PATRICIA NATCHER, PETITIONER, VS. HON. COURT OF APPEALS AND THE HEIRS OF GRACIANO DEL ROSARIO – LETICIA DEL ROSARIO, EMILIA DEL ROSARIO-MANANGAN, ROSALINDA FUENTES LLANA, RODOLF...

G.R. No. 133000. October 02, 2001

Ponente: BUENA, J.

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BUENA, J.:

May a Regional Trial Court, acting as a court of general jurisdiction in an action for reconveyance and annulment of title with damages, adjudicate matters relating to the settlement of the estate of a deceased person particularly in questions as to advancement of property made by the decedent to any of the heirs?

Sought to be reversed in this petition for review on certiorari under Rule 45 is the decision[1] of public respondent Court of Appeals, the decretal portion of which declares:

> "Wherefore in view of the foregoing considerations, judgment appealed from is reversed and set aside and another one entered annulling the Deed of Sale executed by Graciano Del Rosario in favor of defendant-appellee Patricia Natcher, and ordering the Register of Deeds to Cancel TCT No. 186059 and reinstate TCT No. 107443 without prejudice to the filing of a special proceeding for the settlement of the estate of Graciano Del Rosario in a proper court. No costs.
>
> "So ordered."

Spouses Graciano del Rosario and Graciana Esguerra were registered owners of a parcel of land with an area of 9,322 square meters located in Manila and covered by Transfer Certificate of Title No. 11889. Upon the death of Graciana in 1951, Graciano, together with his six children, namely: Bayani, Ricardo, Rafael, Leticia, Emiliana and Nieves, entered into an extrajudicial settlement of Graciana's estate on 09 February 1954 adjudicating and dividing among themselves the real property subject of TCT No. 11889. Under the agreement, Graciano received 8/14 share while each of the six children received 1/14 share of the said property. Accordingly, TCT No. 11889 was cancelled, and in lieu thereof, TCT No. 35980 was issued in the name of Graciano and the six children.

Further, on 09 February 1954, said heirs executed and forged an "Agreement of Consolidation-Subdivision of Real Property with Waiver of Rights" where they subdivided among themselves the parcel of land covered by TCT No. 35980 into several lots. Graciano then donated to his children, share and share alike, a portion of his interest in the land amounting to 4,849.38 square meters leaving only 447.60 square meters registered under Graciano's name, as covered by TCT No. 35988. Subsequently, the land subject of TCT No. 35988 was further subdivided into two separate lots where the first lot with a land area of 80.90 square meters was registered under TCT No. 107442 and the second lot with a land area of 396.70 square meters was registered under TCT No. 107443. Eventually, Graciano sold the first lot[2] to a third person but retained ownership over the second lot.[3]

On 20 March 1980, Graciano married herein petitioner Patricia Natcher. During their marriage, Graciano sold the

land covered by TCT No. 107443 to his wife Patricia as a result of which TCT No. 186059[4] was issued in the latter's name. On 07 October 1985, Graciano died leaving his second wife Patricia and his six children by his first marriage, as heirs.

In a complaint[5] filed in Civil Case No. 71075 before the Regional Trial Court of Manila, Branch 55, herein private respondents alleged that upon Graciano's death, petitioner Natcher, through the employment of fraud, misrepresentation and forgery, acquired TCT No. 107443, by making it appear that Graciano executed a Deed of Sale dated 25 June 1987[6] in favor of herein petitioner resulting in the cancellation of TCT No. 107443 and the issuance of TCT No. 186059 in the name of Patricia Natcher. Similarly, herein private respondents alleged in said complaint that as a consequence of such fraudulent sale, their legitimes have been impaired.

In her answer[7] dated 19 August 1994, herein petitioner Natcher averred that she was legally married to Graciano on 20 March 1980 and thus, under the law, she was likewise considered a compulsory heir of the latter. Petitioner further alleged that during Graciano's lifetime, Graciano already distributed, in advance, properties to his children, hence, herein private respondents may not anymore claim against Graciano's estate or against herein petitioner's property.

After trial, the Regional Trial Court of Manila, Branch 55, rendered a decision dated 26 January 1996 holding:[8]

> "1) The deed of sale executed by the late Graciano del Rosario in favor of Patricia Natcher is prohibited by law and thus a complete nullity. There being no evidence that a separation of property was agreed upon in the marriage settlements or that there has been decreed a judicial separation of property between them, the spouses are prohibited from entering (into) a contract of sale;
>
> "2) The deed of sale cannot be likewise regarded as a valid donation as it was equally prohibited by law under Article 133 of the New Civil Code;
>
> "3) Although the deed of sale cannot be regarded as such or as a donation, it may however be regarded as an extension of advance inheritance of Patricia Natcher being a compulsory heir of the deceased."

On appeal, the Court of Appeals reversed and set aside the lower court's decision ratiocinating, inter alia:

> "It is the probate court that has exclusive jurisdiction to make a just and legal distribution of the estate. The court a quo, trying an ordinary action for reconveyance/annulment of title, went beyond its jurisdiction when it performed the acts proper only in a special proceeding for the settlement of estate of a deceased person. XXX
>
> "X X X Thus the court a quo erred in regarding the subject property as an advance inheritance. What the court should have done was merely to rule on the validity of (the) sale and leave the issue on advancement to be resolved in a separate proceeding instituted for that purpose. X X X"

Aggrieved, herein petitioner seeks refuge under our protective mantle through the expediency of Rule 45 of the Rules of Court and assails the appellate court's decision "for being contrary to law and the facts of the case."

We concur with the Court of Appeals and find no merit in the instant petition.

Section 3, Rule 1 of the 1997 Rules of Civil Procedure defines civil action and special proceedings, in this wise:

> "X X X a) A civil action is one by which a party sues another for the enforcement or protection of a right, or the prevention or redress of a wrong.
>
> "A civil action may either be ordinary or special. Both are governed by the rules for ordinary civil actions, subject to specific rules prescribed for a special civil action.
>
> "X X X

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> "c) A special proceeding is a remedy by which a party seeks to establish a status, a right or a particular fact."

As could be gleaned from the foregoing, there lies a marked distinction between an action and a special proceeding. An action is a formal demand of one's right in a court of justice in the manner prescribed by the court or by the law. It is the method of applying legal remedies according to definite established rules. The term "special proceeding" may be defined as an application or proceeding to establish the status or right of a party, or a particular fact. Usually, in special proceedings, no formal pleadings are required unless the statute expressly so provides. In special proceedings, the remedy is granted generally upon an application or motion."[9]

Citing American Jurisprudence, a noted authority in Remedial Law expounds further:

> "It may accordingly be stated generally that actions include those proceedings which are instituted and prosecuted according to the ordinary rules and provisions relating to actions at law or suits in equity, and that special proceedings include those proceedings which are not ordinary in this sense, but is instituted and prosecuted according to some special mode as in the case of proceedings commenced without summons and prosecuted without regular pleadings, which are characteristics of ordinary actions. X X X A special proceeding must therefore be in the nature of a distinct and independent proceeding for particular relief, such as may be instituted independently of a pending action, by petition or motion upon notice."[10]

Applying these principles, an action for reconveyance and annulment of title with damages is a civil action, whereas matters relating to settlement of the estate of a deceased person such as advancement of property made by the decedent, partake of the nature of a special proceeding, which concomitantly requires the application of specific rules as provided for in the Rules of Court.

Clearly, matters which involve settlement and distribution of the estate of the decedent fall within the exclusive province of the probate court in the exercise of its limited jurisdiction.

Thus, under Section 2, Rule 90 of the Rules of Court, questions as to advancement made or alleged to have been made by the deceased to any heir may be heard and determined by the court having jurisdiction of the estate proceedings; and the final order of the court thereon shall be binding on the person raising the questions and on the heir.

While it may be true that the Rules used the word "may", it is nevertheless clear that the same provision[11] contemplates a probate court when it speaks of the "court having jurisdiction of the estate proceedings".

Corollarily, the Regional Trial Court in the instant case, acting in its general jurisdiction, is devoid of authority to render an adjudication and resolve the issue of advancement of the real property in favor of herein petitioner Natcher, inasmuch as Civil Case No. 71075 for reconveyance and annulment of title with damages is not, to our mind, the proper vehicle to thresh out said question. Moreover, under the present circumstances, the RTC of Manila, Branch 55 was not properly constituted as a probate court so as to validly pass upon the question of advancement made by the decedent Graciano Del Rosario to his wife, herein petitioner Natcher.

At this point, the appellate court's disquisition is elucidating:

> "Before a court can make a partition and distribution of the estate of a deceased, it must first settle the estate in a special proceeding instituted for the purpose. In the case at hand, the court a quo determined the respective legitimes of the plaintiffs-appellants and assigned the subject property owned by the estate of the deceased to defendant-appellee without observing the proper proceedings provided (for) by the Rules of Court. From the aforecited discussions, it is clear that trial courts trying an ordinary action cannot resolve to perform acts pertaining to a special proceeding because it is subject to specific prescribed rules. Thus, the court a quo erred in regarding the subject property as an advance inheritance."[12]

In resolving the case at bench, this Court is not unaware of our pronouncement in Coca vs. Borromeo[13] and Mendoza vs. Teh[14] that whether a particular matter should be resolved by the Regional Trial Court (then Court of First Instance) in the exercise of its general jurisdiction or its limited probate jurisdiction is not a jurisdictional issue but a mere question of procedure. In essence, it is a procedural question involving a mode of practice "which may be waived".[15]

Notwithstanding, we do not see any waiver on the part of herein private respondents inasmuch as the six children of the decedent even assailed the authority of the trial court, acting in its general jurisdiction, to rule on this specific issue of advancement made by the decedent to petitioner.

Analogously, in a train of decisions, this Court has consistently enunciated the long standing principle that although generally, a probate court may not decide a question of title or ownership, yet if the interested parties are all heirs, or the question is one of collation or advancement, or the parties consent to the assumption of jurisdiction by the probate court and the rights of third parties are not impaired, then the probate court is competent to decide the question of ownership.[16]

Similarly in Mendoza vs. Teh, we had occasion to hold:

> "In the present suit, no settlement of estate is involved, but merely an allegation seeking appointment as estate administratrix which does not necessarily involve settlement of estate that would have invited the exercise of the limited jurisdiction of a probate court.[17] (emphasis supplied)

Of equal importance is that before any conclusion about the legal share due to a compulsory heir may be reached, it is necessary that certain steps be taken first.[18] The net estate of the decedent must be ascertained, by deducting all payable obligations and charges from the value of the property owned by the deceased at the time of his death; then, all donations subject to collation would be added to it. With the partible estate thus determined, the legitime of the compulsory heir or heirs can be established; and only thereafter can it be ascertained whether or not a donation had prejudiced the legitimes.[19]

A perusal of the records, specifically the antecedents and proceedings in the present case, reveals that the trial court failed to observe established rules of procedure governing the settlement of the estate of Graciano Del Rosario. This Court sees no cogent reason to sanction the non-observance of these well-entrenched rules and hereby holds that under the prevailing circumstances, a probate court, in the exercise of its limited jurisdiction, is indeed the best forum to ventilate and adjudge the issue of advancement as well as other related matters involving the settlement of Graciano Del Rosario's estate.

WHEREFORE, premises considered, the assailed decision of the Court of Appeals is hereby AFFIRMED and the instant petition is DISMISSED for lack of merit.

SO ORDERED.

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

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[1] C.A. Decision in C.A. GR No. CV No. 51390, promulgated on 09 December 1997, penned by Justice Quirino D. Abad Santos, Jr. and concurred in by JJ. Ruben T. Reyes and Hilarion L. Aquino; Rollo, pp. 23-31.

[2] TCT No. 107442.

[3] TCT No. 107443.

[4] Annex "C"; Records, p. 5.

[5] Records, pp. 1-7.

[6] Exhibit E; Decision in Civil Case No. 94-71075; Rollo, p. 205.

[7] Records, pp. 20-23.

[8] Rollo, p. 25.

[9] Hagans vs. Wislizenus, 42 Phil. 880 [1920].

[10] Francisco, V.J., The Revised Rules of Court in the Philippines, Vol. V-A, 1970 ed., p. 596 citing 1 CJS 1094-1095.

[11] Section 2, Rule 90.

[12] Rollo, p. 30; CA Decision, p. 8.

[13] 81 SCRA 278 [1978].

[14] 269 SCRA 764 [1997].

[15] Cunanan vs. Amparo, 80 Phil. 227 [1948].

[16] Coca vs. Borromeo, supra; Pascual vs. Pascual, 73 Phil. 561 [1942]; Alvarez vs. Espiritu, L-18833, August 14, 1965, 14 SCRA 892 [1965]; Cunanan vs. Amparo, 80 Phil 227 [1948]; 3 Moran's Comments on the Rules of Court, 1970 ed., p. 473.

[17] 269 SCRA 764, 769 [1997].

[18] Pagkatipunan vs. Intermediate Appellate Court, 198 SCRA 718 [1991].

[19] Mateo vs. Lagua, 29 SCRA 864 [1969].

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