

ANTONIO PEREZ, IN HIS OWN REPRESENTATION AND AS GUARDIAN AD LITEM OF HIS SON BENIGNO. PEREZ Y TUASON, PLAINTIFF AND APPELLANT, VS. ANGELA TUASON DE PEREZ, DEFENDANT AND APPELLEE.

G.R. No. 14874. September 30, 1960

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

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

Appeal from an order, dated October 27, 1958, of the Court of First Instance of Manila, dismissing its Civil Case No. 34626 for lack of jurisdiction.

Plaintiff Antonio Perez, in his own representation and as guardian ad litem of his adoptive son, Benigno Perez y Tuason, initiated this civil case against Angela Tuason de Perez, the plaintiff's wife and Benigno's mother. The complaint states three causes of action.

Under the first cause of action, it is averred that the defendant is squandering all of her estate on a young man by the name of Jose Antonio Campos Boloix, because of which Benigno Perez y Tuason, acting through his guardian ad litem, the plaintiff, prays that his mother, the defendant, be declared a prodigal and placed under guardianship; that a suitable person or institution be appointed to administer her properties; and that during the pendency of this suit, a writ of injunction be issued to prevent the continued waste and dissipation of her properties.

In his second cause of action, the husband Antonio Perez, for and in his own behalf, asserts that by virtue of the said alleged! acts of prodigality committed by the defendant wife, the conjugal partnership of gain is being dissipated to the prejudice of both spouses; wherefore, he prays for a writ of injunction to restrain her from "dissolving and liquidating the conjugal partnership of gains".

Finally, as a third cause of action, the plaintiff husband avers that, in addition to the aforementioned acts, the defendant has repeatedly advised him, as well as other persons, that she intends to marry Jose Campos Boloix and to have a child by him notwithstanding her present marriage to the plaintiff, Antonio Perez; and that, if she could not have such a child, she was willing to have one by any other person, just to put plaintiff in a ridiculous and embarrassing position. Plaintiff, therefore, seeks to recover from her the total sum of P185,000.00 by way of damages and attorney's fees.

On January 2, 1958, after a preliminary hearing, wherein plaintiff was heard ex parte, the Court of First Instance of Manila issued a preliminary injunction as prayed for in the complaint.

On March 19, 1958, the defendant appeared through counsel and prayed for the dismissal of the case on the ground of res judicata, and that the preliminary injunction be dissolved. Said motion was denied by the court a quo in its order of April 2, 1958.

On April 16, 1958, the defendant filed a second motion to dismiss the case, this time on the ground that the Court

of First Instance of Manila had no jurisdiction over the present proceedings, which, according to her, is vested under Republic Act No. 1401 with the Juvenile and Domestic Relations Court. While this last motion was being considered by the Court, a compromise agreement was arrived at and submitted for approval of the court on May 2, 1958. On May 31, 1958, before the Court could act, defendant filed an opposition to the approval of the compromise agreement, on the ground that (a) the same is contrary to law and (6) it was not freely or validly entered into by her representative. Without resolving this particular question, the lower court asked the parties to submit further memoranda on the sole issue of jurisdiction. After this was done, the trial court, by order of September 30, 1958, ordered the dismissal of the case on the ground that it lacked jurisdiction over the subject matter. Hence, plaintiffs Perez (father and son) appealed.

Appellants assign three alleged errors in the order appealed from, as follows:

"The trial court erred in holding that the Court of First Instance of Manila has no jurisdiction over the causes of action alleged by Antonio Perez in the complaint.

"The trial court erred in holding that the Court of First Instance of Manila has no jurisdiction over the causes of action alleged by Benigno Perez y Tuason in the complaint.

The trial court erred in holding that the Doctrine of Estoppel of Jurisdiction is not applicable in this country and erred further in failing to apply said doctrine to the present proceedings."

We find the appeal to be untenable.

Republic Act No. 1401, creating the Juvenile and Domestic, Relations Court of the City of Manila and defining its jurisdiction, provides, among other things, that:

"SEC. 38-A—Provisions of the Judiciary Act to the contrary notwithstanding, the court shall have exclusive original jurisdiction to hear and decide the following cases after the effectivity of this Act:

(b) —Cases involving custody, guardianship, adoption, paternity, and acknowledgment;

* * * * *

(d) —Proceedings brought under the provisions of Articles one hundred sixteen, two hundred twenty-five, two hundred fifty, two and three hundred thirty-one of the Civil Code." (Italics supplied.)

While Article 116 of the Civil Code (referred to in subsection [d] above) states:

"When one of the spouses neglects his or her duties to the conjugal union or brings danger, dishonor or material injury upon the other, the injured party may apply to the court for relief.

The court may counsel the offended party to comply with his or her duties, and take such measures as may be proper." (Italics supplied.)

It is easy to see that the first cause of action set forth in the complaint, wherein the minor Benigno Perez y Tuason, through his representative, asks that his mother be placed under guardianship because of her alleged prodigality, and prays that a suitable person or institution be appointed to administer her properties, is exclusively cognizable by the Domestic Relations Court. The action falls squarely under the provisions of subsection (6), Section 38-A, R. A. 1401, above-quoted, as a "case involving . . . guardianship." No error was, therefore, committed in the appealed order in holding that this cause of action lay outside the jurisdiction of the Court of First Instance.

The same thing can be said of the third cause of action wherein Antonio Perez seeks to recover damages and attorney's fees because his wife's act (avowing openly her intention to marry and have a child by Campos Boloix

or if not, by anyone else) placed the plaintiff "in an embarrassing and contemptible position" (sic) and causing him "grave anxiety, wounded feelings, extreme humiliation." The case involves acts of a spouse that "brings.....dishonor..... upon the other (spouse)" under Article 116 of the Civil Code of the Philippines, and also lies within the jurisdiction of the Domestic Relations Court. The law (subsection (d), Sec. 38-A) expressly gives that court exclusive original jurisdiction over proceedings under the provisions of Article 116 of the Civil Code. ,

More controversial is the issue involved in the second cause of action of the complaint, wherein Antonio Perez alleges that the prodigal acts of his wife result in the conjugal partnership of gains being dissipated to the prejudice of both spouses, and prays for a writ of injunction to restrain her from "dissolving and liquidating the conjugal partnership of gains." The Court of First Instance held that this cause of action is also one of those provided by Article 116 of the Civil Code, as a case where one spouse "brings danger * * * or material injury" upon the other, and, therefore, relief should be sought in the Court of Domestic Relations.

We are inclined to think that "material injury" as used in Article 116 does not refer to patrimonial (economic) injury or damage, but to personal (i. e. physical or moral) injury to one of the spouses, since Article 116 lies in the chapter concerning personal relations between husband and wife. Nevertheless, the court below was correct in viewing this cause of action as primarily predicated on the grant of guardianship due to alleged prodigality of the wife, since the allegation thereof is therein reiterated, and the remedy of injunction sought against further (i.e. future) acts of disposition (no annulment of her past transactions is demanded) must be necessarily based on the wife's being subject to guardianship.

If the wife were not in any way incapacitated, the mere fact that the alienation of her paraphernal would deprive the conjugal partnership of the future fruits thereof would not give rise to a cause of action for injunction, since the conjugal partnership is only entitled to the net fruits of such property, after deducting administration expenses (People's Bank vs. Register of Deeds, 60 Phil., 167), and it is nowhere alleged that any such net fruits exist. More fundamental still, the wife's statutory power to alienate her parapherna (Phil. Civil Code, Article 140) necessarily implies power to alienate its future fruits, since the latter are mere accessory to the property itself.

Wherefore, the second cause of action is inextricably woven into and cannot stand independently of the demand for guardianship of the wife, the injunction being a mere incident thereof; so that like the first cause of action, the second also lay within the exclusive jurisdiction of the Court of Domestic Relations.

The third alleged error charged against the Court below, that it should have held that defendant was in estoppel to question the jurisdiction of the trial court, is, on its face, without merit. Assuming for the sake of argument that defendant appellee was placed in such estoppel by merely executing the compromise and submitting it to the Court's approval, such estoppel could not operate against the Court. Regardless of the parties, the Court, at any time, could *motu proprio* inquire and determine whether it had jurisdiction over the subject matter of the action, and could dismiss the case (as it did) if it found that it had no power to act therein.

The order appealed from is hereby affirmed. Costs against appellants.

Paras, C. J., Bengzon, Bautista Angelo, Labrador, Concepcion, Barrera, Gutierrez David, Paredes, and Dizon, JJ., concur.

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