

PAZ M. CEA AND SEBASTIAN MOLL, PETITIONERS, VS. THE COURT OF APPEALS AND HEIRS OF THE DECEASED GREGORIO NATIVIDAD, RESPONDENTS.*G.R. No. L-1776. October 27, 1949*

Ponente: REYES, J.

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The spouses Gregorio Natividad and Benedicta Villanueva, joint owners of a tract of land known as "Hacienda Cabasay," situate in the municipality of Tigaon, Province of Camarines Sur, willed their respective half interests therein to their grandson, Alfredo Natividad.

After the death of Gregorio Natividad his estate was placed under administration in special proceedings No. 3963 of the Court of First Instance of Camarines Sur, and on October 8, 1928, notice of the proceedings was recorded in the Office of the Register of Deeds of said province so that it might be publicly known that the properties left by the deceased, including the Hacienda Cabasay, were under judicial administration. This notwithstanding, Alfredo Natividad, by a deed executed on December 31, 1923, and recorded in the Office of the Register of Deeds on January 3, 1929, sold the hacienda to Gerardo Cea. On learning of the sale, the judicial administrator brought suit to have it annulled, but the suit ended in a settlement with Alfredo Natividad ceding half of the hacienda to the heirs of Gregorio Natividad. On September 3, 1931, Gerardo Cea, who does not appear to have been a party to the said suit or settlement, sold the whole hacienda to Paz M. Cea, and on June 1, 1936, the latter in turn sold one-half of it to Sebastian Moll. The following year, Paz M. Cea and Sebastian Moll initiated proceedings for the registration in their name of their respective half interests in the hacienda, each filing a separate application for that purpose. Opposed by the heirs as to the half interest which had come from Gregorio Natividad, the applications were, nevertheless, granted by the Court of First Instance of Camarines Sur. But the Court of Appeals modified the decision by granting the applications only as to the half interest which came from Benedicta Villanueva and denying the applications as to the other half, which came from Gregorio Natividad, on the ground that the applicants had no registrable title thereto, this on the theory that the sale thereof by Alfredo Natividad without judicial sanction was null and void for the reason that the property was in custodia legis. No appeal was taken from this decision of the Court of Appeals.

On March 19, 1941, in the aforementioned proceedings for the administration of the estate of Gregorio Natividad, two sons and seven grandchildren of the deceased petitioned the court that they be declared his heirs and that one-half of the hacienda in question (i. e., the half interest which the deceased had devised to Alfredo Natividad) be adjudicated to them as such heirs. Opposing the petition, Paz M. Cea and Sebastian Moll reasserted their claim to the said half and asked that the same be adjudicated to them instead. The Court of First Instance of Camarines Sur, in its order of March 23, 1941, granted the petition of the heirs and denied the claim of the oppositors on the ground that the Court of Appeals, in the registration cases above mentioned, had already pronounced the sale made by Alfredo Natividad, which was the basis of oppositors' title, to be null and void. The order having been affirmed by the Court of Appeals, Paz M. Cea and Sebastian Moll have appealed to this Supreme Court.

The question for determination is whether the decision of the Court of Appeals in the registration cases constitutes *res judicata* for the purposes of the present case.

We are of the opinion that the question should be answered in the negative. The said decision does, indeed, declare that the sale by Alfredo Natividad of the half interest bequeathed to him by the deceased Gregorio Natividad was void as a conveyance of property in the custody of the law. But the decision does not declare the said sale void as an assignment of Alfredo Natividad's interest in the property as a legatee pending the settlement of the estate. The decision leaves the question of title to the contested half of the hacienda for future determination in connection with the final distribution of the estate of the deceased Gregorio Natividad. This is obvious from the following portion of the decision:

"Se arguye que, a tenor de lo preceptuado en el Código Civil sobre la materia, los bienes se transmiten a los herederos o legatarios desde el momento mismo de la muerte del causante. Esto es cierto, pero cuando los bienes de difuntos se hallan bajo administración judicial, el heredero o legatario no hace suya legalmente la propiedad sino después de la adjudicación hecha por el juzgado en virtud de la correspondiente orden. Antes de eso, lounico, en todo caso, de que puede disponer el heredero o legatario es su interés o derecho en la herencia, pero en abstracto, sujeto a las resultas de la testamentaria o del abintestato, según sea el caso.

"De lo antedicho, se deduce que el único derecho inscribible que tienen los solicitantes en estos dos expedientes es en relación con una mitad pro indiviso de los lotes cuyo registro solicitan, es decir, la mitad no cuestionada que heredo Alfredo Natividad de Benedicta Villanueva. Respecto de la otra mitad, la perteneciente a la testamentaria de Gregorio Natividad, ni los solicitantes, ni los opositores tienen ningún título inscribible bajo la ley del Registro de la Propiedad, y la determinación del título sobre dicha mitad pro indiviso tiene que dejarse, como por la presente se deja, a las resultas de lo que el Tribunal correspondiente resolviera al disponer en definitiva de como deben distribuirse los bienes pertenecientes a la testamentaria de dicho Gregorio Natividad."

The Court of Appeals could not have declared void the sale of Alfredo Natividad's interest as an heir or legatee in the estate of Gregorio Natividad as there is no provision of law which prohibits a coheir from selling to a stranger his share of an estate held in common before the partition of the property is approved by the court. (*Beltran et al., vs. Dorian et al.*, 32 Phil. 66).

It results that the claim of Paz M. Cea and Sebastian Moll to the disputed half interest in the Hacienda Cabasay has not been concluded by the decision of the Court of Appeals in the registration cases, so that the same may still be asserted in the administration proceedings in opposition to the claim of the heirs of Gregorio Natividad.

In so far, therefore, as the decision of the Court of Appeals, which is the subject of the present appeal, holds that its former decision in the registration cases constitutes a bar to the claim of the herein petitioners under the doctrine of *res judicata*, the said decision is hereby revoked, as is also the order of the Court of First Instance of Camarines Sur dated March 28, 1941, in so far as it applies the same doctrine to the present controversy, and the case is ordered remanded to the said Court of First Instance for the determination of the said controversy between the petitioners and the respondents with respect to the ownership of the half interest in the Hacienda Cabasay that is here in dispute. With costs against the respondent heirs.

Moran, C.J., Ozaeta, Paras, Feria, Bengzon, Padilla, Tuason, and Torres, JJ., concur.

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