

**IN THE MATTER OF THE INTESTACY OF FELIX DE LEON, DECEASED,
ASUNCION SORIANO, PETITIONER AND APPELLEE, VS. JOSE P. DE
LEON AND CECILIO P. DE LEON, AS JOINT ADMINISTRATORS OF THE
...**

G.R. No. L-2024. October 27, 1950

Ponente: PARAS, J.

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PARAS, J.:

Felix de Leon died in the City of Manila on November 23, 1940, leaving properties in Manila, Bulacan and Nueva Ecija. He was survived by his wife Asuncion Soriano and by his three acknowledged natural children Jose P. de Leon, Cecilio P. de Leon and Albina P. de Leon. Intestate proceedings were instituted in the Court of First Instance of Manila (Special Proceeding No. 58390). On March 23, 1943, an amicable agreement was executed between Asuncion Soriano on the one hand and the acknowledged natural children on the other, in which it is stipulated, among other things, that the three acknowledged natural children would deliver to Asuncion Soriano certain amounts of palay annually beginning the year 1943 and continuing during the lifetime of Asuncion Soriano. The agreement also provides that said obligation constitutes a first lien upon all the rice lands of the estate of Felix de Leon in San Miguel, Bulacan. The agreement -was approved by the Court of First Instance of Manila on April 1, 1943.

On October 29, 1946, Asuncion Soriano filed a petition praying that the Register of Deeds of Bulacan be directed to annotate, as first lien, at the back of the certificates of title therein enumerated and covering all rice lands in San Miguel, Bulacan, belonging to the estate of Felix de Leon, the obligation to deliver palay above mentioned. To this petition the three De Leon Children filed an apposition alleging that their failure to deliver in full the stipulated amounts of palay for the years 1944, 1945 and 1946 was due to force majeure and that, therefore, there was no cause for the registration of the lien in favor of Asuncion Soriano. On November 23, 1946, the Court of First Instance of Manila issued an order directing the Register of Deeds of Bulacan to annotate at the back of certificates of title Nos. 10420, 12134, 19156, 11319, 11816, 10345, 10265, 10699, 11946, 11473, 11658, 11090, 10654, 11634, 11903, 11805, 11806, 10111, 11705, 11989, 10440, 11862, 11597, 11826, 12052, 10109, 10150, 10146, and 10211, the obligation of the De Leon children to deliver palay in accordance with the agreement of March 23, 1943. On December 2, 1946, the latter filed a motion for reconsideration alleging that there was a pending suit ring the Court of First Instance of Bulacan for specific performance filed by Asuncion Soriano and praying that action on the petition for annotation be suspended until said suit was finally decided. After answer by Asuncion Soriano, the Court of First Instance of Manila issued on February 19, 1947, an order denying the motion for reconsideration. On August 20, 1947, the joint administrators, Jose P. de Leon and Cecilio P. de Leon, filed a petition praying that the orders of November 23, 1946, and February 19, 1947, be set aside or at least modified by excluding therefrom the residential lands of Felix de Leon in San Miguel, Bulacan, covered by certificates of title Nos. 10420, 10699, 10654, 10440, 10150 and 10146, it being contended that the agreement of March 23, 1943, provides that the lien should refer only to all rice lands, and that the Court of First Instance of Manila had no

jurisdiction to issue said orders because the petition to annotate should have been filed in the original case in which the decree of registration was entered. Asuncion Soriano filed an opposition, to which the joint administrators filed a reply. Asuncion Soriano filed a counter reply, followed by a rejoinder on the part of the joint administrators. On November 25, 1947, the Court of First Instance of Manila issued an order denying the petition of August 20, 1947, filed by the joint administrators. From this order the present appeal has been taken by the joint administrators.

It is argued for the appellants that the Court of First Instance of Manila had no jurisdiction to direct the Register of Deeds of Bulacan to annotate the lien in question, because, under section 112 of Act No. 496, all petitions and motions under the provisions of said Act after the original registration must be filed in the original case in which the decree of registration was entered and, under sections 71 and 72 of said Act, the proper procedure was merely to file and register the document creating the lien, or a certified copy thereof, in the office of the Register of Deeds of Bulacan. The contention is without merit. The agreement of March 23, 1943, covering the estate of the deceased Felix de Leon including all lands located in San Miguel, Bulacan, was submitted by the parties to and approved by the Court of First Instance of Manila, and the order to annotate, directed to the Register of Deeds of Bulacan, was merely incidental to said agreement. It would be different if the petition to annotate was filed independently of the intestate proceedings. It is true that the appellee, without any judicial directive, could have filed and register the agreement of March 23, 1943, with the Register of Deeds of Bulacan under sections 71 and 72 of Act 496,, but this circumstance is not a valid reason for objecting to the order to annotate.

Appellants also allege that the appellee misrepresented the lands in San Miguel, Bulacan, as being all rice lands, when in fact some are residential. It is noteworthy that the petition filed by appellee on October 29, 1946, particularized the rice lands to be affected by her lien, with their corresponding certificates of title, and the appellants never contended either in their opposition or in their motion for reconsideration of the order of November 23, 1946, that some parcels are residential. In order that fraud may be a ground for annulling a final judgment, it must be extrinsic, which is not so in the case at bar. Hence, as no appeal was taken from the order of November 23, 1946, it had become final and cannot now be reopened so as to allow the appellants to prove that some of the parcels located in San Miguel, Bulacan, are residential.

Wherefore, the appealed order is affirmed and it is so ordered with costs against the appellants.

Moran, C.J., Feria, Pablo, Bengzon, Tuason, Montemayor, and Reyes, JJ., concur.

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