

GUARDIANSHIP OF THE INCOMPETENT LEONORA NAVARRO AND THE MINORS ADOLFO YUSON AND OTHERS, ELDEGARDES YUSON DE PUA, JUDICIAL GUARDIAN-APPELLANT, VS. JUSTINIANO SAN AGUSTIN, MOVANT-...

G.R. No. L-27402. July 25, 1981

Ponente: BARREDO, J.

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BARREDO, J.:

Appeal from the order dated November 12, 1966 approving the "Motion for Confirmation of Deed of Transfer of Right on Lots Nos. 632 and 633, Cadastre No. 102 in favor of Justiniano San Agustin" of the Court of First Instance of Davao, Branch I, Hon. Vicente N. Cusi, Jr. presiding, in Special Proceedings (Case) No. 282, entitled "Guardianship of the Incompetent Leonora Navarro and the Minors Adolfo Yuson and Others".

The records disclose the following antecedents of this appeal:

The spouses Enrique Navarro and Maximina Bonleon died intestate in 1945 — on March 18 and February 15, 1945, respectively — leaving as heirs the following:

- a) Benita Navarro, legitimate daughter, of legal age, and residing at Lasang, Davao City.
- b) Leonora Navarro, legitimate daughter, of legal age, and residing in Lasang, Davao City, under the judicial guardianship of Atty. Eriberto A. Unson - later Eldegardes Yuson de Pua - Davao City.
- c) Ramon Navarro and Delia Navarro, legitimate grandchildren (children of predeceased child Antonio Navarro), eight and seven years of age respectively, represented by their mother Filipinas Catalan.

In the course of the settlement of the estate of the deceased spouses in Special Proceeding No. 64-R, entitled "Intestate Estate of the Deceased Spouses Enrique Navarro and Maximina Bonleon" of the Court of First Instance of Davao, Branch I, Hon. Wenceslao L. Fernan then presiding, a Project of Partition dated June 11, 1956, executed by all the above-named heirs with the assistance of their respective guardian and counsel, was presented to the court for approval, which the court approved in its order dated August 31, 1956. Among the properties awarded to Leonora Navarro in said Project of Partition were:

x x x

"b) The parcel of land situated at Lasang, Davao City, designated as Lot 634-A, with an area of 89,430 square meters, more or less ...

"c) All rights and interests under the portion of Lot No. (632 and 633) situated at Panabo, Davao with an area of 1.5 hectares, more or less adjacent to the parcel of land described in Transfer Certificate of Title No. T-1297."

On October 13, 1958, Eldegardes Yuson de Pua, eldest legitimate daughter and judicial guardian of the

incompetent Leonora Navarro Yuson, filed a verified petition with the court below, praying for authority to sell Lot No. 634-A. On October 25, 1958, the court issued an order granting the judicial guardian authority to sell Lot No. 634-A on the ground that "the sale of the aforesaid property will be beneficial to the ward and her minor children because the proceeds thereof could be expended for their maintenance." Accordingly, Lot No. 634-A was sold to herein appellee, Justiniano San Agustin, for P13,750.00 as evidenced by a Deed of Absolute Sale dated January 19, 1959. This sale was approved by the court on January 23, 1959, and Eldegardes Yuson de Pua was directed in the same order "to deposit with the Philippine National Bank, Davao Branch, the amount of Thirteen Thousand Seven Hundred Fifty Pesos (P13,750.00), consideration of the aforesaid sale, in the name of the above-entitled guardianship, to be withdrawn only upon previous approval of the court."

Subsequently, or on January 20, 1959, the same guardian Mrs. de Pua filed a second petition in the court a quo, praying for authority to sell Lots Nos. 632 and 633 on the following ground, to wit:

"That in view of the standing account of the estate of the insane, Leonora Yuson and the expenses for maintenance of her children, the herein petitioner deems it wise that the above-mentioned property, which the estate cannot maintain or improve, be sold." (Record on Appeal, p. 2.)

However, the true area of the two lots — i.e., eleven (11) instead of only one and one-half (1-1/2) hectares — was disclosed in this petition, thus:

"That among the properties of the insane, Leonora Navarro, as inheritance from the deceased spouses, Enrique Navarro and Maximina Bonleon, are two (2) parcels of land known as Lots Nos. 632 and 633 Cad. 102, consisting of 11 hectares, more or less, and situated at Lasang, Davao." (emphasis supplied) (Id., p. 2)

On the same day that this second petition was filed, Mrs. de Pua also filed a "Motion to Approve Sale of Property" because Lots Nos. 632 and 633 had in the meantime been already sold by her to Dr. Justiniano San Agustin the day before, i.e., on January 19, 1959, as evidenced by an instrument 'titled "Transfer of Rights", that is to say, simultaneously with the other deed which was duly authorized and approved by the court.

Acting on this second motion, on February 7, 1959, the Court denied the petition to sell Lots Nos. 632 and 633, thus:

"Inasmuch as the judicial guardian sold just recently Lot No. 634-A, TCT No. 1296, belonging to the ward, in the amount of Thirteen Thousand Seven Hundred Fifty Pesos (P13,750.00), the sale of the property mentioned in her petition filed on January 20, 1959, is not necessary or would not be beneficial to the ward; hence, the petition to sell is hereby denied." (Id., pp. 26-27)

Meanwhile, because the co-heirs of the ward, Leonora Navarro — namely, Benita Navarro, Delia Navarro and Ramon Navarro, in aforementioned Special Case No. 64-R learned thru the sale by appellant guardian Mrs. de Pua to Dr. San Agustin that Lots Nos. 632 and 633 consisted not merely of 1.5 hectares but 11, steps were taken towards the return of the said properties and they were correspondingly returned to the estate for proper disposition, and as a result, a Supplemental Project of Partition dated June 9, 1960 was arrived at, submitted to the court but subsequently amended on July 29, 1960. The amended Supplemental Project of Partition was also approved by the court in Case No. 64-R on August 29, 1960. Under the terms of the Supplemental Project of Partition and the amendment thereto, the heirs agreed that —

" . . . th(e) Estate shall recognize and confirm the conveyance of the rights over said Lots Nos. 632-633, Cad. 102, with an area of 11 hectares, in favor of JUSTINIANO SAN AGUSTIN, for the stipulated price of P8,250.00; and

" . . . the heirs Benita Navarro and the minors Ramon and Delia, both surnamed Navarro, hereby cede and assign in favor of the heir Leonora Navarro, all of their rights, interests in the aforesaid lots nos. 632-633,

Cad. No. 102 and all its improvements under the consideration that said Leonora Navarro shall pay to the aforementioned co-heirs, namely, Benita Navarro and the minors Ramon and Delia, all surnamed Navarro, the sum of ONE THOUSAND TWO HUNDRED PESOS (P1,200.00) and in addition, shall release and rescind the respective mortgage obligations of the said co-heirs in favor of said Leonora Navarro, and with the corresponding cancellation of the annotation of mortgage encumbrance appearing in TCT No. T-8363 of Benita Navarro and the titles in the name of the minors Ramon and Delia, all surnamed Navarro, which properties were assigned to said co-heirs under the project of partition dated June 11, 1956, approved by this Honorable Court in its Order of August 31, 1956." (Id., pp. 47-48)

On August 21, 1962, Mrs. de Pua filed an "Ex-Parte Motion" manifesting her desire to return to Dr. San Agustin the amount of P7,375.00 advanced by him, so that the possession of Lots Nos. 632 and 633 may be returned to the guardianship. This motion was granted in an order dated September 1, 1962, pertinent portion of which provides:

x x x

" . . . conformably with her ex-parte motion filed on August 31, 1962, P7,375.00 of said amount shall be paid to Justiniano San Agustin so that he could return possession of Lots Nos. 632 and 633, Cad. 102, belonging to the incompetent, to the judicial guardian. x x x." (Id., pp. 29-30)

On September 4, 1962, she followed this with an "Amended Ex-Parte Motion" with the following relevant allegations:

x x x

"2. - That since January 19, 1959, said Dr. San Agustin has been in continuous possession of the said lots and has been enjoying the fruits thereof, which fact was not alleged as it should be, in the aforesaid ex-parte motion of August 31st. (should be 21st)

x x x

"WHEREFORE, it is respectfully prayed that the undersigned guardian be allowed to return the sum of P7,375.00 to Dr. Justiniano San Agustin, less the total value of the fruits he realized from his possession of the land in question from January 19, 1959 until he returns the possession thereof to the undersigned-movant, the amount of which may be ascertained from the doctor's record of production and sales of the coconuts thereon." (Id., p. 31)

The record does not disclose the lower court's action on this "Amended Ex-Parte Motion". Neither does it appear there that appellee ever took any step to enforce the sale to him of the two lots in question evidently because, as he very well knew, the Court had disapproved the same. According to appellant on page 11 of her brief, it was only after she filed a civil action, docketed as Civil Case No. 5160, seeking the reconveyance of the said lots that appellee began to move by filing on September 28, 1966 a "Motion for Confirmation of Deed of Transfer of Rights Over Lots 632 and 633, Cad. 102" in his favor. He prayed that ". . . in the interest of justice and equity . . . the Transfer of Rights over Lots 632 and 633 in favor of Justiniano San Agustin be approved and confirmed by the Honorable Court." He based his alleged right over the two lots on the "Supplemental Project of Partition" of June 9, 1960 and the "Amendment to the Supplemental Project of Partition" of July 29, 1960, which were executed by the Judicial Administrator and by the heirs, respectively, and approved by the probate court in the intestate proceeding, to modify, as already stated earlier, the original Project of Partition because of the discovery of the true area of Lots Nos. 632 and 633, which is eleven (11) hectares and not one and one-half (1.5) hectares only, and that all the heirs agreed in said "Supplemental Project of Partition" and the amendment thereto, among other things, to recognize and confirm the sale of Lots Nos. 632 and 633 in his favor, instead of partitioning the same in some other manner.

On November 12, 1966, Mrs. de Pua filed an "Opposition to the Motion for Confirmation, contending that:

"1. The transfer of rights over Lots Nos. 632 and 633, Cad. 102 had been passed upon and disapproved by an order of this Honorable Court which has become final. (Referring to order of February 7, 1959 disapproving the sale of the same lots.)

"2. The petition (motion for confirmation) is self-serving and states no ground to warrant approval of the transfer of rights."

Over said opposition, the court issued the following order, granting Dr. San Agustin's motion for confirmation:

"Finding the Motion for Confirmation of Deed of Transfer of Right over Lots Nos. 632 and 633, Cad. 102 in favor of Justiniano San Agustin filed by his counsel on September 28, 1966, meritorious, the Order of this Court of February 7, 1959, based on erroneous facts, is hereby set aside and the aforesaid transfer of rights signed by Justiniano San Agustin and Leonora Navarro represented by Eldegardes Yuson de Pua, her judicial guardian ... is hereby approved." (Emphasis supplied)

Her motion for reconsideration having been denied "for lack of merit, "the judicial guardian, Mrs. de Pua, is now before Us and urges the following assignment of errors:

FIRST ASSIGNMENT OF ERROR

THE ORDER OF THE LOWER COURT APPROVING THE TRANSFER OF RIGHTS IN FAVOR OF JUSTINIANO SAN AGUSTIN IS CONTRARY TO LAW ON THE FOLLOWING GROUNDS:

I. THE TRANSFER OF RIGHTS IS VOID AB INITIO; HENCE, COULD NOT BE APPROVED NOR CONFIRMED.

II. THE TRANSFER OF RIGHTS IS NOT NECESSARY NOR BENEFICIAL TO THE WARD.

SECOND ASSIGNMENT OF ERROR

THE ORDER OF THE LOWER COURT IN SETTING ASIDE ITS ORDER DATED FEBRUARY 7, 1959 IS CONTRARY TO LAW ON THE GROUND THAT IT SETS ASIDE AN ORDER WHICH HAS BECOME FINAL AND EXECUTORY.

In support of the first assigned error, judicial guardian-appellant Mrs. de Pua argues through counsel that the transfer of rights is void ab initio and cannot be approved nor confirmed, because under Rule 95, Sec. 1 of the Rules of Court, property under guardianship can be sold only by prior authority granted by the guardianship court; that in the instant case "not only was the transfer of rights executed by the judicial guardian without any authority, but the petition seeking authority to sell, which was filed a day after the actual execution of the transfer of rights, was expressly denied by the lower court"; and, therefore, the transfer of rights is void because "a sale of the ward's realty by the guardian without authority from the court is void", citing *Inton v. Quintana*, (81 Phil. 97). Furthermore, she adds that the transfer of rights is not necessary nor beneficial to the ward. In fact, there is no allegation at all to such effect in appellee's motion for confirmation.

Relative to the second assigned error, judicial guardian-appellant argues that the Order of the lower court of February 7, 1959, which denied her petition to sell Lots 632 and 633 completely disposed of her petition and, therefore, the challenged Order of November 12, 1966, which summarily set aside the said previous order is contrary to law.

The foregoing assignment of errors/arguments raise only one decisive issue, which is: Whether or not, under the circumstances related above, the lower court acted correctly in issuing the order of November 12, 1966, approving

the Motion for Confirmation of Sale of Lots 632 and 633 filed by the appellee Dr. San Agustin and setting aside its previous order of February 7, 1959, which earlier disapproved the sale of the same lots.

We agree with appellant that the impugned order cannot stand legal scrutiny.

To start with, it must be emphasized that what appellee asked the court to confirm was a sale in 1959, or seven years before the filing of said motion, and what is more, it was a sale which the court refused to authorize in its order of February 7, 1959, for the simple reason that in its opinion, considering that a previous sale of Lot 634-A for P13,750.00 had just been approved, it could not see why it would again be "necessary", after just a few days, "or beneficial to the ward" that the two lots, Lots 632 and 633 should still be sold.

Reiteratedly, this Court has ruled that under Sections 2 and 3 of Rule 96 (now Rule 95) that the properties of Leonora, the ward of appellant Mrs. de Pua could be sold only under authority of the guardianship court in Special Proceedings No. 282. Without such authority, any sale would necessarily be illegal. Indeed, even on the assumption posited by appellee that the lack of authority from the guardianship court resulted only in a voidable sale which could be ratified, there is no showing in the record that there was any such ratification. We cannot go along with the proposition that the approval by the probate court in Case No. 64-R of the amended "Supplemental Project of Partition" may be deemed in law as tantamount to the required ratification.

It is quite true that appellant-guardian Mrs. de Pua, did sign, assisted by her lawyer, Atty. Pedro S. Castillo, the motion to approve said "Supplemental Project of Partition" of July 29, 1960, and that said motion was approved by the probate court on August 29, 1960. It is further true that in the first "Supplemental Project of Partition" it was specifically stipulated in paragraph 7(a) "that this Estate shall recognize and confirm the conveyance of the rights over said Lots Nos. 632 and 633, Cad. 102, with an area of 11 hectares, in favor of Justiniano San Agustin, for the stipulated price of P8,250.00." But legally speaking, the approval by the probate court of such project of partition (the stipulation just quoted was specifically reiterated in the amended project dated July 29, 1960), did not in any degree confer upon Mrs. de Pua the power to dispose of the lots in question without prior permission of the guardianship court. Indeed, the motion to approve referred to was signed only by Flor A. Unson, the Judicial Administrator in the probate court in Case No. 64-R. We hold that that court had no jurisdiction to authorize the sale of any property belonging to an heir who is under guardianship without first requiring the guardian to secure the corresponding authority from the guardianship court. Worse, much less could the probate court have any power to effectively approve a sale of an heir-ward which had, as in this case, been actually disapproved by the guardianship court.

In arriving at this conclusion, We are not overlooking the fact that the same judge, the Honorable Vicente N. Cusi, Jr. who had issued the order denying authority to sell Lots 632 and 633 was the very one who in his order of November 12, 1966, here being assailed, approved the motion for confirmation on the lame excuse, as We see it, that his previous order of February 7, 1959 was "based on erroneous facts". What "erroneous facts", he did not state, which circumstance readily places the order in question subject to the omission to comply with the constitutional requirement that final orders or decisions of courts of record should state the facts on which it is based, which means, of course, that at least the main elemental facts must be stated in a manner such as to enable the parties to comprehend intelligently what they are.

Another equally important consideration lies in the way to Our giving Our sanction to the questioned order. In the order of February 7, 1959, Judge Cusi held the sale was neither necessary nor beneficial to the ward. The motion for confirmation of appellee of September 28, 1966 had no allegation at all that could induce anyone to alter the conclusion in the February 7, 1959 order. If indeed there was already need on the part of the ward Leonora for additional funds in 1966, the court could not just assume that such was the case, absent any allegation, much less

any proof to such effect before it.

Besides, We cannot but wonder how Lot 634-A with an area of a little less than nine (9) hectares was sold for P13,750.00 and yet two lots, numbered 632 and 633, indicating they must be either contiguous to Lot 634-A or within its immediate vicinity could be sold on the same day for only P8,250.00. A guardianship court is designed purposely to see to it that the interests of wards under its jurisdiction are taken care of by the court's appointed guardian with the diligence and prudence of a bonus pater familiae. We are not convinced that such standard of care was observed in the impugned order of November 12, 1966.

We hold that appellant had every right to require the reconveyance by deed of said lots, without prejudice to her returning to appellee the P7,375.00 he appears to have paid, but not before appellee San Agustin has accounted for the fruits of the lots in question which have remained in his possession since 1959 and a proper set-off of the amount of any possible additional payment has been determined.

WHEREFORE, judgment is hereby rendered setting aside the impugned order of November 12, 1966, and ordering the guardianship court in Case No. 282 of the Court of First Instance of Davao, Branch I, to proceed with the accounting pursuant to the above opinion.

Abad Santos, and De Castro, JJ., concur.

Fernandez, J., concurred. Member of the first Division and was designated to sit in the Second Division.

Aquino, J., see concurring opinion.

Concepcion, Jr., J., no part.

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CONCURRING OPINION

AQUINO, J.:

I concur. On January 20, 1959, Eldegardes Yuson de Pua, as guardian of her insane mother, Leonora Navarro-Yuson, filed in the lower court (1) a petition for authority to sell Lots 632 and 633 with an area of eleven hectares located at Panabo, Davao and (2) another petition for the approval of the sales to Justiniano San Agustin of the said two lots and of Lot 634-A, with an area of more than eight hectares located at Lasang, Davao City as evidenced by two deeds of sale executed the day before, or on January 19.

In one deed of sale, Lot 634-A was sold to San Agustin for P13,750, while in the deed denominated "Transfer of Rights", Lots 632 and 633 were sold to him for P8,250 of which the sum of P7,375 was paid. The sale of Lot 634-A was authorized by the lower court in its order of October 25, 1958. That sale was approved in the lower court's order of January 23, 1959.

On the other hand, the lower court in its order of February 7, 1959 denied the petition to sell Lots 632 and 633 on the ground that the sale was not necessary and that it would not be beneficial to the ward because on that same day, January 19, 1959, the guardian, as stated above, sold to San Agustin Lot 634-A.

At this juncture, it should be stated that in the intestate proceeding for the settlement of the estates of the spouses,

Enrique Navarro and Maximina Bonleon, Lots 632 and 633 were adjudicated in the project of partition to the incompetent, Mrs. Yuson, on the assumption that the area of the two lots was only one and a half hectares with a value of three hundred pesos.

When in the guardianship proceeding it was discovered that the correct area of the two lots was eleven hectares, a supplemental project of partition dated June 9, 1960 and an amendment thereto dated July 29, 1960 were filed in the intestate proceeding with respect to Lots 632 and 633. It was clarified therein that the sale of the two lots to San Agustin should be respected but the estate of the ward should pay P1,200 to her coheirs as consideration for the transfer of their interests in the two lots.

The lower court, as a probate court, approved the amended supplemental project of partition in its order of August 29, 1960.

However, notwithstanding the probate court's confirmation of the sale to San Agustin, the guardian, Mrs. De Pua, filed two years later, or on August 21, 1962, in the guardianship proceeding a motion wherein she manifested her desire to return to San Agustin the sum of P7,375 which he had advanced to her for the sale of Lots 632 and 633.

The lower court, as a guardianship court, in its order of September 1, 1962 granted her motion in order to enable her to recover the possession of the two lots from San Agustin. The record does not show whether that order was implemented.

In spite of that order, San Agustin filed four years later or on September 28, 1966 a motion for the confirmation of the deed of transfer of rights covering Lots 632 and 633, which, as already stated, was executed in his favor by Mrs. De Pua on January 19, 1959. He based his motion for confirmation on the amended supplemental project of partition.

Mrs. De Pua, the guardian, opposed that motion on November 12, 1966. She invoked the lower court's orders of February 7, 1959 and September 1, 1962 denying her motion for authority to sell Lots 632 and 633 to San Agustin and allowing her to rescind the sale by returning the sum of P7,375 to San Agustin.

On that same date, November 12, 1966, the lower court overruled the opposition, set aside its order of February 7, 1959 and granted the motion for confirmation. That is the order under appeal in this case.

The lower court erred in setting aside its 1959 order disapproving the sale of the two lots to San Agustin and in confirming the same sale seven years later or in 1966.

It should be recalled that the lower court in its 1962 order, which had not been set aside, authorized Mrs. De Pua, the guardian, to return the price of the two lots to San Agustin or to rescind the sale. In issuing that order, the lower court presumably acted on the theory that the sale was not beneficial to the ward's estate since Lot 634-A, an eight-hectare land located in Davao City, had already been sold to San Agustin on January 19, 1959 or on the same day that Lots 632 and 633 were also sold to him.

Indeed, the lower court in its 1966 order had not made any finding that the sale of the two lots would redound to the benefit of the ward or her estate.

After disauthorizing that sale in 1959, the lower court, as a guardianship court, if it desired to reopen the matter in 1966, should have followed the requirements of sections 2 and 3 of Rule 96, now Rule 95, regarding the sale of the real property belonging to the ward.

Section 2 requires that the guardianship court should issue an order directing the next of kin of the ward and all persons interested in the ward's estate to appear at a reasonable time and place to show cause why the sale should not be allowed.

Section 3 requires the guardianship court to hold a hearing and hear the proofs and allegations of the petitioner, the ward's next of kin and the other interested persons as to whether the sale would be for the best interest of the ward.

The anomaly herein is that the guardianship court in 1966 approved a sale made in 1959 by the guardian for which there was no prior authority or license given to the guardian, which the court had in fact disauthorized and whose rescission, at the instance of the guardian, was sanctioned by the court, and which sale the guardian later on opposed. The sale, as confirmed, was, in effect, a sale made by the court and not by the guardian.

It is odd for the guardianship court to confirm in 1966 a sale made by the guardian in 1959 which the guardian later repudiated. The unorthodox procedure followed by the court is in contravention of Rule 96, now Rule 95, and is not within the Contemplation thereof.

I vote for the setting aside of the lower court's order of November 12, 1966 and to order San Agustin to accept the sum of P7,375, to account for the fruits of the two lots and to return the possession thereof to the guardian.

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