

**IN THE MATTER OF THE TESTATE ESTATE OF THE DECEASED,
MARIA CONSUELO IGNACIO. TOMAS TAGLE, EXECUTOR, AGUSTIN
IGNACIO, JR., ET AL., PETITIONERS AND APPELLEES, VS. PASTOR
MANALO, E...**

G.R. No. 12657. July 14, 1959

Ponente: BARRERA, J.

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BARRERA, J.:

Maria Consuelo Ignacio died testate on August 18, 1945, leaving behind an estate consisting of—

- One-half interest in a parcel of land situated in Orani, Bataan, identified as Lot No. 34 of the Orani Cadastre, containing an area of 3,617 square meters more or less, and with an assessed value of P70 (this being a conjugal property);
- One-half interest in a parcel of land situated in Orani, Bataan, identified as Lot No. 1213 of the Orani Cadastre, containing an area of 43,430 square meters, more or less, and with an assessed value of F400 (this is also a conjugal property);
- A parcel of land situated in Orani, Bataan, identified as lot No. 1148 of the Orani Cadastre, containing an area of 141,917 square meters, more or less, covered by Transfer Certificate of Title No. 1223 of the Register of Deeds of Bataan, with an assessed value of P7,500;
- A parcel of land situated in Orani, Bataan, and identified as Lot No. 1087 of the Orani Cadastre, containing an area of 857 square meters, more or less, and with an assessed value of P500, also covered by Transfer Certificate of Title No. 1223;
- A parcel of land situated in Orani, Bataan, identified as Lot No. 856 of the Orani Cadastre, with an area of 983 square meters, more or less, and assessed at F410, likewise covered by Transfer Certificate of Title No. 1223;
- A parcel of land in Orani, Bataan, identified as Lot No. 868 of the Orani Cadastre, containing an. area of 529 square meters, more or less, and with an assessed value of P220, registered also under Transfer Certificate of Title No. 1223; and
- Five religious images, with an aggregate value of P225,

which she willed to be distributed as follows:

- Her share in Lot No. 34 of the Orani Cadastre, owned by the conjugal partnership (No. 1 of the list of Properties reproduced above), tor her surviving husband, Tomas Tagle;
- Her share in Lot No. 1213 of the Orani Cadastre, atoo owned by the conjugal partnership (No. 2 of the List), to her husband, Tomas Tagle;
- The naked ownership of Lot No. 1148, 1087 and 856, referred to as Lot Nos. 1, 2 and 3 of Transfer

Certificate of Title No. 1223 (Nos. 3, 4 and 5 of the List), was bequeathed to her nephew, Agustin Ignacio, Sr., although the usufruct and administration thereof was given to her husband, Tomas Tagle during the latter's lifetime. In connection with the properties, the will imposed upon her husband, and in case of his death, on Agustin Ignacio, Sr., the obligation to give—

- (a) An annual pension of P100 to Fr. Agapito Ignacio (for an unspecified duration);
- (b) An annual pension of P100 to Florentina Dionisio as long as she remained unmarried;
- (c) Support and education to Socorro Buenaventura, during her lifetime;
- (d) Care and support to Petra Loreto, during her lifetime;
- (e) The expenses for the annual (Catholic) religious retreat in Orani, Bataan; and
- (f) The necessary expenses for the preservation and care of the religious images.

- Lot No, 863 of the Orani Cadastre, referred to as Lot No, 4 of Transfer Certificate of Title No. 1223 (No. 6 of the List of Properties) to Agustin Ignacio, Jr., and

- The religious images were given to Tomas Tagle, but upon his death, ownership over the same would pass to Agustin Ignacio, Sr. Tomas Tagle was also named executor of said will, without the necessity of filing a bond.

On September 8, 1945, Tomas Tagle filed a petition with the Court of First Instance of Bataan for the probate of his wife's last will (Sp. Proc. No. 1811). After due publication and hearing, and in view of the absence of any opposition to its probate, the will was allowed on November 16, 1945. Consequently, on December 26, 1945, letters testamentary were issued to Tomas Tagle, the executor named in the will, authorizing him to take possession of all the properties of the decedent and perform all acts necessary for that preservation and ultimate distribution.

On March 11, 1946, the executor submitted an inventory of the estate showing it to be worth P9,195, without any liability. In the accounting rendered by the executor on December 17, 1946, the estate appeared to have made a net earning of P20. This statement of account was approved by the Court on April 10, 1947.

On April 29, 1947, the executor and Agustin Ignacio, Sr., one of the testamentary heirs, filed a joint motion for leave to sell in favor of a certain Pastor Manalo Lot No. 1 of T.C.T. No. 1223 (No. 3 of the List of Properties), in consideration of the sum of P20,000. This sale, however, was disapproved by the probate court in its order of September 25, 1948, on the ground that as the parcel of land sought to be sold was the most valuable piece of property forming the estate of the deceased, the sale thereof would deplete said estate and render impossible compliance with certain onerous conditions imposed thereon by the will. And making the observation that the deed of sale dated April 28, 1947, and attached to the joint motion had all the earmarks of a perfected contract, the court ordered the executor to recover the property, if the sale had been pushed through, and make a return thereof. It is important to note that on May 3, 1949, the executor submitted a report stating that the sale had not been consummated and the land was not delivered to the vendee under the aforementioned deed of sale.

At this juncture, and in anticipation of certain incidents that will be unravelled in the course of this narration of facts, it may be mentioned that on September 9, 1945, or immediately after the filing of the petition for probate of the will, Atty. J. R. Nuguid entered his appearance as counsel for the executor Tomas Tagle. Said lawyer, however, withdrew his appearance as such counsel on October 16, 1945, allegedly with the consent of his client, and was substituted by Atty. Luis A. Atanacio. On May 14, 1947, Atty. J. R. Nuguid once more entered his appearance in the case, only this time as counsel for Agustin Ignacio, Sr., in collaboration with Atty. D. M. Tan.

On May 10, 1949, the executor, assisted by Atty. J. R. Nuguid, filed a project of partition duly signed by all the testamentary heirs, liquidating the estate and adjudicating the same in accordance with the provisions of the will. This project of partition received court approval on May 18, 1949. At the same time, the executor and Agustin

Ignacio, Sr. were directed to comply with the impositions of the will and to institute guardianship proceeding for the minor Agustin Ignacio, Jr., for the purpose of receiving the latter's share of the inheritance. The executor was further ordered to present proof of payment of the estate and inheritance taxes, as well as the receipts by the heirs of their respective shares.

On October 12, 1949, two petitions were filed in court: (1) by the executor, assisted by his "attorney of record, Atty. Jose R. Nuguid", praying the court to close the proceedings and order the distribution of the estate in accordance with the project of partition, and (2) a petition to detach from the expediente the disapproved deed of absolute sale which was attached to the joint motion to sell Lot No. 1 of T.C.T. No. 1223, and to substitute the same with a certified copy of the document. Both petitions were granted on October 14, 1949, with a directive to the executor to deliver to all the heirs corresponding shares of the estate and to submit proof of such delivery within five days.

On September 17, 1951, the Clerk of the Court of First Instance of Bataan addressed a communication to Tomas Tagle requiring him to explain in five days why he should not be held in contempt of court for having failed to comply with the order of October 14, 1949. In answer thereto, Atty. J. R. Nuguid, signing as counsel for Tomas Tagle, requested that his client be allowed to comply with the aforementioned order until after the national elections (which would be held in November of that year). Apparently, the executor did not make good his promise because on March 18, 1955, the Deputy Clerk of Court wrote another letter requiring the executor's compliance, in 10 days, with the Court's directive of October 14, 1949.

The record does not show that the executor has complied with this directive; but it does appear from the subsequent pleadings, filed by the parties that on September 11, 1947, or before the motion for leave to sell the lot described in the deed of sale was denied by the probate court, as mentioned earlier in this decision, a petition for the reconstitution of Transfer Certificate of Title No. 1223, registered in the name of Maria Consuelo Ignacio, was filed by Pastor Manalo (the intended vendee) with the Court of First Instance of Bataan (G. L. R. O. 315, Cad. Case No. 10), which petition was approved on October 31, 1947; that subsequently another petition for the reconstitution of the same title was filed, this time by Tomas Tagle (G.L.R.O. Rec. 14007), which was also approved by the court on January 20, 1950; and that on the following day, January 21, 1950, Pastor Manalo presented to the Register of Deeds of Bataan, for registration, the deed of absolute sale of Lot No. 1, T.C.T. No. 1223 (which was disapproved by the probate court and was detached from the record of Sp. Proc. No. 1811 upon petition of the executor), supported by certified copies of the orders of the court of October 31, 1947 in G.L.R.O. 315, Cad. Case No. 10, and of January 20, 1950, in G.L.R.O. Rec. No. 14007, reconstituting T.C.T. No. 1223, copies of the project of partition and of the order of the probate court approving the same. As a consequence thereof, a part of Transfer Certificate of Title No. 1223 was cancelled and a separate title, covering Lot No. 1 thereof, was issued in the name of Pastor Manalo (T.C.T. No. 1999).

On May 25, 1955, the executor, Tomas Tagle, filed a petition in the probate court asking that the sale to Pastor Manalo of Lot No. 1, T.C.T. No. 1223, be declared null and void; that the certificate of title issued in the name of said vendee be cancelled, and a new one be issued in his name as such executor of the will of the deceased Maria Consuelo Ignacio, alleging that by reason of undue influence exerted upon him by Agustin Ignacio, Sr., he was induced to sell the land to Pastor Manalo who actually paid only a total of P10,000; that said property was included as one of the properties subject for distribution among the testamentary heirs in the project of partition approved by the court; and that Pastor Manalo knew all along that said property was under administration and the sale thereof disapproved by the court. This petition was opposed by Pastor Manalo who, while admitting that the parcel of land in question appeared in the project of partition as part of the estate to be divided among the heirs and that the sale thereof was disapproved by the probate court, claimed that the ground relied upon by the court in

disapproving the sale no longer existed or did not actually exist; that Tomas Tagle entered into the contract of sale because he deemed it more beneficial to him to receive a lump sum than enjoy the usufruct thereof due to his advanced age; that such a petition to recover property could not properly be entertained in a probate court.

Confronted with these conflicting claims the probate court ordered the cancellation of the certificate of title issued in the name of Pastor Manalo and the issuance of another in the name of the executor. From this order, the vendee, Pastor Manalo, appealed to this Court.

For two reasons, the appealed order should be set aside. Firstly, because from the recital in the narration of facts, it appears that the probate proceedings had already been terminated upon the approval by the probate court of the project of partition submitted by the executor; the granting of the petition to close the proceedings; and the consequent issuance of the order of distribution directing the delivery of the properties to the heirs in accordance with the adjudication made in the will (*Santiesteban vs. Santiesteban*, 68 Phil., 367). Secondly, even assuming that in view of the lack of proof of compliance by the executor of the order of distribution; of the properties, the proceedings might still be considered as open, the remedy being sought by the executor, that is, the declaration of nullity of the deed of sale and the consequent cancellation of the certificate of title issued in favor of the vendee-petitioner Pastor Manalo cannot be obtained through a mere motion in the probate proceedings over the objection of a third party adversely affected and over whom the probate court had no jurisdiction. The rule is already well settled that "when the demand is in favor of the administrator and the party against whom it is enforced is a third party not under the court's jurisdiction, the demand can not be by mere motion by the administrator, but by an independent action against the third person" (*De Paula vs. Escay*, 97 Phil., 617; 51 Off. Gaz., [10] 5168).

Thus, even granting *arguendo*, that the presentation of the deed of sale for registration in the Register of Deeds and the issuance of a new certificate of title in the name of the vendee were, in view of the circumstances, procured through means far from regular, nevertheless the vendee has acquired, and is actually asserting, a claim of owner ship over the parcel of land covered by said deed of sale and certificate of title of which he can not be deprived except in an appropriate independent action in the proper court.

Wherefore, the order appealed from is hereby set aside, without costs. It is so ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, and Endencia, JJ., concur.

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