

DEOGRACIAS BERNARDO, EXECUTOR OF THE TESTATE ESTATE OF THE DECEASED EUSEBIO CAPILI; AND THE INSTITUTED HEIRS, NAMELY: “ARMANDO CAPILI AND ARTURO BERNARDO, ET AL., PETITIONERS, V...

G.R. No 18148. February 28, 1963

Ponente: BARRERA, J.

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BARRERA, J.:

This is a petition by certiorari for the review of the decision of the Court of Appeals affirming that of the Court of First Instance of Bulacan holding that the probate court in Special Proceeding 1101 had jurisdiction to determine the validity of the deed of donation in question and to pass upon the question of title or ownership of the properties mentioned therein.

The facts are briefly stated in the appealed decision of the Court of Appeals as follows:

"Eusebio Capili and Hermogena Reyes were husband and wife. The first died on July 27, 1958 and a testate proceeding for the settlement of his estate was instituted in the Court of First Instance of Bulacan. His will was admitted to probate on October 9, 1958, disposing of his properties in favor of his widow; his cousins Armando, Ursula, and Buenaventura, all surnamed Capili; and Arturo Deogracias and Eduardo, all sumamed Bernardo. Hermogena Reyes herself died on April 24, 1959. Upon petition of Deogracias Bernardo executor of the estate of the deceased Eusebio Capili, she was substituted by her collateral relatives and intestate heirs, namely, Marcos, Vicente, Francisco and Dominga, all surnamed Reyes; and Jose, Constancia Raymunda and Elena, all surnamed Isidoro.

"On June 12, 1959, the executor, filed a project partition in the testate proceeding in accordance with the terms of the will, adjudicating the estate of Eusebio Capili among the testamentary heirs with the exception of Hermogena Reyes, whose share was allotted to her collateral relatives aforementioned. On June 16, 1959 these relatives filed an opposition to the executor's project of partition and submitted a counter project of partition of their own, claiming 1/2 of the properties mentioned in the will of the deceased Eusebio Capili on the theory that they belonged not to the latter alone but to the conjugal partnership of the spouses.

"The probate court, in two orders dated June 24, 1959 and February 10, 1960, respectively, set the two projects of partition for hearing, at which evidence was presented by the parties, followed by the submission of memoranda discussing certain legal issues. In the memorandum for the executor and the instituted heirs it was contended: (1) that the properties disposed of in the will of the deceased Eusebio Capili belonged to him exclusively and not to the conjugal partnership, because Hermogena Reyes had donated to him her half share of such partnership; (2) that the collateral heirs of Hermogena Reyes had no 'lawful standing or grounds' to question the validity of the donation; and (3) that even assuming that they could question the validity of the donation, the same must be litigated not in the testate proceeding but in a separate civil action.

"The oppositors and heirs of Hermogena Reyes, on their part, argued that the deed of donation itself was determinative of the original conjugal character of the properties, aside from the legal presumption laid down

in Article 180 of the Civil Code, and that since the donation was null and void the deceased Eusebio Capili did not become owner of the share of his wife and therefore could not validly dispose of it in his will.

"On September 14, 1960, the probate court, the Honorable M. Mejia presiding, issued an order declaring the donation void without making any specific finding as to its juridical nature, that is, whether it was inter vivos or mortis causa, for the reason that, considered under the first category, it falls under Article 133 of the Civil Code, which prohibits donations between spouses during the marriage; and considered under the second category, it does not comply with the formalities of a will as required by Article 728 in relation to Article 805 of the same Code, there being no attestation clause. In the same order the court disapproved both projects of partition and directed the executor to file another, dividing the property mentioned in the last will and testament of the deceased Eusebio Capili and the properties mentioned in the deed of donation Exhibit B between the instituted heirs of the deceased Eusebio Capili and the legal heirs of the deceased Hermogena Reyes, upon the basis that the said properties were conjugal properties of the deceased spouses.' On September 27, 1960, the executor filed a motion for new trial, reiterating and emphasizing the contention previously raised in their memorandum that the probate court had no jurisdiction to take cognizance of the claim of the legal heirs of Hermogena Reyes involving title to the properties mentioned in the will of Eusebio Capili and taking exception to the Court's declaration of the nullity of the donation 'without stating facts or provisions of law on which it was based.' The motion for new trial was denied in an order dated October 3, 1960."

On appeal to the Court of Appeals the order appealed from being affirmed, petitioners filed this present petition for review by certiorari.

The petitioners-appellants contend that the appellate court erred in not declaring that the probate court, having limited and special jurisdiction, had generally no power to adjudicate title and erred in applying the exception to the rule.

In a line of decisions, this Court has consistently held that as a general rule, question as to title to property cannot be passed upon in testate or intestate proceedings,[1] except where one of the parties prays merely for the inclusion or exclusion from the inventory of the property, in which case the probate court may pass provisionally upon the question without prejudice to its final determination in a separate action.[2] However, we have also held that when the parties interested are all heirs of the deceased, it is optional to them to submit to the probate court a question as to title to property, and when so submitted, said probate court may definitely pass judgment thereon (Pascual vs. Pascual, 73 Phil. 561; Mañalac vs. Ocampo, et al., 73 Phil. 661); and that with the consent of the parties, matters affecting property under judicial administration may be taken cognizance of by the court in the course of intestate proceeding provided interests of third persons are not prejudiced (Cunanan vs. Amparo, 80 Phil. 229, 232).

In the light of this doctrine, may it be said correctly that the trial court as well as the Court of Appeals erred in upholding the power of the probate court in this case to adjudicate in the testate proceedings, the question as to whether the properties herein involved belong to the conjugal partnership of Eusebio Capili and Hermogena Reyes, or to the deceased husband exclusively?

At the outset, let it be clarified that the matter at issue is not a question of jurisdiction, in the sense advanced by appellants that the trial court had completely no authority to pass upon the title to the lands in dispute, and that its decision on the subject is null and void and does not bind even those who had invoked its authority and submitted to its decision, because, it is contended, jurisdiction is a creature of law and parties to an action can not vest, extend or broaden it. If appellants' contention is correct, then there can be no exception to the no-jurisdiction theory. But as has been stated in the case of Cunanan vs. Amparo (supra) the Supreme Court speaking through Mr. Justice Pedro Tuason: "Determination of title to property is within the jurisdiction of Courts of First Instance. The respondent Soriano's objection (that the probate court lacked jurisdiction to order the delivery of the

possession of the lots to the estate) relates exclusively to the procedure, which is distinct from jurisdiction. It affects only personal rights to a mode of practice (the filing of an independent ordinary action) which may be waived." Strictly speaking, it is more a question of jurisdiction over the person, not over the subject matter, for the jurisdiction to try controversies between heirs of a deceased person regarding the ownership of properties alleged to belong to his estate has been recognized to be vested in probate courts. This is so because the purpose of an administration proceeding is the liquidation of the estate and distribution of the residue among the heirs and legatees. Liquidation means determination of all the assets of the estate and payment of all the debts and expenses.[3] Thereafter, distribution is made of the decedent's liquidated estate among the persons entitled to succeed him. The proceeding is in the nature of an action of partition in which each party is required to bring into the mass whatever community property he has in his possession. To this end and as a necessary corollary, the interested parties may introduce proofs relative to the ownership of the properties in dispute. All the heirs who take part in the distribution of the decedent's estate are before the court, and subject to the jurisdiction thereof, in all matters and incidents necessary to the complete settlement of such estate, so long as no interests of third parties are affected.[4]

In the case now before us, the matter in controversy is the question of ownership of certain of the properties involved—whether they belong to the conjugal partnership or to the husband exclusively. This is a matter properly within the jurisdiction of the probate court which necessarily has to liquidate the conjugal partnership in order to determine the estate of the decedent which is to be distributed among his heirs who are all parties to the proceedings, including, of course, the widow, now represented, because of her death, by her heirs who have been substituted upon petition of the executor himself and who have appeared voluntarily. There are no third parties whose rights may be affected. It is true that the heirs of the deceased widow are not heirs of the testator-husband, but the widow is, in addition to her own right to the conjugal property. And it is this right that is being sought to be enforced by her substitutes. Therefore, the claim that is being asserted is one belonging to an heir to the testator and, consequently, it complies with the requirement of the exception that the parties interested (the petitioners and the widow, represented by respondents) are all heirs claiming title under the testator.

Petitioners contend additionally that they have never submitted themselves to the jurisdiction of the probate court, for the purpose of the determination of the question of ownership of the disputed properties. This is not borne by the admitted facts. On the contrary, it is undisputed that they were the ones who presented the project of partition claiming the questioned properties as part of the testator's asset. The respondents, as representatives or substitutes of the deceased widow opposed the project of partition and submitted another. As the Court of Appeals said, "In doing so all of them must be deemed to have submitted the issue for resolution in the same proceeding. Certainly, the petitioners can not be heard to insist, as they do, on the approval of their project of partition and, thus, have the court take it for granted that their theory as to the character of the properties is correct, entirely without regard to the opposition of the respondents". In other words, by presenting their project of partition including therein the disputed lands (upon the claim that they were donated by the wife to her husband), petitioners themselves put in issue the question of ownership of the properties which is well within the competence of the probate court and just because of an opposition thereto, they can not thereafter withdraw either their appearance or the issue from the jurisdiction of the court. Certainly there is here a waiver where the parties who raise the objection are the ones who set the court in motion.[5] They can not be permitted to complain if the court, after due hearing, adjudges the question against them.[6]

Finally, petitioners-appellants claim that appellees are estopped to raise the question of ownership of the properties involved because the widow herself, during her lifetime, not only did not object to the inclusion of these properties in the inventory of the assets of her deceased husband, but also signed an extra-judicial partition of those inventoried properties. But the very authorities cited by appellants require that to constitute estoppel, the

actor must have knowledge of the facts and be appraised of his rights at the time he performs the act constituting estoppel, because silence without knowledge works no estoppel.[7] In the present case, the deceased widow acted as she did because of the deed of donation she executed in favor of her husband not knowing that such deed was illegal, if inter-vivos, and ineffectual if mortis-causa, as it has not been executed with the required formalities similar to a will.

Wherefore, the decision of the Court of Appeals being in accordance with law, the same is hereby affirmed with costs against appellants. So ordered.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Paredes, Dizon, and Regala, JJ., concur.

[1]Bauermann vs. Casas, 10 Phil., 386; Devesa vs. Arbes, 13 Phil. 274; Franco vs. O'Brien, 13 Phil., 359; Guzman vs. Anog, 37 Phil., 71; Lunsod vs. Ortega, 46 Phil., 644; Ongsingco vs. Tan & Borja, 97 Phil; 330 Baquial vs. Anihan, 92 Phil., 501; Mallari vs. Mallari, 92 Phil., 694.

[2] Garcia vs. Garcia, 67 Phil., 353; Guinguing vs. Abuton, 48 Phil., 144.

[3]Flores, vs. Flores, 48 Phil. 982.

[4] Garcia vs. Garcia, 67 Phil. 353, 355.

[5]Cunanan vs. Amparo (supra).

[6] Mañalac vs. Ocampo, 73 Phil. 661.

[7]21 C.J. 1152-1158.

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