

INTESTATE ESTATE OF THE DECEASED LEE LIONG. RAFAEL A. DINGLASAN, ET ALS., PETITIONERS AND APPELLEES, VS. ANG CHIA, AS ADMINISTRATRIX OF THE ABOVE INTESTATE, LEE BING HOO ALIAS C...

G. R. No. L-3342. April 18, 1951

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is an appeal by Ang Chia, her son Claro Lee, and Lee Bun Ting from an order of the Court of First Instance of Capiz, issued in the intestate estate proceedings of the deceased Lee Liong, holding in abeyance the approval of their petition for an extra judicial partition and the closing of said proceedings until after the final termination of Civil Case No. V-331 of the same court, entitled Rafael Dinglasan, et al., vs. Lee Bun Ting, Claro Lee and Ang Chia, in her personal capacity and as administratrix of the estate of Lee Liong.

Rafael Dinglasan et al. filed a case in the Court of First Instance of Capiz on February 16, 1948, against Ang Chia, her son Claro Lee and one Lee Bun Ting to recover the ownership and possession of a parcel of land located at Capiz, Capiz, and damages in the amount of P1,000 a month. Subsequently, the plaintiffs filed a motion for the appointment of a receiver to which counsel for the defendants objected, and it was only at the hearing of said motion when plaintiffs discovered that there was pending in the same court a case concerning the intestate estate of Lee Liong. In view thereof, the motion for the appointment of a receiver was withdrawn and the plaintiffs filed an amended complaint seeking the inclusion as party-defendant of the administratrix of the estate, who is the same widow Ang Chia, who was already a party-defendant in her personal capacity. In order to protect their interests, the plaintiffs also filed in the intestate proceedings a verified claim in intervention and a motion praying that a coadministrator of the estate be appointed and the bond of the administratrix in the amount of P500 be increased to P20,000. By their claim in intervention, the plaintiffs made of record the pendency of the aforesaid civil case No. V-331 and prayed that the intestate proceedings be not closed until said civil case shall have been terminated.

On June 21, 1948, the administratrix filed a motion to dismiss the claim in intervention and objected to the motion for the increase of her bond and for the appointment of a coadministrator. On August 4, 1948, the court issued an order denying the petition for a coadministrator but increasing the bond to P5,000, and as regards the petition not to close the intestate proceedings until after civil case No. V-331 shall have been decided, the court stated that it would act thereon if a motion to close the proceedings is presented in due time and is objected to by petitioners. The court however took cognizance of the pendency of said civil case No. V-331. The administratrix did not appeal from said order nor file a new bond and instead moved for the closing of the proceedings and her discharge as administratrix on the ground that the heirs had already entered into an extrajudicial partition of the estate. To this motion the petitioners objected, whereupon the court issued on July 15, 1949, an order holding in abeyance the approval of the partition and the closing of the proceedings until after the decision in said civil case has been rendered. From this order the administratrix and the heirs appealed and now assign the following errors:

"I

"The lower court erred in taking cognizance of and being guided by the supposed 'claim' of petitioners-appellees.

"II

"The lower court erred in holding in abeyance the closing of the intestate proceedings pending the termination of the separate civil action filed by the petitioners-appellees.

"III

"The lower court erred in ordering the administratrix to file an increased bond of P5,000."

Under the first assignment of error, the appellants question the validity of the order of the lower court of August 4, 1948, whereby the court took cognizance of the civil case filed by the appellees against the administratrix to recover possession of lot No. 398 and damages, and required the administratrix to file a new bond of P5,000, contending that by taking such action the court assumed jurisdiction over the case which it cannot do because its jurisdiction as probate court is limited and special (*Guzman vs. Anog and Anog*, 37 Phil. 61). They claim further that probate proceedings are purely statutory and their functions are limited to the control of the property upon the death of its owner and cannot extend to the adjudication of collateral questions. (1 *Woermer*, *The American Law of Administration*, 514, 662-663.) Appellees on the other hand claim that said order of August 4, 1948, is not the subject of this appeal, as no appeal has been taken by the appellants from said order and the same has long become final; so that the present appeal is only from the order of the lower court dated July 15, 1949, which denies the motion of the appellees to terminate the intestate proceedings on the ground that they have already agreed on the extrajudicial settlement of the estate and to relieve the administratrix of the obligation of filing an increased bond.

There is merit in the claim of the appellees. It really appears from the record that the order increasing the bond of the administratrix to P5,000 was issued on August 4, 1948, and from said order no appeal has been taken by the appellants which has become final long ago and that the present appeal is only from the order of the lower court dated July 15, 1949. It is true that the lower court in its later order of July 15, 1949, reiterated its order to the administratrix to file a new bond in the amount of P5,000 within 30 days after receipt thereof, but this cannot have the effect of reviving the former order of August 4, 1948, nor does it give the appellants the right to question in this instance the validity of said order, which has long become final. Moreover, an order requiring the filing of a new bond by the administratrix is interlocutory in nature and is solely addressed to the sound discretion of the court.

The act of the lower court in taking cognizance of civil case No. V-331 is not tantamount to assuming jurisdiction over said case nor does it violate the ruling of this court which says that "when questions arise as to the ownership of property, alleged to be 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 course of administration proceedings. The Court of First Instance, acting as probate court, has no jurisdiction to adjudicate such contentions, which must be submitted to the court in the exercise of its general jurisdiction as a Court of First Instance to try and determine ordinary actions. * * *" (*Guzman vs. Anog and Anog*, 37 Phil., 61, 62-63.)

If the appellants filed a claim in intervention in the intestate proceedings it was only pursuant to their desire to protect their interests it appearing that the property in litigation is involved in said proceedings and in fact is the only property of the estate left subject of administration and distribution; and the court is justified in taking

cognizance of said civil case because of the unavoidable fact that whatever is determined in said civil case will necessarily reflect and have a far reaching consequence in the determination and distribution of the estate. In so taking cognizance of civil case No. V-331 the court does not assume general jurisdiction over the case but merely makes of record its existence because of the close interrelation of the two cases and cannot therefore be branded as having acted in excess of its jurisdiction.

Appellants' claim that the lower court erred in holding in abeyance the closing of the intestate proceedings pending determination of the separate civil action for the reason that there is no rule or authority justifying the extension of administration proceedings until after the separate action pertaining to its general jurisdiction has been terminated, cannot be entertained. Section 1, Rule 88, of the Rules of Court, expressly provides that "actions to recover real or personal property from the estate or to enforce a lien thereon, and actions to recover damages for an injury to person or property, real or personal, may be commenced against the executor or administrator". What practical value would this provision have if the action against the administrator cannot be prosecuted to its termination simply because the heirs desire to close the intestate proceedings without first taking any step to settle the ordinary civil case? This rule is but a corollary to the ruling which declares that questions concerning ownership of property alleged to be part of the estate but claimed by another person should be determined in a separate action and should be submitted to the court in the exercise of its general jurisdiction. (*Guzman vs. Anog and Anog*, supra). These rules would be rendered nugatory if we are to hold that an intestate proceedings can be closed by any time at the whim and caprice of the heirs. Another rule of court provides that "after a party dies and the claim is not thereby extinguished, the court shall order, upon proper notice, the legal representative of the deceased to appear and to be substituted for the deceased, within a period of thirty (30) days, or within such time as may be granted. If the legal representative fails to appear within said time, the court may order the opposing party to procure the appointment of a legal representative of the deceased within a time to be specified by the court, and the representative shall immediately appear for and on behalf of the interest of the deceased." (Section 17, Rule 3.) This rule also implies that a probate case may be held in abeyance pending determination of an ordinary case wherein an administrator is made a party. To hold otherwise would be also to render said rule nugatory.

Wherefore, the Court affirms the order appealed from, with costs against appellants.

Paras, C. J., Feria, Pablo, Bengzon, Tuason, Montemayor and Jugo, JJ., concur.

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