

**TESTATE ESTATE OF MARIA CONSUELO IGNACIO, RE-PRESENTED  
BY THE EXECUTOR-ADMINISTRATOR, (WITH THE WILL ANNEXED)  
DR. AGUSTIN I. IGNACIO, JR., PLAINTIFF AND APPELLANT, VS.  
PASTOR MA...**

*G.R. No. L-23560. May 29, 1970*

Ponente: DIZON, J.

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**DIZON, J.:**

This appeal was originally taken to the Court of Appeals by reason of the statement made in appellant's notice of appeal (record on appeal, p. 80) to the effect that he was appealing "on all questions of law and fact". The Court of Appeals found, however, that "the errors assigned by appellant show that no question of fact is raised" and, as a consequence, granted appellees' motion appearing at page 5 of their brief "to certify this case to the Supreme Court".

Agustin I. Ignacio, Jr., in his capacity as ex-ecutor-administrator of the testate estate of the de-ceased Maria Consuelo Ignacio took the instant appeal from the decision of the Court of First Instance of Bataan in Civil Case No. 2771 dismissing the complaint he had filed against the spouses Pastor Manalo and Paula de Vera for the recovery of a parcel of registered land situated in the municipality of Orani, province of Bataan, and identified as Lot No. 1148 of the Orani Cadastre and covered by T.C.T. NO. 1223 issued by the Register of Deeds of said province. As only questions of law are involved, the following findings of fact made by the lower court are now beyond review:

"There is no dispute as to the fact in this case that on August 18, 1945, Maria Con-suelo died leaving a will and an estate con-sisting of several parcels of land located in Orani, Bataan, plus five (5) religious images. One of the parcels of land left by her was Lot No. 1148 of the Orani Cadastre containing an area of 141,917 square meters more or less and covered by Transfer Certi-ficate of Title No. 1223 of the Register of Deeds of Bataan in her name. Tomas Tagle was designated in her will as executor and was in due course of the proceedings appoint-ed as administrator by the Court. On April 29, 1947, Tomas Tagle, as administrator of the estate of the deceased Maria Consuelo Ignacio and Agustin Ignacio, Sr. filed a joint motion to sell Lot No. 1, Psu-9730, which is lot No. 1148 of the Orani cadastre and covered by said Transfer Certificate of Title No. 1223 of the Register of Deeds of Bataan to defendant Pastor Manalo, which motion for leave to sell was accompanied by a Deed of Absolute Sale dated April 28, 1947, for and in consideration of the sum of P10,000.00, which the vendors, the said administrator and Agustin Ignacio, Sr. had received from the de-fendant, Pastor Manalo, Said Joint Motion was on September 25, 1948, denied by the Probate Court of Bataan in an order issued on said date. On October 10, 1948, the administrator Tomas Tagle made a report dated on the same date but filed on May 13, 1949, a manifesta-tion with the probate court in special pro-ceedings No. 1811, on the fact that the sale was not consummated and the land was not delivered to the vendee, the herein defendant, Pas-tor Manalo filed a petition to detach the Deed of Absolute Sale and substitute it with a certified copy, which petition was dated on the same date and was granted two days thereafter, i.e., October 14, 1949. In a project of partition dated April 12, 1949, Exh. 'I', the estate of the

deceased, Maria Consuelo Ignacio, was partitioned and Lot No. 1148, which is the land in question was adjudicated to Agustin Ignacio, Sr. subject to the usufructuary right of Tomas Tagle during the latter's life time (Exhs. '1', '1-A', '1-B', '1-C', and '1-D'). Said project of partition was approved on May 18, 1949, in an order of even date (Exh. '2') and the executor on October 14, 1949, was ordered to distribute the shares to the testamentary heirs in accordance with the project of partition. The approved project of partition was registered in the Office of the Register of Deeds of Bataan on January 21, 1950, and the Deed of Sale executed on April 28, 1947, was registered on the same date January 21, 1950, after the project partition was registered. Hence, Transfer Certificate of Title No. T-1999 was issued in the name of Pastor Manalo, the defendant herein."

Aside from the above, however, the following relevant facts are not disputed.

More than eight years after the execution of the deed of absolute sale mentioned heretofore, or more specifically on May 25, 1955, Tomas Tagle filed a petition praying the probate court to order its cancellation and to require appellee Pastor Manalo to return and deliver to him the property subject matter thereof. On November 11, 1955, over the objection of Manalo, the probate court issued an order holding "that the registration of the deed of sale is null and void and transfer certificate of title No. 1999 of Bataan should be cancelled and a new one should be issued in the name of the administrator of the estate of the deceased Maria Consuelo Ignacio" (Underline supplied) and further required Manalo "to return the property covered by said deed of sale within a period of ten (10) days from receipt of this order to the administrator". On appeal from this order (G. R. No. L-12657), however, this Court, on July 14, 1959, rendered judgment setting it aside on two grounds: firstly, because the probate proceedings below had already been terminated when the petition for cancellation of the sale was filed, and secondly, because the declaration of nullity of the deed of sale and the consequent cancellation of the certificate of title issued in favor of the vendee can not be obtained through a mere motion in the probate proceedings but in an appropriate independent action in the proper court.

It appears, furthermore, that on November 12, 1956, or four years before he died in 1960, Agustin Ignacio, Sr. executed a sworn statement ratifying the deed of absolute sale in question. On the other hand, Tomas Tagle, the usufructuary, died in the year 1961.

On September 29, 1961 (Record on Appeal, p. 2) appellant Agustin I. Ignacio, Jr. succeeded in having the probate court appoint him as administrator of the testate estate of the deceased Maria Consuelo Ignacio - a proceeding which this Court, in G. R. No. L-12657 mentioned heretofore, had previously declared terminated for the reason that, upon the facts before it, there had been a project of partition signed and filed by the heirs of said deceased and duly approved by the probate court, the latter having, in fact, issued the corresponding order for the executor to deliver to the heirs their respective share as specified in said project of partition. In his aforesaid capacity, appellant filed on November 28, 1961 the present action in the Court of First Instance of Bataan (Civil Case No. 2771) where, as stated before, the appealed decision was rendered "dismissing the complaint of the plaintiff" as well as the counterclaim of the defendants for the recovery of attorney's fees and damages.

We agree with appellant that the four assignments of error submitted in his brief may be reduced to the lone issue formulated at page 4 of said brief as follows:

"Hence, the only issue in this case could be formulated as:

ISSUE OF THE CASE

WAS THERE A SALE, OR A VALID DEED OF SALE IN FAVOR OF THE APPELLEES?"

Whether or not, as a matter of fact, there was a sale is a question resolved in the affirmative by the trial court. While this finding is not now before Us for review, the following may be stated to further show that the same is fully justified. The deed of absolute sale dated April 28, 1947 executed by Tomas Tagle and Agustin Ignacio, Sr.

in favor of Pastor Manalo was submitted to the probate court in connection with the vendor's motion for authority to sell the property subjectmatter thereof and, as stated heretofore, on November 12, 1956, Agustin Ignacio, Sr. ratified it in an appropriate sworn statement. The property covered by the questioned deed of absolute sale was the very property bequeathed in the will of the deceased testatrix to Agustin Ignacio, Sr., and adjudicated to him in the project of partition submitted to the probate court on May 10, 1949 and duly approved by it on the 18th of the same month and year.

But appellant contends that the aforesaid deed of absolute sale was declared null and void by the probate court in its order of November 11, 1955. Such is not the case. Said order, as reproduced at page 2 of appellant's brief, shows no more than that the probate court held "that the registration of the deed of absolute sale is null and void". Annulment of the registration is one thing, and a declaration of nullity of the sale itself is another. But assuming that the provision for the cancellation of T.C.T. No. 1999 and the issuance of a new one in the name of the administrator of the estate of the deceased Maria Consuelo Ignacio and the further requirement that Manalo should return the property covered by said deed of sale to the administrator of said estate amount to a declaration of nullity of the sale itself, it can not be denied that the sale was validly ratified by Agustin Ignacio, Sr. on November 12, 1956 after he had become the owner of the property sold, by virtue of the adjudication thereof to him in the project of partition dated April 12, 1949, approved by the probate court on May 18, 1949. Moreover, the order in question was set aside by this Court in G. R. No. L-12657 where We held that "the declaration of nullity of the deed of sale and the consequent cancellation of the certificate of title issued in favor of the vendee can not be obtained through a mere motion in the probate court" but "in an appropriate independent action in the proper court". This clearly implies that whatever pronouncement had been theretofore made by the probate court regarding the nullity of the aforesaid deed of sale and its registration was reversed and that, therefore, the sale in question and its registration must be deemed valid until annulled in an appropriate independent action in the proper court. Resort thereto, however, obviously became foreclosed because, before any such appropriate independent action could be filed, the property subject-matter of the sale had become the exclusive property of Agustin Ignacio, Sr. (since May 18, 1949 when the probate court approved the project of partition submitted to it in Special Proceedings No. 1811) subject only to the usufructuary rights of Taos Tagle during his life time, and said Agustin Ignacio, Sr. had ratified the questioned sale on November 12, 1956 in a duly executed sworn statement. It is worth remembering in this connection that our decision just mentioned did not hold that the sale in favor of Manalo was void, nor did it grant the estate of the deceased testatrix the right to annul the sale. It merely indicated the proper way of questioning the validity of the transaction, on the assumption that nothing, in the meantime, had taken place sufficient to bar the independent action suggested therein.

IN VIEW OF THE FOREGOING, judgment is hereby rendered affirming the decision appealed from, with costs.

It is so ordered.

Concepcion, C.J., Reyes, Makalintal, Zaldivar, Fernando, Teehankee, Barredo, and Villamor, JJ., concur.  
Castro, J., on leave.

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