

MANUEL GERVACIO BLAS, THE HEIRS OF THE DECEASED MARIA GERVACIO BLAS, ET AL., PETITIONERS, VS. HON. CECILIA MUNOZ-PALMA,,AS JUDGE OF THE RIZAL COURT OF FIRST INSTANCE; ROSALINA S...

G.R. No. L-19270. March 31, 1962

Ponente: LABRADOR, J.

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LABRADOR, J.:

Petition for certiorari, mandamus and prohibition against the order of the Court of First Instance of Rizal, Judge Cecilia Munoz Palma, presiding, dated October 25, 1961, which (1) granted the motion of respondent executrix Rosalina Santos to set Civil Case No. 4395 of said court, appealed to this Court as G.R. No. L-14070, for hearing to determine certain factual issues before proceeding with the execution of the judgment rendered therein by this Court, (2) admitted the complaint in intervention of intervenors Ludovico Pinpin and Tomasa Avendano, and (3) denied the motion filed by plaintiffs, petitioners herein, to enforce the judgment of this Court in the above-mentioned case without the necessity of further hearing.

The events that led to the present petition may be summarized as follows: On July 26, 1961, plaintiffs, petitioners herein, filed before the Court of First Instance of Rizal, a motion for the execution of the decision of this Court in G. R. No. L-14070, dated March 29, 1961 (Civil Case No. 4395, Court of First Instance of Rizal), which motion was granted by the respondent judge in an order dated August 16, 1961. Pursuant to said order, a writ of execution was issued by the clerk of the lower court on August 24, 1961, and notice thereof served upon respondent Rosalina Santos on August 29, 1961, giving the latter 10 days within which to comply with the same. Instead of complying with the order, respondent executrix, on September 15, 1961, filed a motion to set the case for hearing, alleging that it would be difficult to comply with the court's order unless the following questions were first resolved: (1) what properties are to be conveyed by the executrix; (2) to whom conveyance is to be made; and (3) in what proportions conveyance should be effected. This motion was opposed by herein petitioners as well as by Marta Chivi on the ground that the decision of this Court was clear enough on the questions raised and could be complied with without the necessity of adducing evidence. A reply to this opposition was filed by respondent executrix and a rejoinder thereto presented by petitioners.

On October 3, 1961, plaintiffs again filed a motion to enforce the final judgment in the above-numbered case in accordance with section 10, Rule 39, to which motion defendant executrix filed an opposition reiterating the necessity of a hearing before the judgment of this Court could be executed.

In the meantime, or on August 29, 1961, Ludovico Pinpin and Tomasa Avendano presented a complaint in intervention, alleging that they are legatees named in the last will and testament of the deceased Don Simeon Bias as well as in that of the deceased Maxima Santos Vda. de Bias, and that they are, therefore, entitled to participate in the one-half share of Maxima Santos in her conjugal partnership with Simeon Bias. Petitioners opposed the admission of the intervention complaint on the ground that Pinpin and Avendano have absolutely no interest in

the case, not being the heirs and legatees contemplated in the document Exhibit "A", signed by the late Maxima Santos, nor in the will and project of partition covering the estate of Simeon Bias nor in the decision rendered by the Supreme Court sought to be executed; and that the admission of the intervention complaint would violate the rule of *res judicata* and the doctrine of "law of the case." A reply to the opposition was filed by claimants intervenors and a rejoinder thereto presented by plaintiffs. After considering the allegations of the parties in their respective pleadings, respondent judge issued an order dated October 25, 1961, wherein the motion for intervention was admitted, the motion for hearing granted, and the motion to enforce the judgment of this Court was denied. A motion for reconsideration of this order presented by petitioners on October 31, 1961 was denied by respondent judge on December 7, 1961. Hence, the present action was brought before this Court.

The pertinent parts of the order against which the present petition has been instituted is, for the sake of clarity, hereby quoted:

"In pages 27 to 46 of said Project of Partition an enumeration was made of the properties constituting the entire share of Maxima Santos on the basis of the above-quoted distribution. It is, therefore, incorrect to state that all those properties listed in pages 27 to 46 of the Project of Partition constitute the one-half share of Maxima Santos in the conjugal properties for as already indicated, said enumeration includes: (a) the one-third¹ portion devised to her by her husband, Simeon Bias in his will; (b) the one-third portion constituting the share of Lazaro Gervacio Bias; and (c) her one-half share in the conjugal properties. In view of this, there is need of 'segregating in that list of properties found in pages 27 to 46 of the Project of Partition, those which constitute the one-half share of Maxima Santos Vda. de Bias in the conjugal properties from those portions which she inherited from her husband as well as those which she bought from Lazaro Gervacio Bias.

"As regards the allowance of the intervention of several parties in this proceeding, this Court is simply guided by that portion of the decision of the Supreme Court which states that considering that all heirs and legatees designated in the will of Simeon Bias have not appeared in this Civil Case, the said heirs and legatees may file adversary pleadings to determine the participation of each and every one of them in the properties to be conveyed."

For a proper understanding of the case at bar, we hereby quote the dispositive part of the decision of this Court in G. R. No. L-14070:

"x x x the defendant-appellee, administratrix x x x is ordered to convey and deliver one-half of the properties adjudicated to Maxima Santos as her share in the conjugal properties in said Civil Case No. 6707, x x x to the heirs and the legatees of her husband Simeon Blas."

The objection to the execution of the above-quoted dispositive part of the decision lies, as contended by counsel for respondent executrix Rosalina Santos and as found by the trial court, in the supposed impossibility of pointing out from among the properties adjudicated to Maxima Santos in the project of partition of the estate of her deceased husband, the properties that should be conveyed and delivered.

It must be borne in mind that it was not the intention of our decision in the previous case (G. R. No. L-14070) which are ordered executed, that of the very numerous properties adjudicated to Maxima Santos in the project of partition, those that should be conveyed and delivered to the petitioners herein, petitioners also in the previous case, be specifically pointed out separately from the rest of the properties that should remain as Maxima Santos' share. It was not expected, in view of the fact that the project of partition of the estate of Simeon Bias does not indicate the properties adjudicated to Maxima Santos as her share in the conjugal partnership separately from those received by her from her husband as devisee of the free portion of his estate, or those acquired by purchase, that the properties constituting the one-half to be conveyed out of Maxima Santos share in the conjugal partnership be expressly singled out from the others. What was expected to be done by the court executing the

judgment, in order to carry out the decision of this Court, was to determine what undivided portion or aliquot part of all the properties adjudicated to her in various capacities should be conveyed by virtue of the judgment, and then to have said undivided portion or aliquot part conveyed in an appropriate deed and delivered to the petitioners, without need of actually partitioning the bulk of the properties and pointing out which of them belongs to petitioners and which belongs to the widow Maxima Santos.

The practice in the distribution of the estates of deceased persons is to assign the whole of the properties left for distribution to the heirs in a certain definite proportion, an aliquot part pertaining to each of the heirs. This method or plan of distribution and partition of estates is provided for in section 1 of Rule 91, which reads thus:

"Section 1. When order for distribution. of residue made. Testimony taken on controversy preserved—When the debts, funeral charges, and expenses of administration, the allowances to the widow, and inheritance tax, if any, chargeable to the estate in accordance with law, have been paid, the court, on the application of the executor or administrator, or of a person interested in the estate, and after hearing upon notice, shall assign the residue of the estate to the persons entitled to the same, naming them and the proportions, or parts, to which each is entitled, and such persons may demand and recover their respective shares from the executor or administrator, or any other person having the same in his possession.x x x"

It might be pertinent to recall, in order to show the propriety of this method of partition by determination of the aliquot portion pertaining to each heir, that, the original action, G. R. No. L-14070, was instituted to obtain a judicial declaration that one-half of the properties of Maxima Santos assigned to her as her share in the conjugal properties of herself and her husband, be conveyed to the petitioners, because of a document signed by Maxima Santos (Annex "H" of complaint) in which she promised to convey to the heirs of her deceased husband one-half of the properties that she would receive as her share in the conjugal properties of herself and her husband. The action was expressly based on said document, Annex "H" of complaint, in which the promise to convey said one-half portion was made. There was no demand that said one-half be expressly and actually segregated in the action, or that the conjugal properties be actually divided or partitioned. The defendants in that case contended that the document Annex "H" was not executed by Maxima Santos and that if it was so executed, the same was null and void as constituting a promise to convey future inheritance. There was no intent to designate or point out the properties to be conveyed. The properties appear in the inventory filed in the proceedings for the settlement of the estate of Simeon Bias but no demand was made for their determination in the case. In view of the nature of the claim, which was to compel conveyance in accordance with the written contract or promise, and the nature of the defense, which is the supposed invalidity of the promise, the decision could not be other than a mere declaration of the validity of the instrument, coupled with an order for the conveyance and delivery to the petitioners of the said one-half share as promised in the document Annex "H". All of the above circumstances would have been ascertained had the court below taken pains to read even the decision and the project of partition alone.

It is true that objection was also raised by the defendants in the previous case to the action on the ground that the deceased Maxima Santos had received in one single mass of properties, not only her share in the conjugal estate but also a devise of one-third of the free portion of the estate of her husband Simeon Bias, as well as the share of one of the latter's heirs. But such objection could not prevent compliance with the promise made by the deceased Maxima Santos (to convey to the heirs of her husband one-half of what she received of the conjugal properties of her husband and herself). And the objection then raised was opportunely denied.

The project of partition mentioned in the dispositive part of our decision sought to be enforced, which is the project of partition in Civil Case No. 6707 of the Court of First Instance of Rizal, contains the following resume of the properties received by Maxima Santos in various capacities in the settlement of the estate of her husband,

Simeon Blas:

1/2 of all properties left by the deceased, as her share

in the conjugal partnership property

P339,440.00

1/3 free disposition

113,146.66

1/3 of strict legitimate devised to Lazaro Bias and sold

by the latter to the widow

37,715.56

Total

P490,302.22

The properties received by Maxima Santos as her share in the conjugal partnership properties is expressly stated to be P339,440.00. In accordance with the promise made in Annex "H", to convey and deliver to the heirs of the deceased husband one-half thereof, the value of the properties that she was obliged to convey and deliver is one-half of said properties, or P169,720. Following what we have stated above, that the practice in the settlement of assets of deceased persons is to assign to each heir or participant a certain aliquot portion, undivided if division is difficult to carry out, the share to be assigned by Maxima Santos is P169,720 divided by P490,302.22 or approximately 34.61%. In order to carry out the decision of this Court, therefore, the administratrix should have been compelled or ordered to convey and deliver the 34.61i/3% of the total amount of the properties that she received in the project of partition.

The procedure to be followed is that outlined in section 8 of Rule 90 which reads as follows:

"Sec. 8. When court may authorize conveyance of realty which deceased contracted to convey. Notice. Effect of deed.—Where the deceased was in his lifetime under contract, binding in law, to deed real property, or an interest therein, the court having jurisdiction of the estate may, on application for that purpose, authorize the | executor or administrator to convey such property according to M such contract, or with such modifications as are agreed upon by the parties and approved by the court; and if the contract is to convey real property to the executor or administrator, the clerk of the court shall execute the deed. The deed executed by such executor, administrator, the clerk of court shall be as effectual to convey the property as if. executed by the deceased in his lifetime; but no such conveyance shall be authorized until notice of the application for that purpose has been given personally or by mail to all persons interested, and such further notice . has been given, by publication or otherwise, as the court deems proper; or if the assets in the hands of the executor or administrator will thereby be reduce so as to prevent a creditor from receiving his full debt or diminish his dividend."

The above-quoted section is applicable because the deceased Maxima Santos had agreed and promised to convey in her will one-half of her share in the conjugal assets to such of the heirs of her husband as she may designate. If the administratrix Rosalina Santos is reluctant to execute the deed as ordered by the Court, the deed of

conveyance and delivery of the properties may be executed by the clerk of court, in which case, as declared by the rule, the deed shall be as effectual to convey the property as if executed by the deceased in her lifetime.

We note that the petitioners prepared a deed of conveyance to be signed by the clerk of court, but the error in the said deed of conveyance lies in that it includes all of the properties mentioned in the project of partition, adjudicated to Maxima Santos which, as above indicated, should not be the case, because what was actually adjudicated to her in the project of partition included not only her share in the conjugal partnership property, but also what she received from her husband out of the free portion, and what she had purchased from an heir of her husband.

It is to be noted further that in order to have the document executed and approved by the court, the specific steps prior to the execution of the deed of conveyance as pointed out in the last part of the above-quoted section must be strictly followed.

With the above explanations, there should be no difficulty for the court below to proceed with the execution of the decision in accordance with its terms.

Our attention has been called to the fact that of the properties included in the inventory of the estate left by the deceased Simeon Bias, certain properties listed in Annex "2" of the petition in the case at bar, are not included in the project of partition. We have checked the said properties and have found that the same are actually included in the inventory of the estate left by Simeon Bias but do not appear among those adjudicated to any of the heirs in the project of partition. Without making a final pronouncement as to the effect of such conveyances, it is possible that such conveyances violated the express promise made by Maxima Santos in Annex "H" that she would convey one-half of her share in the conjugal properties to the heirs of her deceased husband. On the other hand, the persons who may have purchased the same may have acquired them in good faith, without knowledge of the existence of the promise made by the deceased Maxima Santos in Annex "H" The only just ruling regarding these properties would be to reserve to the petitioners herein the right of action to claim from the administratrix of Maxima Santos, or from the persons to whom they have been transferred, or from both, their one-half share therein as promised by Maxima Santos in Annex "H"

The above considerations dispose of the main issue submitted to this Court in the case at bar. One minor matter remains to be considered, and that is, the petition for intervention filed by Ludovico Pinpin and Tomasa Avendaño alleging that they have an interest in the action as legatees of the deceased Simeon Bias. This petition was opposed by the petitioners herein, but was finally admitted by the court a quo.

These intervenors appear to have received legacies in the will of the deceased Simeon Bias. The portion of said will containing the legacies to these intervenors are as follows:

IV

"Ang isang ikatlong bahagi, etc.

x x x x

"4. Ipinagkakaloob ko kay TOMASA AVENDAÑO, etc.

x x x x

"6. Ipinagkakaloob ko kay LUDOVICO PINPIN, etc.

(Pp. 254-255, Record on Appeal, G. R. No. L-14070, Maria Gervacio Bias, et al. vs. Rosalina Santos)

The question at issue, therefore, is whether these intervenors are embraced within the term "herederos at legatarios o pinamamanahan ng aking nabanggit na asawa, SIMEON blas, sa kaniyang testamento," to which persons Maxima Santos had obligated herself to convey onehalf of her share in the conjugal properties. A study of the testament of Simeon Bias (Record on Appeal, pp. 249-257, G. R. No. L-14070) and the promise or contract executed by Maxima Santos, Annex "H", shows that the two terms (herederos and legatarios) are used in the devises or legacies to the various heirs and legatees. With respect to the legitimate heirs of Simeon Bias, to whom he devised the strict legitime and the mejora, he used the expression "ibinibigay ko at ipinamamana sa aking apong Maria Gervacio Bias, Marta Gervacio Bias at Lazaro Gervacio Bias" (Chapter II, paragraph 2 of the testament of Simeon Bias). With respect to the mejora he uses the same term "ipinamamana" and he says thus: "Para sa aking mga apong Luding at Leoncio Bias ay ipinagkakaloob at ipinamamana ang halagang SAMPUNG LIBONG Piso (P10,000) sa bawa't isa sa kanila." In the last or fourth chapter where the one-third subject to the free disposal are disposed of, he uses only the term "ipinagkakaloob". This term is used for Andres Pascual, Leoncio Santos, Catalina Bias, Tomasa Avendano, Justo Garcia, Ludovico Pinpin, and Fermin Santiago, all of whom are not relatives of the deceased.

Taking into account the fact that both the will of the deceased Simeon Bias and the document Annex "H" executed by Maxima Santos were prepared by the same persons and at about the same time, both bearing date of December 26, 1936, and are attested by the same witnesses, and the further fact that it was the deceased Simeon Bias that had asked for the execution of the document Annex "H", it stands to reason that the word "ipinamamana" refers to devises made to legal heirs (heirs at law) of the deceased Simeon Bias, whereas the term "ipinagkakaloob" refers to persons who are not related to him, or his heirs at law. Accordingly, in the document Annex "H" which reads as follows:

"MAUNAWA NG SINO MANG MAKABABAGA:

"Na akong si MAXIMA SANTOS DE BLAS, nasa hustong gulang kasal kay SIMEON BLAS, taga bayan ng Malabon, Rizal, Philippines, sa pamamagitan ng kasulatang ito ay malaya kong ipinahahayag;

"Na aking nabasa at naunawa ang testamento at huling kalooban na nilagdaan ng aking asawa, Simeon Blas, at ipinahahayag ko sa ilalim ng aking karangalan at sa harap ng aking asawa na igagalang at pagpipitaganan ang lahat at bawa't isang bahagi ng nabanggit na testamento at ipinangangako ko pa sa pamamagitan ng kasulatang ito na ang lahat ng maiiwang pag-aari at kayamanan naming mag-asawa, na nauukol at bahaging para sa akin sa paggawa ko naman ng aking testamento ay ipagkakaloob ko ang kalahati (1/2) sa mga herederos at legatarios o pinamamanahan ng aking nabanggit na asawa, Simeon Blas, sa kaniyang testamento, na ako'y makapipili o makahihirang sa kahi't kangino sa kanila ng aking pagbibigyan at pamamanahan sang-ayon sa pag-galang, paglilingkod, at pakikisama na gagawin sa akin.

"SA KATUNAYAN NG LAHAT NG ITO, ay nilagdaan ko ang kasulatang ito ngayon ika 26 ng Diciembre ng taong 1936, dito sa San Francisco del Monte, San Juan, Rizal, Philippines.

"MAXIMA SANTOS DE BLAS"

the words "herederos at legatarios o pinamamanahan ng aking nabanggit na asawa" mean the heirs at law or relatives of the deceased Simeon Bias and not other persons who are not heirs but had received legacies in money or otherwise. Consequent to this conclusion, intervenors Ludovico Pinpin and Tomasa Avendano cannot claim any right by virtue of said document Annex "H" and their petition for intervention should be as it hereby is, disallowed.

IN VIEW THEREOF, the order sought to be reviewed is hereby set aside and the court below is ordered to proceed with the execution of the judgment in G. R. No. L-14070 in accordance herewith. With costs against the

respondent Rosalina Santos.

Padilla, Bautista Angelo, Concepcion, Barrera, Paredes, and Dizon, JJ., concur.
Bengzon, C.J., and De Leon, J., took no part.

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