

IN RE TESTATE ESTATE OF THE LATE HILARION MARTIR. ANGELA MARTIR DE GUANZON, ETC., PLAINTIFFS AND APPELLEES, VS. THE SPOUSES AMADO P. JALANDONI AND PAZ RAMOS, CO-ADMINISTRATORS A...

G.R. Nos. L-5048-49. October 31, 1953

Ponente: REYES, J.

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REYES, J.:

This is an appeal from an order of the Court of First Instance of Occidental Negros approving the inventory accounts submitted by a co-administratrix in the testate proceedings of the deceased spouses Hilarion Martir and Ligoria Martir.

It appears that in said proceedings Hermogenes Martir and Angela Martir, the only legitimate children of the deceased spouses, were appointed co-administrators of both estates. Hermogenes, however, died in 1943, and he was succeeded by Amado P. Jalandoni.

On July 5, 1947, the co-administratrix Angela Martir submitted for the approval of the court an inventory of the two estates, the accounts of her administration for 1945 and 1946, and a project of partition. The inventory was objected to by the co-administrator, Amado P. Jalandoni, in so far as it included certain parcels of land claimed to have been bought by his wife, Paz Ramos, from Hermogenes Martir; while the accounts were objected to, not only by Amado P. Jalandoni, but also by the Financing Corporation of the Philippines, judgment creditor of Hermogenes Martir in a certain civil case and purchaser, at the execution sale, of the latter's entire interests in the estates of his deceased parents.

Overruling the objections, the court, in its order of October 14, 1948, approved the inventory and accounts submitted by the co-administratrix but postponed hearing on the project of partition, at the same time directing both co-administrators to render a final accounting of their joint administration within thirty days.

The Financing Corporation asked for a reconsideration of the order in so far as it referred to the accounts, while Jalandoni and his wife asked for a reconsideration in so far as the order overruled their objection to the inventory, albeit, they later joined the corporation in its prayer to have the approval of the accounts set aside and to have certain corrections made therein.

Both motions having been denied by the court, Jalandoni and his wife announced their intention to appeal to the Court of Appeals and in due time presented their record on appeal, which was approved by the court. The Financing Corporation, on its part, filed a second motion for reconsideration. But the court postponed consideration of this motion together with the project of partition, stating that it was doing so in view of the appeal from the order invalidating the sale to Paz Ramos of certain lots belonging to the estates.

Though the case was elevated to the Court of Appeals, that court has certified the case here because in its opinion the value in controversy is more than P50,000.

Appellants, in their brief, assail the approval of both the inventory and the accounts. But we think that questions referring to the latter should wait for the appeal of the Financing Corporation when and if its second motion for reconsideration is denied. For we note that appellants have joined hands with the Financing Corporation in opposing those accounts so that their objections are identical. As the corporation is not a party to this appeal, it may not be fair to have a final ruling on those objections without giving it a hearing. The present appeal, therefore, should be deemed limited to the consideration of the order below in so far as it overrules appellants' objections to the inventory and declares the sale made to them by Hermogenes Martir null and void.

The record shows that on September 4, 1940, Hermogenes Martir executed a deed, Exhibit G, selling all his rights and interests in ten cadastral lots registered in the name of his deceased parents Hilarion Martir and Ligoria Martir to Paz Ramos, wife of Amado P. Jalandoni, subject to repurchase within three years. As the repurchase was not made within the stipulated period, the vendee and her husband executed an affidavit consolidating title in themselves and succeeded in having the Register of Deeds of Occidental Negros issue to them transfer certificates of title for some of the lots.

The authenticity of the deed of sale, Exhibit "G" is not disputed. But lacking judicial approval, the sale was declared void by the court below as an unauthorized disposal of property in custodia legis.

This ruling is assailed by appellants on the theory that the court below, in the exercise of its probate jurisdiction, had no authority to pass on questions of ownership and to declare the sale in question null and void. But the jurisdictional question thus raised is, in our opinion, of no importance since the lots covered by the sale were already included in previous inventories filed by the co-administrators and, at the time of the sale, still stood in the name of the deceased spouses Hilarion Martir and Ligoria Martir as appears in the transfer certificates of title mentioned in the deed of sale. Moreover, as stated by the court in its order, and as borne out by the transcript of stenographic notes taken at the hearing, the said lots were admitted by counsel for appellants to be part of the estates in course of administration. In any event, though questions on title to real property cannot be determined in a testate or intestate proceedings, it is now established that, for the purpose of determining whether or not a given property should be included in the inventory, the probate court may pass upon the title thereto, though such determination is not conclusive and is subject to the final decision in a separate action to be instituted between the parties. (Moran on the Rules of Court, Vol. 11, 1952 ed., pp. 408-409.) In so far, therefore, as the order appealed from denies the exclusion of the lots claimed by appellants from the inventory filed by the administratrix, we find no reason why the said order should not be allowed to stand.

But we note, on examination of the deed of sale Exhibit "G", that what the vendor, Hermogenes Martir, did convey to Paz Ramos by means of said document was merely his rights and interests in the lots in question, that is, his rights and interest as an heir in a portion of the hereditary estate, and there is no law that prohibits an heir from selling his interests in an inheritance, except that any such sale must be deemed subject to the result of the administration proceedings. Thus, in the case of *Cea et al. vs. Court of Appeals et al.*, (84 Phil., 798) we upheld the opinion of the Court of Appeals that the sale by a devisee of a half interest bequeathed to him in a specific property, pending settlement of the estate in course of administration, was void as a conveyance of property in the custody of the law but valid as an assignment of his interest therein as a devisee. Considered, therefore, as a sale of Hermogenes Martir's interest in certain properties left by his diseased parents, which were still in course of administration, that sale is not necessarily void, although it should be held subject to the result of the administration proceedings. The inclusion of the lots in question in the inventories was, however, proper.

In view of the foregoing, the order appealed from is affirmed is so far as it approves the inventory submitted by the co-administratrix but with the understanding that the sale made by Hermogenes Martir in favor of appellants shall be deemed a mere assignment of the vendor's interest in the lots covered by the deed of sale, subject to the

result of the administration proceedings, and without prejudice to the result of any action already brought or still to be brought contesting the title of the estates of Hilarion Martir and Ligoria Martir to the said lots or any portion thereof. Consideration of the order below with respect to the accounts must await the final resolution of the Financing Corporation's motion for reconsideration. Without special pronouncement as to costs.

Paras, C. J., Bengzon, Padilla, Tuason, Montemayor, Bautista Angelo and Labrador, JJ., concur.

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