

FLORA A. DE DEL CASTILLO, ET AL., PLAINTIFFS AND APPELLANTS VS. ISABEL S. DE SAMONTE, DEFENDANT AND APPELLEE.

G.R. No. 12880. April 30, 1960

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Appeal from a decision of the Court of First Instance of Negros Occidental dismissing plaintiffs' complaint for recovery of 1/2 interest in Certificates of Stock Nos. 1704 and 1706 of the Ma-ao Sugar Central Co., Inc., of Bago, Negros Occidental allegedly sold by Luisa Vda. de del Castillo to the defendant Isabel S. de Samonte.

The essential facts are not in dispute. It appears that in September, 1944, Clemente del Castillo died intestate in Pasay City. In October, 1944, his widow, Luisa Vda. de del Castillo, sold to defendant Isabel S. de Samonte 2,000 shares of stock in the Ma-ao Sugar Central Co., Inc., as follows:

Date Sold	
Stock Certificate No.	
No. of Shares	
October 10, 1944	
1654	
840	
October 21, 1944.....	
774-886 (1653)	
210	
October 21, 1944	
1098	
950	

On October 26 1945, administration proceedings were began in the Court of First Instance of Negros Occidental of the intestate estate of Clemente del Castillo (Special Proceeding No. 168 of said Court). On December 15, 1945, Luisa A. Vda. de del Castillo was appointed Administratrix of the estate.

On July 16, 1946, Isabel S. de Samonte, vendee of the shares of stock above-mentioned, filed Civil Case No. 569 of the Court of First Instance of Rizal (now Pasay City) for specific performance in order to recover the shares of stock above-mentioned, allegedly sold to her. On September 4, 1948, the Court of First Instance of Rizal (now Pasay City) in said case rendered judgment by default against Luisa Vda. de del Castillo, ordering her to deliver

the certificates of stock in question. This judgment, not having been appealed from, has long become final and executory.

In 1949, Luisa A. Vda. de del Castillo (who had in the meantime been appointed Administratrix of her husband's estate), represented by Raul del Castillo, and defendant-appellee Isabel S. de Samonte, thru her lawyers, substituted Certificates of Stock Nos. 1704 and 1706 of the Ma-ao Sugar Central Co., Inc., in lieu of Certificate of Stock No. 1098, one of the certificates sold in 1944.

On October 10, 1950, Luisa A. Vda. de del Castillo, as Administratrix of the estate of Clemente del Castillo, petitioned the probate court in Special Proceeding No. 168 to confirm the sale of Certificates of Stock Nos. 1704 and 1706, alleging that their sale was absolutely necessary for the subsistence of the surviving spouse and family of the deceased in the City of Manila during the most critical period of the Japanese occupation. On October 19, 1950, the probate court issued an order refusing to act on the petition to confirm the sale until after there was proof that the heirs had been notified of its hearing.

On September 18, 1951, the buyer Isabel S. de Samonte filed a petition in the probate court alleging that she had caused to be served on all the heirs of the estate of Clemente del Castillo a copy of the Administratrix's petition of October 10, 1950, together with his own petition, with notice that the same would be submitted for consideration and approval of the Court on September 29, 1951. Samonte's petition, with attached copy of Administratrix's petition of October 10, 1950, prayed that this latter petition by the Administratrix be given due course.

On September 29, 1951, the heirs of Clemente del Castillo did not attend, and the probate court, after a hearing conducted, confirmed and approved the sale of Certificates of Stock Nos. 1704 and 1706 to defendant-appellee Isabel S. de Samonte. After his two motions for reconsideration were denied by the probate court, the heir Sergio F. del Castillo (one of the plaintiffs-appellants herein) appealed to the Court of Appeals.

On August 26, 1953, the Court of Appeals in C.A.-G.R. No. 9189-R, affirmed the order of the probate court of September 29, 1951, confirming the sale of Certificates of Stock Nos. 1704 and 1706. A petition for a writ of certiorari filed in the Supreme Court was dismissed for lack of merit on October 27, 1953.

On January 4, 1954, Civil Case No. 2901, the subject-matter of this present appeal, for recovery of a ½-interest in the shares covered by Stock Certificates Nos. 1704 and 1706, was filed in the Court of First Instance of Negros Occidental, with the heirs of the late Clements del Castillo as plaintiffs, and Isabel S. de Samonte, as defendant. By subsequent amendments, to the complaint, Luisa Vda. de del Castillo (as vendor of the shares in question), Raul del Castillo, and the Ma-ao Sugar Central Co., Inc., were joined with Samonte as defendants in the case. Luisa Vda. de del Castillo and Raul del Castillo, failing to answer, were declared in default.

On July 31, 1957, judgment was rendered by the trial court dismissing plaintiffs' complaint, based mainly on its opinion that the decision of the Court of Appeals in C. A.—G. R. No. 9189-R, affirming the order of the probate court of September 29, 1951, is res judicata in the present case. Hence, the instant appeal.

For brevity, the assignments of error of plaintiffs-appellants, so far as relevant to the disposition of this appeal, can be summarized as follows:

- That Certificates Nos. 1704 and 1706 are conjugal property of the spouses Clemente del Castillo and Luisa Vda. de del Castillo and, consequently, the sale made by the widow of these stocks so far as relates to the ½ portion belonging to the estate of the late Clemente del Castillo is null and void; that what Luisa Vda. de del Castillo sold were only her "rights, title, and interest" in the stocks in question, as per the Deeds of Sale executed in 1944; that therefore, the probate court had no authority to confirm and approve a sale which, being null and void, was non-existent, (Errors' II, V).

- That the confirmation of the sale is null and void because the Administratrix's Petition of October 10, 1950 and the notice given by Samonte in his motion of September 18, 1951, are not sufficient compliance with paragraphs (a) and (b), Section 7, Rule 90 of the Rules of Court; that Samonte not being a creditor of the estate, it was improper for the probate court to have allowed her to intervene. (Errors IV, VII).
- That the decision of the Court of Appeals in C.A.-G.R. No. 9189-R is not res judicata for the following reasons:
 - That the probate court had no jurisdiction to pass upon question of title or ownership.
 - That there is no identity of parties, subject-matter and cause of action.
 - That the Court of Appeals in C.A.-G.R. No. 9189-R had no jurisdiction as only questions of law were involved and it was therefore within the exclusive appellate jurisdiction of the Supreme Court (Errors VIII, IX).

The contention that Luisa A. Vda. de del Castillo can not sell the $\frac{1}{2}$ portion belonging to the estate, and that the probate court had no authority to confirm such sale, assuming that the stocks in question are conjugal, is untenable (Errors II, V). Section 4, Rule 90 of the Rules of Court provides:

"Sec. 4. When Court May Authorize sale of estate as beneficial to interested persona. Disposal of proceeds.—When it appears that the sale of the whole or a part of the real or personal estate, will be beneficial to the heirs, devisees, legatees, and other interested persons, the court may, upon application of the executor or administrator and on notice to the heirs, devisees and legatees who are interested in the estate to be sold, authorize the executor or administrator to sell the whole or a part of said estate, although not necessary to pay debts, legacies, or expenses of administration, but such authority shall not be granted if inconsistent with the provisions of a will."

As Administratrix of the estate, Luisa A. Vda. de del Castillo could sell property of the estate with authority of the probate court under the above provision. Whether the sale is considered to have taken place in 1949 (at the time Certificates of Stock Nos. 1704 and 1706 were substituted in lieu of Stock Certificate 1098) or in 1944, will make no difference because the issuance of letters testamentary relates back to the time of the decedent's death and validates the acts of the representative done in the interim which are otherwise lawful and proper (See C.J.S. Vol. 33, p. 1113). In her petition of October 10, 1950, Luisa A. Vda. de Del Castillo, as Administratrix, alleged that the sale was absolutely necessary for the subsistence of herself and her family during the most critical period of the Japanese occupation. By virtue of Section 4, Rule 90 above, the probate court had jurisdiction to authorize or approve the sale made, pursuant to the Administratrix's petition.

Under Errors IV and VII, plaintiffs-appellants assail the validity of the order of the probate court confirming the sale of Stock Certificates 1704 and 1706, claiming that the procedure adopted was not in compliance with the pertinent provisions of the Rules of Court on the matter as to notice to the heirs, etc. However, it appears that these question have already been raised in C.A.-G. R. No. 9189-R wherein the order of the probate court approving the sale of Stock Certificates 1704 and 1706 was upheld. At any rate, it is settled that a:

"Judgment is conclusive not only upon questions actually contested but upon all matters which might have been litigated and decided, and the estoppel applies where defenses which were available in the first action but not set up are sought to be used in a second action, either by way of defense or as the foundation of a claim for relief." (Soriano vs. de Leon, et al., L-7863, Aug. 31, 1989; Aragon, et al., vs. Aragon, et al., March 30, 1959)

Plaintiffs-appellants, however, further contend that the decision of the Court of Appeals in C.A.-G.R. No. 9189-R cannot be res judicata because a probate court may not pass upon questions of ownership, and that, therefore, in taking cognizance of the appeal, the Court of Appeals did not likewise pass upon such questions. That a probate

court may not pass upon questions of title cannot be doubted, but this principle does not apply in this case. What the probate court in Special Proceeding No. 168 did was merely to, confirm or approve the sale of Stock Certificates 1704 and 1706 made by the Administratrix to defendant-appellee, Isabel S. de Samonte; and this, by virtue of Section 4. Rule 90, the probate court had authority to do (See *Roa vs. De la Cruz*, 103 Phil., 116; 55 Off. Gaz., [3] 438).

It is claimed-further for plaintiffs-appellants that there is no identity of parties in C.A.-G.R. No. 9189-R and the present case. This is untenable. As to the heir Sergio del Castillo, since he was the one who appealed the order of the probate court, and the decision of the Court of Appeals aforementioned is now final, he is bound by said decision and may not raise the question again. As to the other heirs joined" as plaintiffs-appellants in this case, they could have also appealed the order of the probate court approving the sale of Stock Certificates 1704 and 1706, because an interested party may appeal in special proceedings from an order of the court where the order is a final determination of his rights. (Rule 105, sec. 1 (e); *Tambunting De Tengco vs. Hon. San Jose*, 97 Phil., 491). Since an order of the probate court relating to sale of property of the decedent is of final character and appealable (*Dais vs. Carduño*, 49 Phil., 165), the failure of the other heirs to appeal therefrom makes the order final and conclusive as to them also.

As to the other aspects of *res judicata*, it is settled that notwithstanding the difference in the form of two actions, the doctrine of *res judicata* will apply where it appears that the parties are in effect "litigating for the same thing." A party cannot, by varying the form of his action, or adopting a different method of presenting his case, escape the effects of *res judicata* (*Aguirre vs. Atienza*, 104 Phil., 477; also *Geronimo vs. Nava* 103 Phil., 145; 57 Off. Gaz. [24] 4417; *Labarro vs. Labitoria*, 28 Off. Gaz., 4479). Here, it cannot be seriously questioned that the parties are litigating for the same thing, namely, the ½ interest in Stock Certificates 1704 and 1706.

Finally, as to plaintiffs-appellants' contention that the Court of Appeals in C.A.-G.R. No. 9189-R had no jurisdiction as only questions of law were involved, an examination of the decision therein rendered shows that while predominantly, the questions were of law, they were interlaced with factual issues (C.A.-G.R. No. 9189-R; Rec. App. pp. 37 et seq.).

The foregoing discussion makes consideration of the other assignments of error irrelevant.

Wherefore, the decision appealed from is affirmed, with costs against plaintiffs-appellants.

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

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