

LEONCIA E. STO. DOMINGO, ETC., ET AL., PLAINTIFFS AND APPELLANTS, VS. URBANA STO. DOMINGO, ET AL., DEFENDANTS AND APPELLEES.*G. R. No. 10886. April 18, 1958*

Ponente: BAUTISTA ANGELO, J.

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This is an appeal from an order issued by the Court of First Instance of Bulacan dismissing the complaint filed by plaintiffs against defendants.

Raymundo Sto. Domingo contracted two marriages, the first with Juana Dilag out of which Urbana was born, and the second with Pilar Evangelista, the same having produced Leoncia as the only issue. Raymundo Sto. Domingo died on May 1, 1935. Days before his death, he executed a deed of donation of his properties in favor of his daughter Urbana in the first marriage which was accepted and the properties were placed in the possession of the donee. When Raymundo died, the heirs surviving him were Urbana Sto. Domingo, daughter in the first marriage, Leoncia Sto. Domingo, daughter in the second, and his widow Pilar Evangelista, mother of the latter. On March 10, 1936, Urbana Sto. Domingo sold the properties donated to her by her deceased father to one Deogracias Matias. The deed of sale was duly registered in the Office of the Register of Deeds of Bulacan who subsequently issued in favor of the vendee the corresponding certificate of title."

Subsequent to the sale above referred to, there followed a series of litigations involving the annulment of the deed of donation and of the deed of sale. The first was Civil Case. No. 5315 instituted in the Court of First Instance of Bulacan by Pilar Evangelista, the widow, in her behalf and as guardian ad litem of her minor daughter Leoncia Sto. Domingo against Urbana Sto. Domingo and Deogracias Matias wherein they alleged that the donation as well as the sale of the properties of the deceased were fictitious and therefore null and void. The complaint was filed on August 28, 1936. Defendants therein interposed a demurrer which was overruled. After issues were joined by the filing of their answer, the case was amicably settled, the parties filing a motion asking for the dismissal of the case. As a result of such settlement, plaintiffs received the sum of P1,000.00 by way of compromise. The settlement was approved by the court and the case was dismissed.

After the lapse of twenty-two months, or to be exact, on October 7, 1938, the same widow, who in the meantime married one Aquilino Robes, in her own behalf and as guardian ad litem of her minor child Leoncia, again instituted another action in the same court praying for the identical relief concerning the annulment of the donation and sale of the properties involved, in the first case against the same defendants. The latter answered interposing the same defenses. This case was again dismissed on petition of plaintiffs who were not ready to go to trial but without prejudice to reviving the case if they so desired.

In the meantime, intestate proceedings for the settlement of the estate of the late Raymundo Sto. Domingo were instituted and one Severino Alberto was appointed administrator of the estate. This administrator on February 22, 1954 filed a complaint against the same defendants for the annulment of the same deed of donation and sale based

on the same ground that they were executed through fraud and without consideration. Defendants moved to dismiss the complaint on the ground of lack of legal capacity to sue on the part of the plaintiff. The motion was sustained and the case was dismissed.

And now comes the present case which was instituted by the same widow in her personal capacity and as guardian ad litem of her daughter Leoncia against the same defendants seeking the annulment of the same deed of donation and sale based on the same grounds of fraud and lack of consideration. This time defendants filed a motion to dismiss based on the grounds, among others, that (1) the cause of action has already prescribed and (2) that the cause of action is already barred by a prior judgment. The court found this motion well founded and dismissed the complaint. Plaintiffs took the present appeal to the Court of Appeals which was certified to us on the ground that only questions of law are involved.

The appeal must be dismissed. It appears that prior to the present case there were three others that were instituted, two by the same plaintiff herein, and one by the judicial administrator of the Estate of the late Raymundo Sto. Domingo. The first case was instituted on August 28, 1936 by Pilar Evangelista, widow of the deceased, in her own behalf and as guardian ad litem of her minor daughter Leoncia Sto. Domingo, which was amicably settled and the settlement was duly approved by the court. To the motion submitted to the court by the parties praying for its dismissal, there was attached an affidavit signed by the widow wherein she acknowledged having voluntarily entered into an amicable settlement of the case, and in this settlement she acted not only in her personal capacity but as guardian ad litem of her minor daughter. It also appears that she agreed to the settlement after receiving the sum of P1,000.00 by way of compromise. The order approving the settlement become final for lack of appeal on the part of either party. As a matter of fact, the second was filed by the same plaintiffs twenty-two months thereafter and the same was also dismissed. Considering that the present case involves the same parties and the same issues as those involved and raised in the first case, the conclusion is inescapable that the present case is already barred by a prior judgment.

The fact that one of the party-litigants is a minor is of no moment, for she had been represented right along by her guardian ad litem. This is recognized by our Rules of Court which provide that "A minor * * * may sue or be sued through his guardian, or if he has none, through a guardian ad litem appointed by the court" (Section 5, Rule 3). It cannot also be contended that because the minor was merely represented by a guardian ad litem, said guardian cannot bind the minor with regard to the amicable settlement. The rule is well settled that "If * * * the compromise was considered and sanctioned by the court and was rendered on testimony in addition to the admission or confession of the guardian ad litem, the judgment will not afterward be set aside where there was no fraud, in its procurement" (43 C.J.S., 344; *Italics supplied*). Ordinarily, it is true, a guardian ad litem has no authority to act or bind a minor in any transaction with regard to his estate, but he can however do so with the approval of the court. This is what was done in the present case:

"Ordinarily his (referring to the guardian ad litem's) authority is recognized only for certain specific purposes, and it is restricted to matters connected with the litigation at hand; he has no authority to act in any other matters and he cannot otherwise bind the infant or his estate; and it has been held that he cannot bind the infant by anything that he may do, except with the consent of the court." (43 C.J.S., 299)

Wherefore, the order appealed from is affirmed, without pronouncement as to costs.

Paras, C. J., Bengzon, Montemayor, Reyes, A., Labrador, Reyes, J. B. L., Endencia, and Felix, JJ., concur.

Concepcion, J., concurs in the result.

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