

**BEATRIZ DE ZUZUARREGUI VDA. DE REYES, PETITIONER, VS.
HONORABLE COURT OF APPEALS, PILAR IBAÑEZ VDA. DE
ZUZUARREGUI, ADMINISTRATRIX, ANTONIO DE ZUZUARREGUI, JR.,
ENRIQUE DE ZUZUA...**

G.R. No. L-47027. January 27, 1989

Ponente: REGALADO, J.

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REGALADO, J.:

In this petition for review on certiorari, We are asked to set aside the decision of the Court of Appeals, promulgated on September 19, 1977 in CA-G.R. No. 53197-R[1] which affirmed the order of the Court of First Instance of Rizal, Branch IV, Quezon City dated March 26, 1973, issued in Special Proceedings Q-325, entitled "Intestate Estate of Don Antonio de Zuzuarregui, Sr.".[2]

Respondent administratrix, Pilar Ibañez Vda. de Zuzuarregui, is the surviving spouse of Antonio de Zuzuarregui, Sr., while petitioner Beatriz de Zuzuarregui Vda. de Reyes and the other heirs of said estate, namely, Antonio de Zuzuarregui, Jr., Enrique de Zuzuarregui and Jose de Zuzuarregui, are the illegitimate children of the decedent. The parties herein are the only heirs of the deceased whose estate was the subject of said settlement proceedings. Petitioner was the daughter of the deceased by a mother different from that of his aforesaid three (3) sons, their mother being Pacita Javier who was the niece of the herein respondent administratrix. [3]

According to the project of partition dated June 17, 1958 and approved by the probate court, the respective shares of said heirs in the real estate left by the deceased are as follows: Pilar Ibañez Vda. de Zuzuarregui, 12/16 thereof, inclusive of 1/2 of said assets which pertains to her share in the conjugal partnership; Beatriz, 1/16; Antonio, Jr., 1/16; Enrique, 1/16; and Jose, 1/16.[4]

Among the real properties in the project of partition is a parcel of land covered by and described in Transfer Certificate of Title No. 42643 located in Antipolo, Rizal. In said project of partition, its area is stated as 83,781 square meters, with an assessed value of P6,430.00. This statement of said area was repeated in said document four times,[5] that is, in adjudicating the corresponding portions of said land to Pilar (12/15), Antonio, Jr. (1/15), Enrique (1/15) and Jose (1/15).[6] The petitioner did not have a share in the aforesaid parcel of land because she relinquished her right thereto "in lieu of her bigger share in Antipolo, Rizal, real estate property".[7]

On January 29, 1973, the respondent administratrix and the other three distributees filed a motion to reopen Special Proceedings No. Q-325 for the purpose of correcting an alleged typographical error in the description of the parcel of land covered by Transfer Certificate of Title No. 42643 since, according to them, the correct land area is 803,781.51 square meters and not 83,781 square meters.[8] The heirs of Beatriz de Zuzuarregui Vda. de Reyes filed their opposition to said motion.[9]

The court a quo issued the contested order, with the following dispositive portion:

"WHEREFORE,

(1) Sp. Proceeding No. Q-325 entitled, The Intestate Estate of Don Antonio de Zuzuarregui, Sr. is ordered opened for the purpose of correcting a clerical error in the description of the parcel of land covered by T.C.T. No. 42643;

(2) The area of land covered by T.C.T. No. 42643 be corrected by cancelling 83,781 sq. meters and changing it to 803,781.51sq. meters to conform with the description of land area in T.C.T. No. 42643;

(3) That said corrections be made as pages 3,6,9,10 and 12 of the Project of Partition."[10]

As already stated, the affirmance of said order by the Court of Appeals eventuated in the elevation of the controversy to Us under the present recourse.

It is well settled that even if a decision has become final, clerical errors or mistakes or omissions plainly due to inadvertence or negligence may be corrected or supplied even after the judgment has been entered. The correction of a clerical error is an exception to the general rule that no amendment or correction may be made by the court in its judgment once the latter had become final.[11] The court may make this amendment ex parte and, for this purpose, it may resort to the pleadings filed by the parties, the court's findings of facts and its conclusions of law as expressed in the body of the decision.[12]

However, according to the petitioner, there was no such clerical error. While it is not disputed that the area covered by Transfer Certificate of Title No. 42643 is 803,781.51 square meters, the petitioner insists that "the area intended by the heirs of Don Antonio de Zuzuarregui, Sr., in the Project of Partition as approved by the trial court is the area of 83,781 sq. m. and not 803,781.51 sq. m."[13]

She claims that she would not have relinquished her share in said parcel of land if the true area was not fraudulently concealed from her at the time the project of partition was executed.[14] She further contends that the fact that the description of the area as 83,781 square meters was repeated several times is sufficient evidence to show that such was the area intended in the project of partition.[15]

Such contentions are without merit. There is, therefore, no reason to disturb, much less to reverse, the factual finding of the lower court that a typographical or clerical error was clearly committed by inadvertence in the project of partition.

That a special proceeding for the settlement of an estate is filed and intended to settle the entire estate of the deceased is obvious and elementary. It would be absurd for the heirs to intentionally exclude or leave a parcel of land or a portion thereof undistributed or undivided because the proceeding is precisely designed to end the community of interests in properties held by coparceners pro indiviso without designation or segregation of shares.

It is readily apparent from the project of partition that it was meant to be, as in fact it is, a full and complete adjudication and partition of all properties of the estate, necessarily including the entire area of the land covered by Transfer Certificate of Title No. 42643. Thus as perceptively posed by the queries of the respondents, if the intention of the heirs was to make only a partial adjudication and distribution of the subject parcel of land, why is it that they did not make any further disposition of the remaining balance of 720,000 square meters? What sound reason would the heirs have in holding in suspense the distribution of the difference of 720,000 square meters?[16]

Besides, petitioner suggests that she and the male heirs could not see eye to eye because they did not have a common mother.[17] If so, this supposed antagonism would even be a compelling reason for the parties to insist on the total partition of all the properties in the first instance, rather than for them to remain as co-owners for a long time. As hereinbefore indicated, the project of partition is dated June 17, 1958,[18] while the motion to

re-open the proceedings was filed only on January 29, 1973.

If We were to indulge petitioner in her stand that the area of 803,781 square meters was typewritten in the document as 83,781 square meters, not because of the typist's error in omitting the number "0" between the numbers "8" and "3" in the first three digits but because the latter area of only 83,781 square meters was the one intended for distribution, then the irresistible question would be how and why the parties arrived at that particular latter figure. It will be observed that such a portion would constitute only 10.42336% of the total land area covered by Transfer Certificate of Title No. 42643. On top of this, the assumed area of 83,781 square meters has still to be divided into fifteen (15) parts to arrive at the aliquot portions of 12/15 and 1/15 of the other heirs in this particular property. Why would the parties deliberately create such an unlikely mathematical situation which would complicate the actual physical segregation of the area supposed to be distributed?

It is, therefore, a logical and credible explanation that the omission of the zero between the figures "8" and "3" converted "803,781" to "83,781", a product purely of clerical oversight. Petitioner has not offered any plausible contrary explanation. Parenthetically, she had the assistance of legal counsel in the intestate proceedings and in the preparation of the project of partition.[19]

Petitioner's lamentations of injustice in the partition are demonstrably unfounded. It will be observed that according to her own computation,[20] she received her 1/16 share in the estate consisting of 279,803 square meters of land, while her half brothers received on the average 154,975.11 square meters each. Even if the supposed shares of the respondents in the remaining 720,000 square meters in the lot covered by Transfer Certificate of Title No. 42643 were to be added, the share of each brother would be only 202,975.11 square meters. There would not be a substantial difference in value since the petitioner received 190,000 square meters of land located also in Antipolo, Rizal; while in Balara, Quezon City, she received more than her half brothers, that is, 75,803 square meters as against their individual 74,309.70 square meters. It was only in Pasong Tamo where she received slightly less, 14,000 square meters compared to Enrique's and Jose's 14,115 square meters each, but more than Antonio, Jr.'s 13,621 square meters.

The ineluctable consequence of the foregoing considerations is that, both in law and equity, the court a quo and the respondent court committed no error prejudicial to petitioner.

WHEREFORE, certiorari is DENIED and the decision of the respondent court is AFFIRMED.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Sarmiento, JJ., concur.

[1] Special Fifth Division; Justice Luis B. Reyes, ponente, and Justices Jose C. Bautista and Hugo Gutierrez, Jr., concurring. Rollo, 27-37.

[2] Judge Jose C. Campos, presiding. Record on Appeal, 33-35.

[3] Petition, Annex C, 7; Rollo, 33, 65.

[4] Ibid., ibid., 30-31.

[5] In Item 14 on p. 6, item 15 on p. 9, item 11 on p. 10 and item 11 on p. 12. Record on Appeal, 5-7.

[6] Ibid., Ibid., 31-33.

[7] Record on Appeal, 24-25.

[8] Ibid., 4-9.

[9] Ibid., 11-17.

[10] Ibid., 34-35.

[11] Ang Lin Chi vs. Castelo, et al., 83 Phil. 263 (1949); Presbitero vs. Court of Appeals, et al., 129 SCRA 443 (1984); Rebuldele, et al. vs. Intermediate Appellate Court, et al., 155 SCRA 520 (1987).

[12] Filipino Legion Corporation vs. Court of Appeals, et al., 56 SCRA 674 (1974); Presbitero vs. Court of Appeals, et al., supra; Republic Surety & Insurance Co., Inc., et al. vs. Intermediate Appellate Court, et al., 152 SCRA 309 (1987).

[13] Rollo, 22.

[14] Ibid., 21, 70.

[15] Brief for Appellant, 21-22.

[16] Memorandum for Respondents, 7-8; Rollo, 49.

[17] Rollo, 70.

[18] Ibid., 30.

[19] Memorandum for Respondents, 8-9; Rollo, 49.

[20] Annex B, Petition; Rollo, 38-39.

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