

RAFAEL R. RECTO, PETITIONER, VS. HON. JUDGE FRANCISCO DE LA ROSA, PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE OF RIZAL, PASAY CITY BRANCH VII, AND AURORA R. DE BARRERA, AND C...*G.R. No. L-42799. March 16, 1976*

Ponente: BARREDO, J.

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Petition for certiorari and prohibition to set aside the orders of respondent judge of November 5 and 12, December 3 and 15, 1975 and January 15, 1976 issued in Special Proceedings No. 1734-P of the Court of First Instance of Rizal, Pasay City Branch VII, Intestate Estate of Deceased Claro M. Recto, and to enjoin said respondent from taking further action on private respondent's petitions of August 5 and October 16, 1975.

The main controversy has to do with a real property situated in Batangas previously covered by Transfer Certificate of Title No. T-3677 of the Register of Deeds of Batangas, in the name of Jose Villanueva, which became in 1945 the subject of Civil Case No. 4001 of the Court of First Instance of that province, entitled Andres Varela vs. Jose Villanueva, and in which the late Don Claro M. Recto, a former distinguished member of this Court, was counsel for the defendant Villanueva, who eventually won. Upon the decision of the trial court being affirmed by this Court, on June 24, 1954, on motion of Don Claro, the trial court issued an order requiring the Register of Deeds of Batangas to annotate on the title of the subject property "as attorney's charging lien the contract for (his) legal services", which, as agreed upon was a contingent fee of one half (1/2) thereof.

In the meanwhile, the property was occupied by the Municipality of Batangas for its own purposes without any agreement with either Villanueva or his lawyer. Subsequently, Villanueva conveyed the property together with all his rights thereon, including his claims against the municipality to his daughter Pacita Villanueva as part of her paraphernal properties. And so, on May 30, 1956, Pacita Villanueva, with Don Claro again as her counsel, filed suit for recovery of the property from the municipality in Civil Case No. 530 of the Court of First Instance of Batangas. This case was definitely won upon affirmance by the Court of Appeals in CA-G.R. No. 35402-R on September 10, 1971 of the decision of the trial court.

It appears that after the judgment became final, a contract of sale on installment was entered into on January 6, 1975 between Pacita V. de los Santos (Pacita Villanueva) and herein petitioner Rafael R. Recto, on the one hand, and the City of Batangas and the Batangas City School Board, on the other, covering the property in question for a total consideration of P734,597.75, the same to be paid in installments, "the purchase price, as well as all interest, to be paid thereof (to be) divided equally in two (2) separate checks, one for Mrs. Pacita V. de los Santos and the other for Atty. Rafael R. Recto."

It also appears that before the execution of the above contract of sale, petitioner had secured from respondent court on February 3, 1973 the cancellation of the charging lien in favor of Don Claro aforementioned and was "constituted as Vendor" in said contract "on the strength of his adverse claim noted on September 9, 1974." In

connection with the order of cancellation just referred to, it further appears, however, that as a matter of fact, as shown on the back of TCT 28453, Annex A of Annex W of the Petition, the charging lien of Don Claro was already cancelled by virtue of a deed dated March 20, 1968 and inscribed in the title on April 22, 1971.

Upon learning of what had been done by petitioner, her own son who is administrator of the Estate of Don Claro, and claiming that her interest in said estate were adversely affected thereby without her knowledge and consent, private respondent herein Doña Aurora R. de Barrera, the widow of Don Claro, filed with respondent court on August 5, 1975 an urgent petition praying for an order setting aside the order of cancellation of the charging lien and thereafter restoring the same, removing petitioner Rafael R. Recto as administrator and requiring him to account for the proceeds of the sale, etc. While said urgent petition was pending hearing and resolution, on October 16, 1975, the same private respondent filed another urgent petition praying that therein petitioner "be immediately relieved (as administrator) without prejudice to filing of his final accounts" and that former Justice Calixto Zaldivar be forthwith appointed as new administrator and he authorized "to appear in Civil Case No. 530 of the Court of First Instance of Batangas and take such actions or steps therein to protect the interests of this Intestate Estate etc." Relative to the first petition, herein petitioner filed a motion to dismiss and to the second, an opposition. The thrust of said motion and opposition was that the controversy was between mother and son and no earnest effort to settle the same amicably had been made and that the probate court had no jurisdiction to determine the validity of the documents executed by and among the heirs of Don Claro, including petitioner and Doña Aurora, which said petitioner claims to be the basis of his assertion of ownership over the charging lien or the corresponding attorney's fees of Don Claro in question. Private respondent's counsel took the opposite view. Resolving the issues thus raised by the parties, respondent court issued the first impugned order of November 5, 1975 thus:

"After carefully considering the arguments and the reasons of Petitioner Aurora R. de Barrera in support of her 'URGENT PETITION', dated August 5, 1975, and of Administrator Rafael R. Recto in support of his 'MOTION TO DISMISS', dated August 7, 1975, the Court finds (a) that the said 'URGENT PETITION' is nothing more than an incident in the above entitled Special Proceeding and (b) that the Court has jurisdiction over the aforesaid incident notwithstanding the fact that it has already approved the 'PROJECT OF PARTITION', dated August 5, 1966, in this said Special Proceedings.

WHEREFORE, the aforementioned 'MOTION TO DISMISS' is hereby denied. Let the parties therefore be guided accordingly." (Annex R of Petition, p. 185, Record.)

On November 12, 1975, the second assailed order, which set the urgent motion of October 16, 1975 for hearing was issued. And then, upon verbal motion of private respondent's counsel made during that hearing of November 26, 1975, on December 3, 1975, respondent court issued the third questioned order appointing Justice Zaldivar special administrator for the purposes stated in the October 16, 1975 urgent petition relative to the Batangas property. But, on the same date, petitioner, presumably unaware of the order issued by respondent court, filed an "Urgent Motion to Dismiss Urgent Petition of October 16, 1975 on the Ground of Lack of Jurisdiction," which private respondent opposed. On December 15, 1975, the fourth assailed order of respondent court was issued, thus:

"This refers to the 'Urgent Motion To Dismiss Urgent Petition Of October 16, 1975 On The Ground Of Lack Of Jurisdiction' dated December 3, 1975 filed by counsel for the administrator, and the opposition thereto filed by counsel for the petitioner Aurora R. de Barrera, as well as the Reply to said opposition.

After consideration of all the arguments adduced by the parties in their above-mentioned pleadings, the Court hereby reiterates its order of November 5, 1975 declaring that this Court has jurisdiction over the petitioner's 'Urgent Petition' dated October 16, 1975 since it is a mere incident in this proceeding.

WHEREFORE, the Court is constrained to deny, as it hereby denies, the motion under consideration." (Annex Z of Petition, p. 220, Record.)

And on January 15, 1976 the last order in question was issued reading thus:

"Considering the 'Motion For Reconsideration Of Order Dated November 5, 1975' filed by the administrator and the opposition thereto dated December 17, 1975 filed by the petitioner Aurora Recto de Barrera, the Court is constrained to deny, as it hereby denies the said motion for lack of sufficient merits for reasons stated in the order of this Court dated December 15, 1975." (Annex CC of Petition, p. 230, Record.)

In the meanwhile, as early as July 12, 1975, private respondent Doña Aurora had already invoked the jurisdiction of the Court of First Instance of Batangas by filing in Civil Case No. 530 a "Manifestation and Motion" asking that action on the contract of sale in controversy be "deferred." She followed this up on August 1, 1975 with a "Reply to Opposition of Rafael R. Recto", wherein she prayed as follows:

"In view of the foregoing, it is respectfully prayed that –

- a) Atty. Rafael R. Recto, in his personal and individual capacity, be not considered as one of the plaintiffs in this case, and that the Intestate Estate of Claro M. Recto be continued as such, its legal representation to be determined in the Special Proceedings No. 1754-P of the Court of First Instance of Rizal, Pasay City;
- b) That the invoked quitclaim, waiver and renunciation Annex 'B' be declared null and void;
- c) That action be deferred on either the Deed of Sale on Installment or the execution of the judgment in this case pending the result of the proceedings referred to in paragraph (a) hereof.
- d) That the defendant Municipality of Batangas, now the City of Batangas as Vendee, and/or any other parties particularly the Batangas City School Board represented by Juliana A. Espina paying the purchase price for and in behalf of the Vendee, be ordered to hold and suspend payment of the price or consideration of the aforesaid Deed of Sale on Installment dated January 6, 1975, until further ordered by this Honorable Court;

Movant prays for such other and further relief as may be warranted in the premises." (Prayer, p. 5, Annex F-1, Petition, p. 72, Record.)

When the instant case was called for hearing on February 23, 1976, the Court opened by delineating what appear to be the fundamental issues between the parties. It was brought out that indeed, since petitioner is claiming that it was by virtue of certain documents to which private respondent was a party, among them a quit-claim in his favor of the attorney's fees of Don Claro in all cases still pending in the courts, that he acted the way he did relative to the Batangas property in dispute, whereas, on the other hand, private respondent is denying the legal efficacy of said documents, the respondent probate court is without authority, unless agreed upon voluntarily by the parties, to resolve the question of validity of said documents and the concomittant issue of ownership arising therefrom, as a mere incident in the settlement proceedings before him. What is more, that controversy is already before the Court of First Instance of Batangas in Civil Case No. 530, brought therein precisely by private respondent in her manifestation and motion of July 12, 1975 as well as her Reply of August 1, 1975, already referred to above. This is not saying that the Batangas court does have jurisdiction, that issue not being necessary for Us to decide now, if only because the instant petition does not attach any orders of that court. It would seem, however, that, inasmuch as that court is the one executing the judgment over which the lien in question exists, it should not be herein respondent that should take cognizance of the conflicting claims of ownership of the parties.

With the foregoing matters clarified, the respective counsel of all the parties herein agreed that it is not for the respondent court to pass on the validity of the pertinent documents relied upon by the parties and the issue of ownership emerging therefrom. Indeed, it is the Court's view that all that respondent court should do is to leave

said matters to be resolved in an appropriate action or proceeding outside of the probate court. The settlement proceedings of the estate of Don Claro has already been practically closed by a partition approved by the respondent court, and that approval has long been final. Now comes the widow and claims that a certain property belonging to the estate, in the form of attorney's fees already converted into real property, belongs to the estate and yet was not included in the partition evidently because it has been disposed of or is being disposed of by the administrator without the knowledge and consent of the other heirs, including herself, but the administrator claims, on the other hand, that his disposition thereof was made by him by virtue of certain documents, among them a quitclaim executed by no less than his mother, the widow of the deceased, respondent Doña Aurora, but the latter denies the due execution and legal efficacy of such quitclaim. In these premises, it is plain that the controversy between the parties can be settled only in an appropriate action, since the issue involved is essentially the ownership of the property in dispute between the estate and an heir who claims adverse ownership thereof on the basis of an alleged settlement among all the heirs.

More importantly, as already stated above, respondent court has already appointed Justice Zaldivar as special administrator precisely to prosecute the claim of the estate over said property in the Court of First Instance of Batangas in Civil Case No. 530 as can be seen in its above-quoted order to such effect. It would be inconsistent on the part of respondent court to now proceed to take cognizance of the same matter which it has directed the special administrator to take care of for the estate in the Batangas court.

To reiterate, We are not deciding here whether or not the Court of First Instance of Batangas may properly decide merely as an incident in Civil Case No. 530 the existing controversy between the parties. That matter is not properly before Us now. So, all that We can and do decide here is that respondent court, as a probate court, may not proceed to take cognizance of the question of ownership of the land in dispute.

At this point, it may be stated that the question of whether or not the respondent court should set aside its order cancelling the attorney's lien in dispute is already a dead issue, considering that actually the lien had already been cancelled before the court's order of cancellation was issued, hence said order was in effect *functus officio*.

In so far as the appointment of Justice Zaldivar as special administrator is concerned, petitioner expressed conformity at the hearing to forego his objection thereto, provided it does not imply any waiver of his right to defend in any action that said special administrator may institute what he claims to be his acquired interest in the said property.

IN VIEW OF ALL THE FOREGOING, judgment is hereby rendered setting aside respondent court's orders of November 5 and 12 and December 15, 1975 and January 15, 1976 in so far as they are meant to hold that respondent court has jurisdiction to determine the issue of ownership between the parties, regardless of whether or not Section 1(j) of Rule 16 or Article 222 of the Civil Code has been complied with, and respondent court is hereby enjoined permanently from taking cognizance of said issue. More specifically, respondent court is hereby enjoined from taking further action on respondent's petitions of August 5 and October 16, 1975, without prejudice to any move on the part of respondent Doña Aurora to have petitioner removed as administrator on any ground other than the ones alleged in said petitions. The herein petition is denied in so far as the order of December 3, 1975 appointing Justice Calixto Zaldivar as special administrator for the purpose therein stated is concerned. No costs.

Antonio, Aquino, Concepcion Jr., and Martin, JJ., concur.

Fernando, J., is on official leave.

Martin, J., was designated to sit in the Second Division.

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