

EMILIA FIGURACION-GERILLA, PETITIONER, VS. CAROLINA VDA. DE FIGURACION, ELENA FIGURACION-ANCHETA, HILARIA A. FIGURACION, FELIPA FIGURACION-MANUEL, QUINTIN FIGURACION AND MARY FI...

G.R. NO. 154322. August 22, 2006

Ponente: CORONA, J.

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CORONA, J.:

In this petition for review on certiorari,[1] petitioner Emilia Figuracion-Gerilla challenges the decision[2] and resolution[3] of the Court of Appeals (CA) affirming the decision of the Regional Trial Court (RTC) of Urdaneta City, Pangasinan, Branch 49, which dismissed her complaint for partition. The properties involved are two parcels of land which belonged to her late father, Leandro Figuracion.

The facts of the case follow.[4]

Spouses Leandro and respondent Carolina Figuracion (now both deceased) had six children: petitioner and respondents Elena Figuracion-Ancheta (now deceased), Hilaria Figuracion, Felipa Figuracion-Manuel, Quintin Figuracion and Mary Figuracion-Ginez.

On August 23, 1955, Leandro executed a deed of quitclaim over his real properties in favor of his six children. When he died in 1958, he left behind two parcels of land: (1) Lot 2299 of the Cadastral Survey of Urdaneta consisting of 7,547 square meters with Transfer Certificate of Title (TCT) No. 4221-P in the name of "Leandro Figuracion, married to Carolina Adviento" and (2) Lot 705 of the Cadastral Survey of Urdaneta with an area of 2,900 sq. m. with TCT No. 4220-P also in the name of "Leandro Figuracion, married to Carolina Adviento." Leandro had inherited both lots from his deceased parents,[5] as evidenced by Original Certificate of Title (OCT) Nos. 16731 and 16610, respectively, issued by the Register of Deeds of the Province of Pangasinan.

Leandro sold a portion of Lot 2299 to Lazaro Adviento, as a result of which TCT No. 4221-P was cancelled and TCT No. 101331 was issued to "Lazaro Adviento, married to Rosenda Sagueda" as owner of the 162 sq. m. and "Leandro Figuracion, married to Carolina Adviento" as owner of 7,385 sq. m. This lot continued to be in the name of Leandro in Tax Declaration No. 616 for the year 1985.

What gave rise to the complaint for partition, however, was a dispute between petitioner and her sister, respondent Mary, over the eastern half of Lot 707 of the Cadastral Survey of Urdaneta with an area of 3,164 sq. m.

Lot 707 belonged to Eulalio Adviento, as evidenced by OCT No. 15867 issued on February 9, 1916. When Adviento died, his two daughters, Agripina Adviento (his daughter by his first wife) and respondent Carolina (his daughter by his second wife), succeeded him to it. On November 28, 1961, Agripina executed a quitclaim in favor of petitioner over the one-half eastern portion of Lot 707. Agripina died on July 28, 1963, single and without any issue. Before her half-sister's death, however, respondent Carolina adjudicated unto herself, via affidavit under Rule 74 of the Rules of Court, the entire Lot 707 which she later sold to respondents Felipa and Hilaria. The latter

two immediately had OCT No. 15867 cancelled, on December 11, 1962. A new title, TCT No. 42244, was then issued in the names of Felipa and Hilaria for Lot 707.

In February 1971, petitioner and her family went to the United States where they stayed for ten years. Returning in 1981,[6] she built a house made of strong materials on the eastern half-portion of Lot 707. She continued paying her share of the realty taxes thereon.

It was sometime later that this dispute erupted. Petitioner sought the extrajudicial partition of all properties held in common by her and respondents. On May 23, 1994, petitioner filed a complaint in the RTC of Urdaneta City, Branch 49, for partition, annulment of documents, reconveyance, quieting of title and damages against respondents, praying, among others, for: (1) the partition of Lots 2299 and 705; (2) the nullification of the affidavit of self-adjudication executed by respondent Carolina over Lot 707, the deed of absolute sale in favor of respondents Felipa and Hilaria, and TCT No. 42244; (3) a declaration that petitioner was the owner of one-half of Lot 707 and (4) damages. The case was docketed as Civil Case No. U-5826.

On the other hand, respondents took the position that Leandro's estate should first undergo settlement proceedings before partition among the heirs could take place. And they claimed that an accounting of expenses chargeable to the estate was necessary for such settlement.

On June 26, 1997,[7] the RTC[8] rendered judgment nullifying Carolina's affidavit of self-adjudication and deed of absolute sale of Lot 707. It also declared Lots 2299 and 705 as exclusive properties of Leandro Figuracion and therefore part of his estate. The RTC, however, dismissed the complaint for partition, reconveyance and damages on the ground that it could not grant the reliefs prayed for by petitioner without any (prior) settlement proceedings wherein the transfer of title of the properties should first be effected.

On appeal, the CA upheld the dismissal of petitioner's action for partition for being premature. The CA reversed the decision, however, with respect to the nullification of the self-adjudication and the deed of sale. Upholding the validity of the affidavit of self-adjudication and deed of sale as to Carolina's one-half pro-indiviso share, it instead partitioned Lot 707. Dissatisfied, respondents elevated the CA decision to this Court in G.R. No. 151334, entitled *Carolina vda. de Figuracion, et al. v. Emilia Figuracion-Gerilla*. [9]

The issue for our consideration is whether or not there needs to be a prior settlement of Leandro's intestate estate (that is, an accounting of the income of Lots 2299 and 705, the payment of expenses, liabilities and taxes, plus compliance with other legal requirements, etc.) before the properties can be partitioned or distributed.

Respondents claim that: (1) the properties constituting Leandro's estate cannot be partitioned before his estate is settled and (2) there should be an accounting before anything else, considering that they (respondents) had to spend for the maintenance of the deceased Leandro Figuracion and his wife in their final years, which support was supposed to come from the income of the properties. Among other things, respondents apparently wanted petitioner to share in the expenses incurred for the care of their parents during the ten years she stayed in the United States, before she could get her part of the estate while petitioner apparently wanted her gross share, without first contributing to the expenses.

In any event, there appears to be a complication with respect to the partition of Lot 705. The records refer to a case entitled *Figuracion, et al. v. Alejo* currently pending in the CA. The records, however, give no clue or information regarding what exactly this case is all about. Whatever the issues may be, suffice it to say that partition is premature when ownership of the lot is still in dispute.[10]

Petitioner faces a different problem with respect to Lot 2299. Section 1, Rule 69 of the Rules of Court provides:

SECTION 1. Complaint in action for partition of real estate. — A person having the right to compel the

partition of real estate may do so as provided in this Rule, setting forth in his complaint the nature and extent of his title and an adequate description of the real estate of which partition is demanded and joining as defendants all other persons interested in the property.

The right to an inheritance is transmitted immediately to the heirs by operation of law, at the moment of death of the decedent. There is no doubt that, as one of the heirs of Leandro Figuracion, petitioner has a legal interest in Lot 2299. But can she compel partition at this stage?

There are two ways by which partition can take place under Rule 69: by agreement under Section 2[11] and through commissioners when such agreement cannot be reached, under Sections 3 to 6.[12]

Neither method specifies a procedure for determining expenses chargeable to the decedent's estate. While Section 8 of Rule 69 provides that there shall be an accounting of the real property's income (rentals and profits) in the course of an action for partition,[13] there is no provision for the accounting of expenses for which property belonging to the decedent's estate may be answerable, such as funeral expenses, inheritance taxes and similar expenses enumerated under Section 1, Rule 90 of the Rules of Court.

In a situation where there remains an issue as to the expenses chargeable to the estate, partition is inappropriate. While petitioner points out that the estate is allegedly without any debt and she and respondents are Leandro Figuracion's only legal heirs, she does not dispute the finding of the CA that "certain expenses" including those related to her father's final illness and burial have not been properly settled.[14] Thus, the heirs (petitioner and respondents) have to submit their father's estate to settlement because the determination of these expenses cannot be done in an action for partition.

In estate settlement proceedings, there is a proper procedure for the accounting of all expenses for which the estate must answer. If it is any consolation at all to petitioner, the heirs or distributees of the properties may take possession thereof even before the settlement of accounts, as long as they first file a bond conditioned on the payment of the estate's obligations.[15]

WHEREFORE, the petition is hereby DENIED. The Court of Appeals' decision and resolution in CA-G.R. CV No. 58290 are AFFIRMED in so far as the issue of the partition of Lots 2299 and 705 is concerned.

But with respect to Lot 707, we make no ruling on the validity of Carolina vda. de Figuracion's affidavit of self-adjudication and deed of sale in favor of Felipa and Hilaria Figuracion in view of the fact that Carolina vda. de Figuracion, et al. v. Emilia Figuracion-Gerilla (G.R. No. 151334) is still pending in this Division.

Costs against petitioner.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, Azcuna and Garica, JJ., concur.

[*] Deceased.

[1] Under Rule 45.

[2] Dated December 11, 2001 and penned by Associate Justice Martin S. Villarama, Jr. and concurred in by Associate Justices Conchita Carpio-Morales (now Associate Justice of the Supreme Court) and Sergio L. Pestaño (retired) of the Ninth Division of the Court of Appeals; rollo, pp. 82-88.

[3] Dated June 14, 2002 (affirming the December 11, 2001 CA Decision) and penned by Associate Justice Martin

S. Villarama, Jr. and concurred in by Associate Justices Conchita Carpio-Morales (now Associate Justice of the Supreme Court) and Mario L. Guariña III of the Ninth Division of the Court of Appeals; rollo, p. 101.

[4] Rollo, pp. 82-84, except where otherwise noted.

[5] Mariano Figuracion and Petra de la Cruz.

[6] Rollo, p. 48.

[7] Id., pp. 27-36.

[8] Presided by Judge Iluminado C. Menese.

[9] Currently pending with the Second Division.

[10] Ocampo v. Ocampo, G.R. No. 150707, 14 April 2004, 427 SCRA 543; Heirs of Velasquez v. CA, 382 Phil. 438 (2000); Vilorio v. CA, 368 Phil. 851 (1999); Catapusan v. CA, 332 Phil. 586 (1996); Fabrica v. CA, 230 Phil. 334 (1986).

[11] Where the parties prepare a project of partition and submit the same for the court's confirmation.

[12] In such a case, the court appoints commissioners who shall prepare and submit a report of partition.

[13] SEC. 8. Accounting for rent and profits in action for partition.—In an action for partition, in accordance with this Rule, a party shall recover from another his just share of rents and profits received by such other party from the real estate in question, and the judgment shall include an allowance for such rents and profits.

[14] Rollo, p. 87.

[15] SEC. 1. xxx No distribution shall be allowed until the payment of the obligations above-mentioned has been made or provided for, unless the distributees, or any of them, give a bond, in a sum to be fixed by the court, conditioned for the payment of said obligations within such time as the court directs.

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