

**PEDRO E. BAYBAYAN, CIPRIANO EVANGELISTA, AND SPOUSES
BARTOLOME AND CONSUELO BAYBAYAN, PETITIONERS, VS. HON.
NARCISO A. AQUINO, AS PRESIDING JUDGE CFI PANGASINAN
BRANCH XIV; DEPU...**

G.R. No. L-42678. April 09, 1987

Ponente: PADILLA, J.

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PADILLA, J.:

This is a petition for certiorari to annul and set aside the Order issued by the respondent Judge on 4 December 1975, which dismissed, without prejudice, the petitioners' complaint filed in Civil Case no. 231-R of the then Court of First Instance of Pangasinan, as well as the Order, dated 24 December 1975, which denied petitioners' motion for the reconsideration of said order.

The antecedent facts of the case are as follows:

On 19 January 1960, herein private respondents Norberto Padua, Paulina Padua, Felisa Padua, Dionisia Orpiano, Laureano Orpiano, Leonardo Orpiano, Josefina Orpiano, Valentina Orpiano, Servillano Delfin, Gertrudes Delfin, Pastora Delfin, Lorenzo Delfin, Fausta Delfin, Dionisio Oria, Faustina Oria, Amado Oria, and Benjamin Oria, all claiming to be the nephews and nieces of one Vicente Oria who died intestate sometime in 1945 in Balungao, Pangasinan, filed a petition for the summary settlement of the decedent's estate, the value of which did not exceed P6,000.00. The petition was filed in the then Court of First Instance of Pangasinan, Tayug Branch. The case was docketed therein as Special Proceeding No. T-300.[1]

After due publication and hearing, the probate court issued an order adjudicating the estate to the heirs of the decedent, who were ordered to submit a project of partition.[2] Sometime in 1971, the case was transferred to the Rosales Branch of the Court of First Instance of Pangasinan where it was docketed as Spec. Proc. No. 24-R.

On 18 September 1974, the probate court confirmed the adjudication earlier made and ordered Eulalia Evangelista to deliver the respective shares of her co-heirs; to make an accounting of the produce thereof from 1960; and to deliver said produce to her co-heirs or pay its equivalent. A writ of execution was subsequently issued pursuant thereto.[3]

A writ of possession was also issued sometime thereafter, and the private respondents were placed in possession of their respective shares.[4] However, when a representative of the private respondents went to cultivate the portion adjudicated to said private respondents, he was prevented by Jose Diaz and Cipriano Evangelista. In view thereof, of the private respondents filed a motion to cite said Jose Diaz and Cipriano Evangelista in contempt of court.[5]

As a consequence, herein petitioners Pedro Baybayan, Cipriano Evangelista, and the spouses Bartolome and Consuelo Baybayan, claiming to be the registered owners of the lots involved, filed a complaint in the Court of First Instance of Pangasinan, Rosales Branch, docketed therein as Civil Case no. 231-R, against the Deputy

Sheriff and the herein private respondents, for the quieting of their title, plus damages, and to restrain said defendants from enforcing the writ of execution issued in Spec. Proc. No. 24-R.[6]

Meanwhile, at the hearing of the motion for contempt in Spec. Proc. No. 24-R, the question of the identity of the lands subject of Spec. Proc. No. 24-R, was brought up, so that the probate court ordered a relocation survey and commissioned a geodetic engineer to undertake said survey. After the survey, the commissioner submitted to the Court a report stating, among others, that the lands which were delivered by the Deputy Sheriff to the heirs of Vicente Oria, pursuant to the writ of possession issued by the probate court, are registered in the names of herein petitioners under TCT no. 50269 and TCT no. 50270 of the Register of Deeds of Pangasinan.[7]

By reason thereof, the probate court, in an order dated 30 October 1975, dismissed the contempt charge against Jose Diaz and Cipriano Evangelista. However, the same court ordered the petitioners to amend their complaint filed in Civil Case no. 231-R since "it is necessary that an amended complaint be filed by Pedro Baybayan in order to determine whether or not the property in question is part of the property under Spec. Proc. No. 24-R, inasmuch as it is now the property claimed by him which is covered by Transfer Certificate of Title no. 50269." [8]

Pursuant thereto, the herein petitioners filed an Omnibus Motion in Civil Case No. 231-R, to which was attached an amended complaint wherein some defendants were dropped.[9] The respondent Judge, however, found that the Amended Complaint did not comply with his order of 30 October 1975 to exclude Lot E and dismissed the case, "without prejudice on the part of the plaintiffs to file a proper complaint for the recovery of ownership or possession of the property in controversy which is Lot B in the relocation plan and formerly covered by Original Certificate of Title No. 23684, now under Transfer Certificate of Title No. 50269." [10]

The petitioners filed a motion for reconsideration of the order,[11] but the motion was denied on 24 December 1975.[12] Thereupon, they filed with this Court a petition for certiorari for the review of the orders of the lower court. The Court treated the petition as a special civil action for certiorari.[13]

Counsel for the petitioners, in this petition, contends that the respondent Judge had no authority under the law, both substantive and procedural, to issue the questioned orders because the order to amend the complaint was issued in, and in connection with Spec. Proc. No. 24-R where the herein petitioners are not even parties.

The contention, in our opinion, is not meritorious. While it may be true that the order to amend the complaint filed in Civil Case no. 231-R was issued in Spec. Proc. No. 24-R, so that it cannot ordinarily bind the herein petitioners who are not parties in said special proceedings, it appears, however, that the petitioners voluntarily submitted themselves to the jurisdiction of the probate court, when they filed an Omnibus Motion in Civil Case No. 231-R, wherein they prayed for leave to amend their complaint in accordance with the order of the probate court of 30 October 1975. They cannot now be allowed belatedly to adopt an inconsistent posture by attacking the jurisdiction of the respondent trial Judge to whom they submitted their cause voluntarily.[14]

We find, however, that the respondent Judge committed a grave abuse of discretion, amounting to lack of jurisdiction, in dismissing the complaint filed by the petitioners, for their alleged failure to amend their complaint to exclude therefrom Lot E which the respondent Judge found, in his order of 30 October 1975, issued in the probate court, to be owned by the petitioners Cipriano Evangelista and Consuelo Baybayan. The findings of the respondent Judge as to the ownership of Lot E after the hearing conducted in Spec. Proc. No. 24-R do not justify the order to amend the complaint since the determination of the ownership of the said lot by the respondent Judge presiding over a court exercising probate jurisdiction is not final or ultimate in nature and is without prejudice to the right of an interested party to raise the question of ownership in a proper action.[15]

It is a well-settled rule in this jurisdiction, sanctioned and reiterated in a long line of decisions, that "when questions arise as to ownership of property alleged to be a part of the estate of a deceased person, but claimed by some other person to be his property, not by virtue of any right of inheritance from the deceased, but by title adverse to that of the deceased and his estate, such questions cannot be determined in the courts of administrative proceedings. The Court of First Instance, acting as a probate court, has no jurisdiction to adjudicate such contentions, which must be submitted to the Court of First Instance in the exercise of its general jurisdiction as a court of first instance." [16]

Besides, the order to amend the complaint is vague and hazy and does not specify what the amendments should be or how the complaint should be amended so that the petitioners should not be faulted if the amended complaint subsequently filed by them in Civil Case no. 231-R does not contain the allegations that the respondent Judge would want to appear therein.

WHEREFORE, the petition is GRANTED and a writ issued, setting aside the Orders issued by the respondent Judge on 7 December 1975 and 24 December 1975, in Civil Case no. 231-R of the then Court of First Instance of Pangasinan. Without costs.

SO ORDERED.

Fernan, (Chairman), Gutierrez, Jr., Paras, Bidin, and Cortes, JJ., concur.

[1] Rollo, p. 67

[2] Id., p. 69

[3] Id., p. 71

[4] Id., p. 35

[5] Id., p. 38

[6] Id., p. 25

[7] Id., p. 40

[8] Id., p. 42

[9] Id., p. 44

[10] Id., p. 20

[11] Id., p. 46

[12] Id., p. 22

[13] Id., p. 101

[14] Tijam vs. Sibonghanoy, 23 SCRA 20

[15] Martir de Guanzon vs. Jalandoni, 93 Phil. 1089

[16] Ongsingco vs. Tan, 97 Phil. 330, 334-335

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