

IN THE MATTER OF THE INTESTATE ESTATE OF THE DECEASED ROSALIA SAQUITAN. EULOGIO S. EUSEBIO, ADMINISTRATOR AND APPELLEE, VS. DOMINGO VALMORES, OPPOSITOR AND APPELLANT DECEASED. J...

G.R. No. L-7019. May 31, 1955

Ponente: LABRADOR, J.

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LABRADOR, J.:

On July 31, 1952, the above-entitled proceedings were instituted in the Court of First Instance of Rizal, upon petition of Francisco Valmores, who claims to be the adopted son of the spouses Domingo Valmores and Rosalia Saquitán. The petition alleges that Rosalia Saquitán died in Pasig, Rizal on October 1, 1950, without leaving any descendant or ascendant; that the nearest relatives of said decedent are the husband, Domingo Valmores, and the petitioner Francisco Valmores; and that the surviving spouse Domingo Valmores is more than 80 years of age and physically unfit to discharge the duties of administrator, so the petitioner recommends the appointment of Eulogio Eusebio as administrator. On the same day of the presentation of the petition, the Clerk of Court issued a notice setting a date (August 29, 1952) for the hearing of the petition and ordering the publication of the notice in the newspaper "La Opinion." On the day set for the hearing, no one appeared except counsel for the petitioner Francisco Valmores. Francisco Valmores himself did not appear. Counsel for the petitioner proved the publication of the notice of hearing and, afterwards, presented his witness, one by the name of Raymundo Delmindo, who declared that he is the brother of Francisco Valmores, that his brother had been adopted by the spouses Domingo Valmores and Rosalia Saquitán, that Rosalia Saquitán did not leave any will, that her nearest relative is her surviving husband who is 80 years of age and incapable of administering the estate. Counsel for petitioner also explained to the court that on June 23, 1952 the surviving spouse Domingo Valmores had filed an affidavit adjudicating to himself all the estate left by the deceased wife, evidently under the provisions of Section 1 of Rule 74 of the Rules of Court. Upon the presentation of the said testimony and the above manifestation of counsel for petitioner, the court entered an order that same date, August 29, 1952, appointing Eulogio Eusebio administrator of the estate of the deceased. Thereafter the following proceedings for the settlement of the estate took place in rapid succession: (1) September 3, 1952, oath of administrator and filing of bond by him; (2) September 5, 1952, issuance of letters of administration; (3) September 6, 1952, notice issued by Clerk of Court to creditors to file their claims; (4) November 29, 1952, inventory filed by administrator; (5) March 6, 1953, supplemental inventory filed by the administrator; (6) March 17, 1953, final accounts presented by administrator; (7) March 17, 1953, project of partition filed by the administrator; (8) March 23, 1953, opposition of Domingo Valmores was filed; (9) May 14, 1953, appeal by Domingo Valmores; and (11) November 23, 1953, approval of accounting and project of partition.

On March 23, 1953 the surviving spouse Domingo Valmores presented an opposition dated March, 20, 1953, impugning the appointment of Eulgio Eusebio as administrator on the ground that he is a stranger to the family and to himself, and praying that he be appointed administrator of the properties of the deceased, and that the case

be set for hearing so that he can present his evidence. On April 4, 1953 he presented an amended opposition, alleging that Rosalia Saquitan had died more than two years before, that he had been administering the properties of her deceased wife, that he is now the owner and possessor of the properties in question, which was valued at P45,914. The opposition must have been denied because on April 29, 1953 counsel for Domingo Valmores filed a motion for reconsideration. Opposition to this motion for reconsideration was filed by counsel for the administrator, and this was sustained on May 14, 1953. Thereupon, counsel for Domingo Valmores presented an "Excepcion" and filed a Record of Appeal, and asked that the case be certified to this Court.

The oppositor-appellant has filed a brief and the first assignment of error made therein is that the trial court deprived him of the right to present evidence to support his allegations, in violation of Sections 1, 3, 5 and 6 of Rule 80 of the Rules of Court. In the second assignment, it is claimed that the trial court erred in appointing a stranger as administrator of the properties for the reason that the person to be appointed should be her surviving spouse. The administrator-appellee has also filed a brief.

Since the pendency of the case before this Court, the following events have happened: Domingo Valmores died on May 13, 1954. (According to the certificate of death, he was 85 years old at the time of his death. It appears that the said oppositor was married for the second time to Jacinta Siscar on January 6, 1952). Upon being notified of the death of Domingo Valmores, this Court ordered the widow substituted for the deceased appellant. This Court also granted the request of Atty. A. G. Gavieres to be separated as counsel for the deceased Domingo Valmores. On July 23, 1954 Atty. Vicente Francisco entered his appearance for the widow, Jacinta Siscar, who was substituted for the deceased Domingo Valmores. On permission of the Court, counsel for said Jacinta Siscar filed a memorandum with the following annexes: Annex A and A-1, an order of the court finding Atty. A. G. Gavieres to be physically unfit to handle the defense in civil case No. 2103, Lati vs. Gavieres, et al. because of age; Annex B, the affidavit of adjudication of Domingo Valmores; Annex C, transcript of the stenographic notes during the trial and hearing of the petition for the appointment of administrator; and Annex D, certification of the Local Civil Registrar of Pasig, Rizal to the effect that there is no record of adoption of one Francisco Valmores by Domingo Valmores.

On January 26, 1955 Maximo Saquitan filed a petition in this Court, alleging that he is a nephew of the deceased Rosalia Saquitan and is her nearest heir; that the real name of Francisco Valmores, who filed the petition, is Francisco Delmindo; that Francisco Delmindo changed his name and surreptitiously filed the petition for administration; that movant is the only nephew of Rosalia Saquitan and is the heir at law of the latter and Delmindo knew these facts; that despite said knowledge, Francisco Delmindo failed to give notice to him of the proceedings as required by the Rules; and that the newspaper La Opinion is not a newspaper of general circulation in the province of Rizal (supporting said allegation with an affidavit of two newspaper agents of Pasig, Rizal). He, therefore, prayed that the proceedings in the Court of First Instance, be set aside and the petition be reinstated for a trial de novo, and that the records be remanded to the court of origin for said purpose.

A careful perusal of the records of the case discloses the following irregularities: The person who filed the original petition, whose real name appears to be Francisco Delmindo, never appeared in court to prove the supposed adoption of him by the spouses Rosalia Saquitan and Domingo Valmores. The supposed adoption was only testified to by the brother and no competent evidence thereof was presented as required by law (Sec. 41, Rule 123, Rules of Court). If adoption was legally made, the records thereof should have existed in the Court of First Instance. No such record were presented at the hearing, or subsequent thereto. Neither was evidence submitted to prove that the records of the adoption proceedings were lost or destroyed. On the other hand, there is the certification of the Local Civil Registrar to the effect that there is no record of adoption of Francisco Valmores by Domingo Valmores. These circumstances engender the belief in our minds that the person who instituted the

petition, Francisco Delmindo, was not at all adopted by the deceased Rosalia Saquitán, or had any interest in her properties. Section 2 of Rule 80 of the Rules of Court provides as follows:

"A petition for letters of administration must be filed by an interested person and must show, so far as known to the petitioner:

* * *" (Italics ours)

The evidence submitted in the hearing does not satisfactorily prove that the petitioner was legally adopted; hence, he did not have any interest in the properties of the deceased Rosalia Saquitán. Under ordinary circumstances, such defect would authorize the dismissal of the proceedings especially in view of the fact that the surviving spouse of Rosalia Saquitán had filed an affidavit of adjudication under the provisions of Section 1 of Rule 74 of the Rules. Counsel for Domingo Valmores, however, had not objected to the application for the appointment of an administrator; he only objected to the appointment of the said stranger Eulogio Eusebio as administrator, claiming to have the right as surviving spouse to be appointed as such administrator. By this act of Domingo Valmores, surviving spouse of the deceased, therefore, the fatal defect in the petition may be considered, as cured. In other words, the filing of the petition for the appointment of an administrator may be considered as having been ratified by the surviving husband, Domingo Valmores, and for this reason the proceedings may not be dismissed.

A study of the records also discloses fatal irregularities in the notice required to be given. Thus nowhere does it appear from the record that Domingo Valmores was ever personally notified of the filing of the petition or of the time and place for hearing the same. His first opposition shows that he was not aware of the hearing at all. He was notified of the proceedings for the first time when the inventory was sent him on November 29, 1952. Section 3 of Rule 80 of the Rules of Court provides:

"When a petition for letters of administration is filed in the court having jurisdiction, such court shall fix a time and place for hearing the petition, and shall cause notice thereof to be given to the known heirs and creditors of the decedent and to any other persons believed to have an interest in the estate, in the manner provided in sections 3 and 4 of Rule 77." (Italics supplied.)

The known heir in this case was Domingo Valmores and notice should have been given him in accordance with Section 3 and 4 of Rule 77. Section 4 of Rule 77 specially provides:

"The Court shall also cause copies of the notice of the time and place fixed for proving the will to be addressed to the known heirs legatees and devisees of the testator resident in the Philippines at their place of residence, and deposited in the post office with the postage prepaid at least twenty days before the hearing, if such places of residence be known.

* * *. Personal service of copies of the notice at least ten days before the day of hearing shall be equivalent to mailing."

Section 5 of the same rule also requires:

"At the hearing compliance with the provisions of the last two preceding sections must be shown before the introduction of testimony in support of the will. All such testimony shall be taken under oath and reduced to writing. * * *."

The records of the hearing do not show that the notices as above required had been given to Domingo Valmores or Maximo Saquitán.

We, therefore, find that the error imputed to the trial court in oppositor-appellant's brief that the court has failed to comply with the provisions of Sections 3 and 5 of Rule 80 had not been complied with, was actually committed. The requirement as to notice is essential to the validity of the proceedings in order that no person may be deprived

of his right or property without due process of law. The absence of notice to heirs becomes the more apparent in the case at bar, where evidently a stranger has been able to railroad the proceedings in court without opportunity of the person most interested in the estate of the deceased to appear and contest in due time the right of the petitioner or the appointment of the person recommended as administrator. In a way, the failure of Domingo Valmores to receive better treatment at the hands of the court a quo may be attributed to the unfortunate condition of the lawyer to whom he had entrusted the defense of his rights. (Atty. A. G. Gavieres, who represented Domingo Valmores, had been found to be too old and thus unfit to handle a civil case [Annexes A and A-1 attached to the Memorandum of counsel for Jacinta Siscar]). On the other hand, the failure on the part of the trial judge to exercise care in the consideration of the evidence adduced at the hearing and in following the procedure outlined by the rules had contributed to the irregularities. Perhaps, also counsel for the appellee had taken advantage of the carelessness of the court and the incompetence of adverse counsel to bring these proceedings to a stage where real heirs or persons in interest have been deprived of their rights. Be it as it may, there is still time to correct the errors committed and right the wrongs and injustices caused to the parties legally entitled to the estate.

After consideration of the circumstances as above set forth, the Court finds that all the proceedings subsequent to the petition are void and should be, as they hereby are, annulled, and it is ordered that the case be remanded to the court of origin for the hearing of the original petition together with the opposition thereto of Domingo Valmores, with previous notice to all parties interest, including the widow of Domingo Valmores and Maximo Saquitan, as required by the Rules. Without cost.

Pablo, Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angela, Concepcion, and Reyes, J. B. L., JJ., concur.

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