

## THE MUNICIPAL COUNCIL OF SAN PEDRO, LAGUNA, ET AL., APPLICANTS AND APPELLANTS, VS. COLEGIO DE SAN JOSE, INC., ET AL., OPPOSITORS AND APPELLEES.

*G.R. No. L-45460. February 25, 1938*

Ponente: IMPERIAL, J.

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### IMPERIAL, J.:

This is an appeal from the order of the Court of First Instance of Laguna of October 29, 1936, which denied the applicants' motion questioning the appearance and intervention in the case of the oppositors Colegio de San Jose and Carlos Young, and from the resolution of the 30th of the same month which denied the petition for escheat filed by the said petitioners, with the costs against the latter.

This case was commenced in the said court by a petition filed by the petitioners in behalf of the municipality of San Pedro, Province of Laguna, wherein they claim the Hacienda de San Pedro Tunasan by the right of escheat. The Colegio de San Jose, Inc., appeared specially and assailed the petition upon the grounds that the court has no jurisdiction to take cognizance of and decide the case and that the petition does not allege sufficient facts to entitle the applicants to the remedy prayed for; and asked that the petition be finally dismissed. Carlos Young intervened and tiled a motion asking for the dismissal of the petition upon the ground that the Code of Civil Procedure, under which the same was tiled, is not applicable because it was not yet in force when the original owner of the hacienda died, which was in April, 15U6, and that the petition was irregularly docketed as the applicants had not paid all the docket fees which the clerk of court should collect. Subsequently the attorneys for both parties filed other motions of minor importance, almost all of which contain the arguments advanced in support of their contentions. On October 29, 1936, the court overruled the objection to the appearance and intervention in the case by the Colegio de San Jose and Carlos Young, entering the order which is one of those appealed from. And on the 30th of the same month the court entered the resolution, also appealed from, dismissing the petition for escheat, with the costs to the petitioners.

The petitioners attribute to the court the following errors: "(1) In overruling the objection of the appellant of September 2, 1936, and in not excluding the appellees Carlos Young and Colegio de San Jose, Inc., from these proceedings. (2) In sustaining definitively the appellees' petitions to dismiss, without previous hearing and in derogation of the right to amend in any case. (3) In improperly and unseasonably taking judicial notice of certain facts in other judicial records to reinforce the appealed resolutions, and in erroneously distorting those facts judicially taken notice of. (4) In holding that the municipality of San Pedro has neither right nor standing to file a petition for escheat; that the petition does not state facts sufficient to constitute a cause of action and that the same does not lie, and that the Court of First Instance of Laguna is without jurisdiction to take cognizance of and decide said petition. (5) In finally dismissing the petition upon the dilatory exceptions thereto, and in ordering the payment of costs when no hearing has yet taken place."

- The sworn petition, which gave rise to the proceeding is based upon the provisions of sections 750 and 751 of

the Code of Civil Procedure, the English text of which reads:

"Sec. 750. Procedure when person dies intestate without heirs.—When a person dies intestate, seized of real or personal property in the Philippine Islands, leaving no heir or person by law entitled to the same, the president and municipal council of the municipality where the deceased last resided, if he was an inhabitant of these Islands, or of the municipality in which he had estate, if he resided out of the Islands, may, on behalf of the municipality, file a petition with the Court of First Instance of the province for an inquisition in the premises; the court shall thereupon appoint a time and place of hearing, and deciding on such petition, and cause a notice thereof to be published in some newspaper of general circulation in the province of which the deceased was last an inhabitant, if within the Philippine Islands, and if not, in some newspaper of general circulation in the province in which he had estate. The notice shall recite the substance of the facts and request set forth in the petition, the time and place at which persons claiming the estate may appear and be heard before the court, and shall be published at least six weeks successively, the last of which publication shall be at least six weeks before the time appointed by the court to make inquisition.

"Sec. 751. Decree of court in such case.—If, at the time appointed for that purpose, the court finds that the person died intestate, seized of real or personal property in the Islands, leaving no heir or person entitled to the same, and no sufficient cause, is shown to the contrary, the court shall order and decree that the estate of the deceased in these Islands, after the payment of just debts and charges, shall escheat; and shall assign the personal estate to the municipality where he was last an inhabitant in the Islands, and the real estate to the municipalities in which the same is situated. If he never was an inhabitant of the Islands, the whole estate may be assigned to the several municipalities where the same is located. Such estate shall be for the use of schools in the municipalities, respectively, and shall be managed and disposed of by the municipal council like other property appropriated to the use of schools."

According to the first of the said sections, the essential facts which should be alleged in the petition, which are jurisdictional because they confer jurisdiction upon the Court of First Instance, are: That a person has died intestate or without leaving any will; that he has left real or personal property; that he was the owner thereof; that he has not left any heir or person who is by law entitled to the property; and that the one who applies for the escheat is the municipality where the deceased had his last residence, or in case he should have no residence in the country, the municipality where the property is situated.

The following section provides that after the publications and trial, if the court finds that the deceased is in fact the owner of real and personal property situated in the country and has not left any heir or other person entitled thereto, it may order, after the payments of debts and other legal expenses, the escheat, and in such case it shall adjudicate the personal property to the municipality where the deceased had his last place of residence and the real property to the municipality or municipalities where they are situated.

Escheat, under sections 750 and 751, is a proceeding whereby the real and personal property of a deceased person become the property of the State upon his death without leaving any will or legal heirs (21 C. J., sec. 3, p. 848; *American L. & T. Co. vs. Grand Rivers Co.*, 159 Fed., 775; *In re Miner*, 143 Cal., 194; *Johnston vs. Spicer*, 107 N. Y., 185; *Wright vs. Methodist Episcopal Church*, Hoffm. [N. Y.], 201; *In re Linton's*, 198 Pa., 438; *State vs. Goldberg*, 113 Tenn., 298). It is not an ordinary action contemplated by section 1 of the Code of Civil Procedure, but a special proceeding in accordance with the said section and Chapter XXXIX, Part II, of the same Code. The proceeding, as provided by section 750, should be commenced by petition and not by complaint.

In a special proceeding for escheat under sections 750 and 751 the petitioner is not the sole and exclusive interested party. Any person alleging to have a direct right or interest in the property sought to be escheated is

likewise an interested and necessary party and may appear and oppose the petition for escheat. In the present case the Colegio de San Jose, Inc., and Carlos Young appeared alleging to have a material interest in the Hacienda de San Pedro Tunasan; the former because it claims to be the exclusive owner of the hacienda, and the latter because he claims to be the lessee thereof under a contract legally entered with the former. In view of these allegations it is erroneous to hold that the said parties are without right either to appear in the case or to substantiate their respective alleged rights. This unfavorably resolves the petitioners' first assignment of error.

- The final dismissal of the petition for escheat decreed by the court is assigned by the petitioners as the second error committed by it upon the contention that the demurrer, to which amount the motions for dismissal, is not a pleading authorized by law in this kind of proceeding and because, in any event, the court should have given them an opportunity to amend the petition.

Chapter XXXIX of the Code of Civil Procedure, relative to the escheat of properties, does not in fact authorize the filing of a demurrer to the petition presented for that purpose, and sections 91 and 99 permitting the interposition of demurrers to the complaint and answer, respectively, are not applicable to special proceedings. But there is no reason of a procedural nature which prevents the filing of a motion to dismiss based upon any of the grounds provided by law for a demurrer to a complaint. In such case, the motion to dismiss plays the role of a demurrer and the court should resolve the legal questions raised therein. When, for instance, a petition for escheat does not state facts which entitle the petitioner to the remedy prayed for, and even admitting them hypothetically it is clear that there are no grounds for the court to proceed to the inquisition provided by law, we see no reason to disallow an interested party from filing a motion to dismiss the petition which is untenable from all standpoints. And when the motion to dismiss is entertained upon this ground, the petition may be dismissed unconditionally and the petitioner is not entitled, as in the case of a demurrer, to be afforded an opportunity to amend his petition.

- The petitioners assign as third error the judicial notice which the court took of the complaint filed in civil case No. 6790, docketed and pending in the same court, wherein the petitioners recognized the personality of the Colegio de San Jose, Inc., and Carlos Young and the latter's interest in said action of interpleader and in the Hacienda de San Pedro Tunasan which is the same subject matter of the instant proceedings.

In general, courts are not authorized to take judicial notice, in the adjudication of cases pending before them, of the contents of the records of other cases, even when such cases have been tried or are pending in the same court, and notwithstanding the fact that both cases may have been heard or are actually pending before the same judge. (U. S. vs. Claveria, 29 Phil., 527.) The rule is squarely applicable to the present case, wherefore, we hold that the assignment of error is tenable.

- In the appealed resolution the court held that the municipality of San Pedro, represented by the petitioners, has no personality to institute the petition for escheat; that the latter does not state sufficient facts, and that the court is without jurisdiction either to take cognizance of the proceeding or to grant the remedy sought. These legal conclusions are the subject matter of the fourth assignment of error.

According to the allegations of the petition, the petitioners base their right to the escheat upon the fact that the temporal properties of the Fathers of the Society of Jesus, among them, the Hacienda de San Pedro Tunasan, were confiscated by order of the King of Spain and passed from then on to the Crown of Spain. The following allegations of the petition are important and specific and clearly reflect the theory maintained by the petitioners:

"11. As a result of the perpetual expulsion of the Jesuits in their dominions, the King also decreed the confiscation of all their properties, estate, rents, foundations, etc., in favor of the Crown of Spain, and the order of the King was thus complied with here in the Philippines. The Hacienda de San Pedro Tunasan from then on passed to the Crown of Spain under the administration and management of its representative here, the

Governor-General of the Philippine Islands. 12. as a result of the war between Spain and the United States, the latter acquired by way of transfer, all the properties of the Crown of Spain in the Philippines, under articles III and VIII of the Treaty of Peace entered into in Paris on December 10, 1898, and among which properties was included the Hacienda de San Pedro Tunasan. 13. That the said hacienda thereafter passed to the Government of the Philippine Islands by virtue of the Act of the United States Congress of July 1, 1902 (Philippine Bill), by mere administration for the benefit of the inhabitants of the Philippines; and thereafter, under the Tydings-McDuffie Law approved by the same Congress on March 24, 1934, section 5, the United States, in turn, have ceded to the Commonwealth of the Philippines, upon its inauguration, all the properties, estates, etc, ceded by Spain to the United States as above stated, among them being the Hacienda de San Pedro Tunasan. Said Commonwealth was inaugurated on November 15, 1935."

If the Hacienda de San Pedro Tunasan, which is the only property sought to be escheated and adjudicated to the municipality of San Pedro, has already passed to the ownership of the Commonwealth of the Philippines, it is evident that the petitioners cannot claim that the same be escheated to the said municipality, because it is no longer the case of real property owned by a deceased person who has not left any heir or person who may legally claim it, these being the conditions required by section 750 and without which a petition for escheat should not lie. From the moment the hacienda was confiscated by the Kingdom of Spain, the same ceased to be the property of the children of Esteban Rodriguez de Figueroa, the Colegio de San Jose or the Jesuit Fathers, and became the property of the Commonwealth of the Philippines by virtue of the transfer under the Treaty of Paris, alleged in the petition. If the municipality of San Pedro believes that it has some other right to the hacienda, distinct from the escheat relied upon in its petition which gave rise to this proceeding, it should bring the proper action, but it cannot avail itself successfully of the remedy provided by section 750 of the Code of Civil Procedure. We, therefore, hold that the court did not commit the error assigned in ruling that the petition does not allege sufficient facts justifying the escheat of the hacienda in favor of the municipality of San Pedro and in finally dismissing the same. Having reached this conclusion we do not believe it necessary to go into further considerations regarding the personality of the municipality of San Pedro and the court's lack of jurisdiction.

- The last assignment of error does not require any further consideration. The questions raised therein have already been passed upon in the preceding considerations, with the exception of the order to pay costs. With respect thereto, there is no reason why they should not be taxed against the petitioners, they being the defeated party (section 487, Code of Civil Procedure). That no trial was had is not a bar to the imposition of costs under the provisions of section 492.

For the foregoing reasons, the appealed order and resolution are affirmed, with the costs of this instance against the petitioners and appellants. So ordered.

Avanceña, C. J., Villa-Real, Abad Santos, Diaz, Laurel, and Concepcion, JJ., concur.

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