

HENRY H. TENG, PETITIONER, VS. LAWRENCE C. TING, EDMUND TING AND ANTHONY TING, RESPONDENTS.

G.R. No. 184237. September 21, 2016

Ponente: PEREZ, J.

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PEREZ, J.:

Assailed in this Petition for Review is the 2 May 2008 Decision[1] of the Court of Appeals in CA-GR SP No. 100224. The appellate court had affirmed two Orders[2] issued by the Regional Trial Court (RTC) of Manila, Branch 21 directing the exclusion of certain properties allegedly belonging to respondents.

Teng Ching Lay died intestate in 1989, leaving as heirs, her child from her first marriage, Arsenio Ting (Arsenio) and from the second marriage, petitioner Henry Teng and Anna Teng. Arsenio married Germana Chua and bore three (3) sons, respondents Lawrence, Edmund and Anthony Ting. Arsenio predeceased his father.

In the intestate proceedings for the settlement of Arsenio's estate in 1975, then Court of First Instance (CFI) of Agusan del Norte and Butuan City approved the project of partition which included, among others, a residential property located at Dr. A. Vasquez Street in Malate, Manila (Malate property), which was adjudicated in favor of respondents.

The subject property became the subject of a case dispute in *Hko Ah Pao v. Ting*, later docketed as G.R. No. 153476.[3] Petitioner claimed that said property is owned by Teng Ching Lay and the latter merely entrusted the same to Arsenio. Eventually, on 27 September 2006, this Court had ruled that Arsenio owned the subject property.

Meanwhile on 27 April 1992, petitioner filed a verified petition for the settlement of the estate of Teng Ching Lay with the RTC of Manila. Petitioner was appointed as administrator of the estate in 1999.

In a Manifestation[4] dated 17 March 2005, petitioner submitted the Estate's Inventory as of 31 December 2004 and its Statement of Income and Expenses for the period 30 January 1989 to 31 December 2004.[5] The inventory included the Malate property and other properties entrusted to Arsenio such as personal properties in the form of investments, cash and equipment, and other real properties in Butuan City.

Alleging that the properties belonging to Arsenio are included in the inventory, respondents filed their Motion for Exclusion of Properties owned by Arsenio Ting and his Heirs. These properties included the Malate properties and the properties were described as "Add: Other properties entrusted to Arsenio Ting." [6] Petitioner opposed the exclusion arguing that these properties were held by Arsenio in trust for Teng Ching Lay because of the constitutional prohibition against Teng Ching Lay, an alien who cannot own lands in the Philippines. Respondents stressed that the properties of Arsenio being claimed for the estate of Teng Ching Lay were acquired by them through inheritance from their father Arsenio whose estate was judicially settled in 1975.

In an Order[7] dated 12 March 2007, the trial court, through Judge Amor A. Reyes, granted the Motion for Exclusion. The dispositive portion of the Order reads:

WHEREFORE, premises considered, the Motion for Exclusion of Properties owned by Arsenio Ting is hereby GRANTED. The properties included in the inventory which as early as October 23, 1975 had already been partitioned among the heirs of Arsenio Ting entitled In the matter of the Intestate Estate of Arsenio O. Ting.[8]

The trial court found that the following properties had already been the subject of a judicial partition in the intestate proceedings for Arsenio:

1. Residential lot covered by TCT No. 134412 located at 1723 A. Vasquez St. Malate, Manila;
2. Residential lot located at Maug, Butuan City covered by T.D. NR-03041-0291 in favor of deceased Teng Ching Lay and Jacinto Chua consisting of 18,989 sq. m. (50%) (no TCT available). Tax Declaration only P474,675.00;
3. Industrial lot located at Maug, Butuan City, covered by T.D. No. NR-03-041-029 in favor of Teng Ching Lay and Jacinto Chua consisting of 26,826 sq. m. (50%) (no TCT available). Tax Declaration only P1,951,875.00; and
4. And those properties included in the Inventory as of December 31, 2004 filed by the Administrator with the Statement "Add: other properties entrusted to Arsenio Ting." [9]

The trial court based its finding on the following: 1) Order dated 23 October 1975 of the then CFI of Agusan Del Norte and Butuan City; 2) the Project of Partiion dated 1975; 3) the complete Inventory and appraisal of Real Properties of the Estate under Administration; and 4) other documents relative to the judicial settlement of Estate of Arsenio Ting that does not form part of the estate of Teng Ching Lay entitled "In the matter of Intestate Estate of Arsenio Ting Sp. Proc. No. 384." [10]

Petitioner filed a motion for reconsideration. It was partly granted by the trial court in an Order [11] dated 7 June 2007. The fallo reads:

WHEREFORE, premises considered, the Motion for Reconsideration is hereby partially GRANTED. What remains the property of the estate are items 2 and 3 namely: []

- 1) Residential lot located at Maug, Butuan City covered by T.D. NR-03041-0291 in favor of deceased Teng Ching Lay and Jacinto Chua consisting of 18,989 sq. m. (50%) (no TCT available). Tax Declaration only P474,675.00;
- 2) Industrial lot located at Maug, Butuan City, covered by T.D. No. NR-03-041-029 in favor of Teng Ching Lay and Jacinto Chua consisting of 26,826 sq. m. (50%) (no TCT available). Tax Declaration only P1,951,875.00.

Residential lot covered by TCT No. 134417 located at 1723 A. Vasquez St., Malate, Manila and the properly included in the Inventory of December 31, 2004 filed by the Administrator with statement; Add other properties entrusted to Arsenion Ting should be excluded in the estate.

The petitioner's allegation that the properties entrusted to Arsenio Ting are advanced legitime, should be ventilated in another forum. [12] (Emphasis Supplied)

Aggrieved, petitioner filed a petition for certiorari before the Court of Appeals.

On 2 May 2008, the Court of Appeals denied the petition for lack of merit. The Court of Appeals found that the trial court did not act with grave abuse of discretion in issuing the assailed Orders excluding some properties from the Estate of Teng Ching Lay. The appellate court ruled that the trial court could determine whether or not properties may be included in the inventory to be administered by the administrator and any dispute as to ownership may be resolved in another forum. The appellate court affirmed the trial court's basis for exclusion.

The appellate court also pointed out that in the case of Hko Ah Pao, the Court categorically ruled that the Malate property belonged to the estate of Arsenio.

Petitioner solely argues that the advancement alleged to have been made by the deceased to any heir should be heard and determined by the probate court, the RTC of Manila Branch 21 in this case, in accordance with Section 2, Rule 90 of the Rules of Court.

The petition is bereft of merit.

In the guise of raising a legal issue, petitioner urges the court a quo to resolve once again an ownership issue. Section 2, Rule 90 of the Rules of Court states that "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." But the rule, as correctly interpreted by respondent, presupposes a genuine issue of advancement.

Legitime is defined as that part of the testator's property which he cannot dispose of because the law has reserved it for certain heirs who are, therefore, called compulsory heirs.[13] Petitioner essentially asserts that properties were actually owned by Teng Ching Lay, and that Arsenio was merely a trustee of the said properties. Verily, petitioner is claiming that Teng Ching Lay owned the Mai ate property and therefore, it should be considered part of the legitime. This brings us precisely to the purpose of an inclusion/exclusion proceeding. Where a party in a probate proceeding prays for the inclusion in, or exclusion from, the inventory of a piece of property, the court may provisionally pass upon the question without prejudice to its final determination in a separate action.[14]

The exclusion of the Malate property from the inventory of Teng Ching Lay's estate is correctly ordered by the trial court primarily because said issue had already become covered by the principle of res judicata.

Under the doctrine of res judicata, a final judgment or decree, on the merits rendered by a court of competent jurisdiction is conclusive of the rights of the parties or their privies in all later suits and on all points and matters determined in the previous suit. The foundation principle upon which the doctrine rests is that the parties ought not to be permitted to litigate the same issue more than once; that when a right or fact has been judicially tried and determined by a court of competent jurisdiction, so long as it remains unreversed, it should be conclusive upon the parties and those in privity with them in law or estate.[15]

There are two distinct concepts of res judicata. The first is bar by prior judgment under Rule 39, Section 47(b), thus:

SEC. 47. Effect of judgments or final orders. - The effect of a judgment or final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:

x x x x

(b) In other cases, the judgment or final order is, with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their successors-in-interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity; x x x

and the second is conclusiveness of judgment under Rule 39, Section 47(c), thus:

(c) In any other litigation between the same parties or their successors in interest, that only is deemed to have been adjudged in a former judgment or final order which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto.

Pertinent to our case is the second concept, i.e. conclusiveness of judgment.

Conclusiveness of judgment applies when a fact or question has been squarely put in issue, judicially passed upon, and adjudged in a former suit by a court of competent jurisdiction. The fact or question settled by final judgment or order binds the parties, to that action (and persons in privity with them or their successors-in-interest), and continues to bind them while the judgment or order remains standing and unreversed by proper authority on a timely motion or petition; the conclusively settled fact or question furthermore cannot again be litigated in any future or, other action between the same parties or their privies and successors-in-interest, in the same or in any other court of concurrent jurisdiction, either for the same or for a different cause of action. Thus, only the identities of parties and issues are required for the operation of the principle of conclusiveness of judgment.[16]

While conclusiveness of judgment does not have the same barring effect as that of a bar by former judgment that proscribes subsequent actions, the former nonetheless estops the parties from raising in a later case the issues or points that were raised and controverted, and were determinative of the ruling in the earlier case. In other words, the dictum laid down in the earlier final judgment or order becomes conclusive and continues to be binding between the same parties, their privies and successors-in-interest, as long as the facts on which that judgment was predicated continue to be the facts of the case or incident before the court in a later case; the binding effect and enforceability of that earlier dictum can no longer be re-litigated in a later case since the issue has already been resolved and finally laid to rest in the earlier case.[17]

In *Hko Ah Pao*, one of the petitioners therein, Henry Teng, is herein petitioner and therein respondents are likewise herein respondents. For *res judicata* in the concept of conclusiveness of judgment, identity of causes of action and subject matter is not required; it is the identity of issues that is material.[18] The issue presented in *Hko Ah Pao* is the ownership over the Malate property. We held that petitioners failed to prove by preponderance of evidence that Teng Ching Lay was the real owner of the Malate property. The Court of Appeals reiterated the pertinent ruling in *Hko Ah Pao*, to wit:

It bears stressing that in the case of *Hko Ah Pao, Henry Teng and Anna Teng v. Laurence Ting, Anthony Ting and Edmund Ting* with herein petitioner and private respondents as among the parties therein, involving the same property located at 1723 Vasquez St., Malate, Manila, then covered by Transfer Certificate of Title No. 63991 in the name of the late Arsenio, which was subsequently cancelled and in lieu thereof TCT No. 134412 was issued in the name of herein private respondents on 03 July 1979, the Supreme Court held that, "(t)he evidence on record supports the assailed findings and conclusions specifically with regard to the ownership of the property in question that is reflected in the Torrens title which was issued in the name of Arsenio pursuant to the deed of sale." x x x "Consequently, since petitioners failed to prove that Teng Ching Lay was the real owner of the property involved therein, their proposition that a constructive trust exists must likewise fail." [19]

In the instant case, petitioner's assertion that the issue of advanced legitime should be ventilated in another forum touches upon the issue of ownership. To consider the disputed property as part of the legitime presupposes that the testator owns the property. Disingenuously, petitioner is seeking to revive the already settled issue of provisional ownership which has been settled in *Hko Ah Pao*. It is clear that there is identity of parties and subject matter in the two cases.

Hko Ah Pao does not bar the institution of the probate case but the pronouncement of ownership of the property belonging to Arsenio is conclusive upon the trial court a quo thereby precluding it from re-litigating the same issue.

It is significant to stress that the jurisdiction of the RTC as a probate court relates only to matters having to do with the settlement of the estate and probate of a will of a deceased person, and does not extend to the determination of a question of ownership that arises during the proceedings. This is true whether or not the

property is alleged to belong to the estate, unless the claimants to the property are all heirs of the deceased and they agree to submit the question for determination by the probate or administration court and the interests of third parties are not prejudiced; or unless the purpose is to determine whether or not certain properties should be included in the inventory, in which case the probate or administration court may decide prima facie the ownership of the property, but such determination is not final and is without prejudice to the right of interested parties to ventilate the question of ownership in a proper action. Otherwise put, the determination is provisional, not conclusive, and is subject to the final decision in a separate action to resolve title by a court of competent jurisdiction. The separate action contemplated by the rule had in fact already been instituted by herein petitioner in Hko Ah Pao through a petition for cancellation of title and partition with damages, which essentially questions ownership of the Malate property. At this juncture, we hold that there is no need to ventilate the issue of advanced legitimate vis-a-vis ownership in another forum because res judicata in the concept of conclusiveness of judgment has already set in.

WHEREFORE, the Petition is DENIED. The Court of Appeals' 2 May 2008 Decision and 28 August 2008 Resolution in CA-G.R. SP No. 100224 are hereby AFFIRMED.

SO ORDERED.

Velasco, Jr., (Chairperson), Peralta, Reyes, and Jardeleza, JJ., concur.

October 20, 2016

NOTICE OF JUDGMENT

Sirs / Mesdames:

Please take notice that on September 21, 2016 a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on October 20, 2016 at 1:55 p.m.

Very truly yours,

(SGD)

WILFREDO V. LAPITAN

Division Clerk of Court

[1] Rollo, pp. 26-42; Penned by Associate Justice Celia C. Librea-Leagogo with Associate Justices Regalado E. Maambong and Augustin S. Dizon concurring.

[2] Id. at 74-76 and 83-84.

[3] 534 Phil. 679 (2006).

[4] Rollo, pp. 52-54.

[5] Id. at 55-59.

[6] Id. at 56-58.

[7] Id. at 74-76.

[8] Id. at 76.

[9] Id. at 75.

[10] Id. at 75-76.

[11] Id. at 83-84.

[12] Id. at 84.

[13] Article 886 of the Civil Code of the Philippines.

[14] *Lachenal v. Salas*, 163 Phil. 252, 257 (1976) citing *Garcia v. Garcia*, 67 Phil. 353, 357 (1939); *Guinguing v. Abuton*, 48 Phil. 144, 147-148 (1925); *Junquera v. Borromeo*, 125 Phil. 1059, 1071 (1967), *Borromeo v. Canonoy*, 125 Phil. 1089, 1092-1093 (1967), citing *Junquera v. Borromeo*, 125 Phil. 1059, 1071 (1967).

[15] *Chu v. Cunanan*, 673 Phil. 12, 22-23 (2011).

[16] *Degayo v. Magbanua-Dinglasan*, G.R. Nos. 173148, 6 April 2015, 755 SCRA 1, 12.

[17] Id. at 12-13.

[18] *Layos v. Fil-Estate Golf and Dev't., Inc.*, 583 Phil. 72, 106 (2008).

[19] *Rollo*, p. 39.

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