

MILAGROS A. CORTES, PETITIONER, VS. COURT OF APPEALS AND MENANDRO A. RESELVA, RESPONDENTS.

G.R. No. 117417. September 21, 2000

Ponente: BUENA, J.

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BUENA, J.:

This is a petition for review on certiorari seeking a reversal of the decision dated September 9, 1994 of the Court of Appeals[1] in C.A.-G.R. SP. No. 33826;

"IN VIEW OF THE FOREGOING, the petition is GIVEN DUE COURSE and the assailed order of October 18, 1993, issued by the respondent court in Special Proceeding No. 90-54955 is hereby SET ASIDE and declared NULL and VOID. With costs against the private respondent."[2]

and the reinstatement of the order of the probate court, thus:

"WHEREFORE, Menandro Reselva and all those acting for or through him, is/are ordered to vacate forthwith the house and lot of the estate situated in 173 Ilaw St., Balut, Tondo, Manila, and to deliver to the executrix Milagros R. Cortes the possession thereof as well as the owner's duplicate certificate of the title thereof."[3]

The following facts, as found by the Court of Appeals, are undisputed:

"Herein petitioner Menandro A. Reselva, private respondent (petitioner in this petition) Milagros R. Cortes, and Florante Reselva are brothers and sister and children - heirs of the late spouses Teodoro T. Reselva and Lucrecia Aguirre Reselva, who died on April 11, 1989 and May 13, 1987, respectively. During their lifetime, they acquired a property particularly a house and lot consisting of 100 square meters, more or less, with address at 173 Ilaw St., Balut, Tondo, Manila. As can be gleaned from the records, Lucrecia Aguirre Reselva died ahead of Teodoro T. Reselva. The latter executed a holographic will which was probated in this case on July 31, 1991, with Milagros R. Cortes, as the appointed Executrix. After having been appointed and qualified as Executrix, she filed a motion before respondent probate court praying that Menandro A. Reselva, the occupant of the property, be ordered to vacate the property at No. 173 Ilaw St., Balut, Tondo, Manila and turn over to said Executrix the possession thereof (Annex 'D'). This is the motion which the respondent court granted in the assailed order of October 18, 1993."[4]

In the Appellate Court, the Regional Trial Court's order was set aside for having been issued beyond the latter's limited jurisdiction as a probate court.[5]

The long standing rule is that probate courts, or those in charge of proceedings whether testate or intestate, cannot adjudicate or determine title to properties claimed to be part of the estate and which are claimed to belong to outside parties.[6] Stated otherwise, "claims for title to, or right of possession of, personal or real property, made by the heirs themselves, by title adverse to that of the deceased, or made by third persons, cannot be entertained by the (probate) court."[7]

In the present case, however, private respondent Menandro A. Reselva, who refused to vacate the house and lot being eyed as part of the estate of the late Teodoro T. Reselva, cannot be considered an "outside party" for he is

one of the three compulsory heirs of the former. As such, he is very much involved in the settlement of Teodoro's estate.[8] By way of exception to the above-mentioned rule, "when the parties are all heirs of the decedent, it is optional upon them to submit to the probate court the question of title to property." [9] Here, the probate court is competent to decide the question of ownership. More so, when the opposing parties belong to the poor stratum of society and a separate action would be most expensive and inexpedient.[10]

In addition, Menandro's claim is not at all adverse to, or in conflict with that of, the decedent since the former's theory merely advances co-ownership with the latter.[11] In the same way, when the controversy is whether the property in issue belongs to the conjugal partnership or exclusively to the decedent, the same is properly within the jurisdiction of the probate court, which necessarily has to liquidate the conjugal partnership in order to determine the estate of the decedent which is to be distributed among the heirs.[12]

More importantly, the case at bar falls squarely under Rule 73, Section 2 of the Revised Rules of Court, thus:

"RULE 73

"SEC. 2. Where estate upon dissolution of marriage. - When the marriage is dissolved by the death of the husband or wife, the community property shall be inventoried, administered, and liquidated, and the debts thereof paid, in the testate or intestate proceedings of the deceased spouse. If both spouses have died, the conjugal partnership shall be liquidated in the testate or intestate proceedings of either."

Hence, in the 1991 case of *Vita vs. Montanano* we ruled:

"(I)t is not necessary to file a separate proceeding in court for the proper disposition of the estate of Isidra Montanano. Under Rule 73, Section 2 of the Rules of Court, if both spouses have died, the conjugal partnership shall be liquidated in the testate or intestate proceedings of either. In the present case, therefore, the conjugal partnership of Isidra Montanano and Edilberto Vita should be liquidated in the testate proceedings of the latter." [13]

Consequently, this case before us should be returned to the probate court for the liquidation of the conjugal partnership of Teodoro and Lucrecia Reselva prior to the settlement of the estate of Teodoro.

WHEREFORE, without reinstating the assailed order of the trial court, the questioned decision of the Court of Appeals dated September 9, 1994 in CA-G.R. SP No. 33826 is hereby SET ASIDE and the case REMANDED to the court of origin for further proceedings. No pronouncement as to costs.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and De Leon, Jr., JJ., concur.

[1] CA Decision/ Annex "K," p. 52, ROLLO.

[2] CA Decision/ Annex "K," p. 55, ROLLO.

[3] RTC Order/ Annex "E," p. 31, ROLLO.

[4] CA Decision/ Annex "K," p. 54, ROLLO.

[5] CA Decision/ Annex "K," p. 54, ROLLO.

[6] *Sanchez vs. Court of Appeals*, 279 SCRA 647, 672-673 [1997]; previous citations omitted; underscoring supplied.

[7] COMMENTS ON THE RULES OF COURT, M. V. Moran, Vol. III, 1997 edition, p. 620; underscoring supplied.

[8] Comments to the Petition for Review on Certiorari, p. 61, ROLLO.

[9] Sebial vs. Sebial, 64 SCRA 385, 392 [1962].

[10] Coca vs. Borromeo, 81 SCRA 278, 283-284 [1978].

[11] Comments to the Petition for Review on Certiorari, p. 62, ROLLO.

[12] Bernardo vs. Court of Appeals, 7 SCRA 367, 372 [1963].

[13] 194 SCRA 180, 189 [1991]

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