supplied.

[2] *Idem*, pp. 10-11.

[3] 45 SCRA 251 (1972), per Makasiar, J.

[4] 43 SCRA 111, 117 (1972), per Makasiar, J.

[5] Emphasis supplied.

[6] In Alberto's comment filed through counsel under date of November 1, 1973, he repudiates the second sale allegedly executed by him in favor of the Saldana spouses stating in effect that he was coerced into signing the same without knowing its contents by his first cousin respondent Dolores R. Saldana and her husband and that he had to escape from their household. Rollo, p. 35.

[7] Docketed as Civil Case No. R-10989 of the Cebu court of first instance.

[8] 45 SCRA, at p. 263.

[9] 19 SCRA 656, 667 and cases cited, per Dizon, J.

[10] 19 SCRA, 667, 670, per Dizon, J.

[11] See also Rule 87, secs. 2 and 6, Rules of Court.

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