

**TASIANA ONGSINGCO, GUARDIAN OF FRANCISCO DE BORJA,
PETITIONER, VS. HON. BIENVENIDO A. TAN, AS JUDGE OF THE COURT
OF FIRST INSTANCE OF RIZAL AND JOSE DE BORJA,
ADMINISTRATOR OF T...**

G.R. No. L-7635. July 25, 1955

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is a petition for certiorari with prohibition to annul and restrain the enforcement of two 'orders of respondent judge dated January 20, 1954 and February 18, 1954 issued in Special Proceedings No. 7866 of the Court of First Instance of Rizal entitled "Testate Estate of the Deceased Josefa Tangco" which prohibit petitioner, inter alia, from continuing in possession of certain parcels of land situated in Santa Rosa, Nueva Ecija, on the ground that they were issued without or in excess of his jurisdiction.

Petitioner Tasiana Ongsingco is the wife and judicial guardian of one Francisco de Borja who was declared incompetent by the Court of First Instance of Rizal in Special Proceedings No. 1764. Francisco de Borja is the surviving spouse of Josef a Tangco whose estate is being settled in Special Proceedings No. 7866 of the same court. Respondent Jose de Borja is the son of Francisco de Borja, who, on June 29, 1953, was appointed administrator of the estate of Josef a Tangco.

Francisco de Borja, according to petitioner, is the owner of two parcels of land situated in Santa Rosa, Nueva Ecija, which he acquired by inheritance from his late father Marcelo de Borja and as such form part of his separate properties.

On October 27, 1953, Francisco de Borja was declared incompetent by the court as aforesaid, and petitioner, his second wife, was appointed his guardian. As such guardian, petitioner took over from her husband the possession of said two parcels of land and commenced the threshing of the palay crop standing thereon for the benefit of her ward.

On January 16, 1954, respondent Jose de Borja, as administrator of the estate of Josefa Tangco, filed a motion in the estate proceedings of the latter praying that petitioner be restrained from threshing the palay on the lands until the ownership thereof has been definitely determined either by the court or by agreement of the parties. Petitioner opposed the motion challenging the jurisdiction of the court and contending that if its purpose is to pass on the question of ownership, such can only be threshed out elsewhere and not by the probate court.

Because it became obvious to petitioner that respondent administrator would insist in his motion whose main aim is to prevent petitioner and her laborers from threshing the crop standing on the lands and, on the other hand, the several attempts made to agree on the identity of the lands had failed, petitioner filed an action on January 21, 1954 in the Court of First Instance of Nueva Ecija to restrain respondent administrator from interfering with the harvesting and threshing of the crop on the claim that the lands were the exclusive property of her ward Francisco

de Borja (Civil Case No. 1350). On the same date, the court granted the preliminary injunction prayed for upon the filing by petitioner of a bond of P5,000. On January 25, 1954, respondent Jose de Borja filed an urgent petition in the same case asking the court to dismiss the action for lack of jurisdiction and to dissolve the preliminary injunction that was issued. This petition was denied.

On January 29, 1954, respondent court issued an order the dispositive part of which reads:

"In view of the foregoing considerations, the guardian Tasiana Ongsingco is hereby ordered not to meddle in the threshing of the palay harvested in the lands declared under Tax Declaration INo, 540 (Annexes A and A-1). The administrator and the guardian we ordered to find from among the properties of the incapacitated Francisco de Borja in Tabuating, Sta. Rosa, Nueva Ecija, the two parcels of land having an approximate area as those two lots adjudicated in his favor by the Commissioners on Partition,, and once found, let the parties agree on the matter, so as to avoid any future controversy, and to notify this Court of their agreement.

"It is so ordered."

On February 10, 1954, petitioner filed a motion for reconsideration calling attention to the fact that both the guardian and the administrator had already attempted to arrive, at an agreement as to the identity of the lots which are claimed to be the exclusive property of Francisco de Borja, but they failed to do so, and because of such inability and the immediate need of harvesting and threshing the crop standing thereon, petitioner filed an action in the Court of First Instance of Nueva Ecija precisely to determine once and for all the title to, and ownership of, said lands and to issue a preliminary injunction restraining respondent Jose de Borja from interfering with the work of petitioner; but, in view of respondent Borja's opposition, respondent court denied the motion for reconsideration.

The present petition poses the following issues: (1) considering that the dispute between petitioner and respondent administrator involves the ownership of two parcels of land now the subject of an action in the Court of First Instance of Nueva Ecija, has respondent court jurisdiction to determine said dispute in the estate proceedings of the late Josef a Tangco?; and (2) having the Court of First Instance of Nueva Ecija issued a writ of preliminary injunction to restrain respondent administrator from interfering with the threshing of the crop standing on said lands, can respondent court, after having been apprised of said order, issue an order the effect of which is to nullify and render ineffective said writ of preliminary injunction?

There is no dispute that the two parcels of land in Santa Rosa, Nueva Ecija are claimed by petitioner as part of the separate property of Francisco de Borja so much so that she took possession thereof when she assumed her commission as guardian on October 27, 1953. That she succeeded in taking actual possession of said lands is shown by the fact that when she commenced the threshing of the crop standing thereon, respondent Jose de Borja filed a petition in the estate proceedings of Josef a Tangco to restrain her from threshing said crop. Then a dispute arose as to the ownership of said parcels of land. On one hand, petitioner claims that they belong exclusively to her ward having inherited them from his late father Marcelo de Borja, while, on the other, respondent administrator contends that they are not the land adjudicated to the incompetent by the commissioners on partition. The parties had made several attempts to arrive at an agreement as to the identity of the disputed lands, but they failed, and because there was a pressing need of immediately threshing the crop standing thereon, petitioner filed an action in the Court of First Instance of Nueva Ecija to determine once and for all the title and ownership of said lands. In the same case, the court issued a preliminary injunction restraining respondent administrator from interfering with the administration of said properties. But such action notwithstanding, respondent court issued the orders in question which not only go into the issue of ownership but render ineffective the writ of injunction issued by the Court of First Instance of Nueva Ecija. Can respondent court do so?

It is a well-settled rule in this jurisdiction, sanctioned and reiterated in a long line of decisions that, "the question of ownership of property is one which should be determined in an ordinary action and not in probate proceedings, and this whether or not the property is alleged to belong to the estate" (Franco vs. O'Brien, 13 Phil., 359). In another case, it was held that "The general rule is that questions as to title to property cannot be passed upon in testate or intestate proceedings" (Pascual, vs. Pascual 73 Phil., 561, 562; See also Cordova Vda. de Manalac vs. Ocampo, 73 Phil., 661, 662), or, stating the rule more elaborately, "When questions arise as to the ownership of property alleged to be a part of the estate of a deceased person, but claimed by some other person to be his property, not by virtue of any right of inheritance from the deceased, but by title adverse to that of the deceased and his estate, such questions cannot be determined in the courts of administrative proceedings. The Court of First Instance, acting as a probate court, has no jurisdiction to adjudicate such contentions, which must be submitted to the court in the exercise of its general jurisdiction as a court of first instance * * *." (Guzman vs. Anog, 37 Phil., 61.)

The dispute between petitioner and respondent administrator involving, as it does, the ownership of two parcels of land situated in Santa Rosa, Nueva Ecija, and this question having been squarely raised in an action pending in the court of first instance of said province, which was instituted by petitioner against respondent administrator precisely because of the dispute that had arisen between them over said property, it is the sense of this Tribunal that respondent court exceeded its jurisdiction in acting upon the said question in its capacity as probate court. On the face of such issue which necessarily involves the ownership of the properties, we consider of no consequence the claim that what respondent court merely did was to look into the identity of said properties. This question is necessarily imbedded in the greater issue of ownership and being interwoven one can hardly draw the line of demarcation that would separate one from the other.

As regards the question whether the order of respondent court restraining petitioner from threshing the palay crop standing on the lands has been properly issued on the face of the writ of preliminary injunction issued by the Court of First Instance of Nueva Ecija, the answer is not difficult to find: the court should not have issued the order, for "It is settled by an overwhelming weight of authority that no court has power to interfere by injunction with the judgments or decree of a court of concurrent or coordinate jurisdiction having equal power to grant the relief sought by injunction. * * * The various branches of the Court of First Instance of Manila are in a sense coordinate courts and to allow them to interfere with each other's judgments or decrees by injunctions would obviously lead to confusion and might seriously hinder the administration of justice." (Cabigao vs. Del Rosario, 44 Phil., 132; See also Philippine National Bank vs. Javellana, 92 Phil., 525; Montesa vs. Manila Cordage Company, 92 Phil., 25.)

Wherefore, petition is granted without costs. The orders of respondent court dated January 29, 1954 and February 18, 1954 are hereby set aside.

Bengzon, Acting C. J., Padilla, Montemayor, Reyes, A., Jugo, Labrador, Concepcion, and Reyes, J.B.L., JJ., concur.

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