

**CORAZON M. GREGORIO, AS ADMINISTRATRIX OF THE ESTATE
LITIGATED IN THE CASE BELOW, RAMIRO T. MADARANG, AND THE
HEIRS OF CASIMIRO R. MADARANG, JR., NAMELY: ESTRELITA L.
MADARANG, ...**

G.R. No. 185226. February 11, 2010

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Casimiro V. Madarang, Sr. (Casimiro, Sr. or the decedent) died intestate on June 3, 1995, leaving real and personal properties with an estimated value of P200,000.00.[1] He was survived by his wife Dolores and their five children, namely Casimiro, Jr., Jose, Ramiro, Vicente and Corazon.

In the intestate proceedings filed by the couple's son Jose which was lodged before the Regional Trial Court (RTC) of Cebu City, Branch 57, Dolores was appointed as administratrix of the intestate estate of Casimiro, Sr.[2]

Dolores submitted an Inventory Report listing the properties of the decedent's estate. Jose filed his Comment on the Report, alleging that it omitted six lots including Lot 829-B-4-B located in Cebu City which is covered by Transfer Certificate of Title No. 125429.

A hearing was thus conducted to determine whether the six lots formed part of the estate of the decedent. By Order of April 5, 2002, [3] the RTC, noting the following:

x x x The said properties appear to have been acquired by the spouses after [their marriage on] December 27, 1931 and during their marriage or coverture. Article 160 of the New Civil Code of the Philippines (which is the governing law in this particular case) is very explicit in providing that all properties of the marriage are presumed to belong to the conjugal partnership. This presumption, to the mind of the Court, has not been sufficiently rebutted by the special administratrix. [Dolores] This presumption applies and holds even if the land is registered under the wife's name as long as it was acquired during marriage (*De Guinoo vs. Court of Appeals*, G.R. No. L-5541, June 26, 1955) or even if the wife purchased the land alone (*Flores, et.al. Vs. Escudero, et.al.*, G.R. No. L-5302, March 11, 1953).[4] (underscoring supplied),

instructed Dolores to revise her Inventory Report to include the six lots.

Dolores and her children, except Jose who suggested that the former be referred to as "oppositors,"[5] questioned the RTC order of inclusion of the six lots via motion for reconsideration during the pendency of which motion the court appointed herein petitioner Corazon as co-administratrix of her mother Dolores.

As Dolores and her co-oppositors alleged that the six lots had been transferred during the lifetime of the decedent, they were ordered to submit their affidavits, in lieu of oral testimony, to support the allegation. Only herein respondent Vicente complied. In his Affidavit, Vicente declared that one of the six lots, Lot 829-B-4-B, was conveyed to him by a Deed of Donation executed in August 1992 by his parents Dolores and Casimiro, Sr.[6]

It appears that petitioners later manifested that they no longer oppose the provisional inclusion of the six lots, except Lot 829-B-4-B.

The RTC, by Order of January 20, 2003,[7] thus modified its April 5, 2002 Order as follows:

Of the six lots directed included in the inventory, Lot 829 B-4-B should be excluded. The administratrix is directed within sixty (60) days: (1) to submit a revised inventory in accordance with the Order dated April 5, 2002, as here modified; and (2) to render an accounting of her administration of the estate of Casimiro V. Madarang. (underscoring supplied),

Jose moved to reconsider the RTC January 20, 2003 Order, arguing that since the title to Lot 829-B-4-B remained registered in the name of his parents, it should not be excluded from the Inventory; and that the Deed of Donation in Vicente's favor was not notarized nor registered with the Register of Deeds. Jose's motion for reconsideration having been denied by Order of February 5, 2003, he filed a Notice of Appeal.

In his Brief filed before the Court of Appeals, Jose claimed that the RTC erred in excluding Lot 829-B-4-B from the Inventory as "what the lower court should have done was to . . . maintain the order including said lot in the inventory of the estate so Vicente can file an ordinary action where its ownership can be threshed out."

Jose later filed before the appellate court a "Motion to Withdraw Petition" which his co-heirs-oppositors-herein petitioners opposed on the ground that, inter alia, a grant thereof would "end" the administration proceedings. The appellate court, by Resolution of January 18, 2008,[8] granted the withdrawal on the ground that it would "not prejudice the rights of the oppositors."

Petitioners' motion for reconsideration of the appellate court's grant of Jose's Motion to Withdraw Petition was, by Resolution of November 6, 2008,[9] denied in this wise:

x x x x

In the instant case, the Probate Court found that the parties of the case interposed no objection to the non-inclusion of Lot No. 829-B-4-B in the inventory of the estate of Casimiro V. Madarang, in effect, they have consented thereto. x x x

x x x x

Moreover, [herein petitioners] in their appeal brief, ha[ve] extensively argued that . . . Vicente Madarang [to whom the questioned lot was donated] and his family have been in continuous, actual and physical possession of the donated lot for over twenty (20) years, even before the execution of the so called donation inter vivos in 1992. . . . Vicente Madarang has his residential house thereon and that his ownership over the donated lot has been fully recognized by the entire Madarang Clan, including all his brothers and sisters, except the much belated objection by the appellant (Jose), allegedly resorted to as an act of harassment. [10] (emphasis and underscoring supplied),

thus affirming the RTC order of exclusion of the questioned lot.

Hence, the present petition for review filed by the oppositors-herein petitioners. Casimiro, Jr. having died during the pendency of the case, he was substituted by his wife petitioner Estrelita and co-petitioners children Consuelo, Casimiro IV, and Jane Margaret.

Petitioners contend that since the only issue for consideration by the appellate court was the merit of Jose's "Motion to Withdraw Petition," it exceeded its jurisdiction when it passed upon the merits of Jose's appeal from the RTC order excluding Lot 829-B-4-B from the Inventory.

Petitioners' contention does not lie.

In their Motion for Reconsideration of the appellate court's grant of Jose's "Motion to Withdraw Petition," petitioners, oddly denying the existence of a "petition," raised the issue of the propriety of the RTC Order excluding Lot 829-B-4-B from the Inventory. Their prayer in their Motion clearly states so:

WHEREFORE, premises considered, Oppositors-Appellees [petitioners] respectfully PRAY for this Honorable Court to RECONSIDER its questioned Resolution and rendering [sic], forthwith, a decision resolving the merits of the Partial Appeal of petitioner-appellant Jose Madarang.[11] (capitalization in the original; emphasis supplied)

The appellate court did not thus err in passing on the said issue.

More specifically, petitioners question the appellate court's finding that as the parties "interposed no objection to the non-inclusion of Lot No. 829-B-4-B in the inventory of the estate of Casimiro V. Madarang, in effect, they have consented thereto." [12]

A review of the voluminous records of the case shows that, indeed, there was no accord among the parties respecting the exclusion of Lot 829-B-4-B.

While a probate court, being of special and limited jurisdiction, cannot act on questions of title and ownership, it can, for purposes of inclusion or exclusion in the inventory of properties of a decedent, make a provisional determination of ownership, without prejudice to a final determination through a separate action in a court of general jurisdiction.

The facts obtaining in the present case, however, do not call for the probate court to make a provisional determination of ownership of Lot 829-B-4-B. It bears stress that the question is one of collation or advancement by the decedent to an heir over which the question of title and ownership can be passed upon by a probate court.[13]

As earlier reflected, Vicente's claim of ownership over Lot 829-B-4-B rests upon a deed of donation by his father (decedent) and his mother.

Article 1061 of the Civil Code expressly provides:

Article 1061. Every compulsory heir, who succeeds with other compulsory heirs, must bring into the mass of the estate any property or right which he may have received from the decedent, during the lifetime of the latter, by way of donation, or any other gratuitous title, in order that it may be computed in the determination of the legitime of each heir and in the account of partition. (underscoring supplied)

in relation to which, Section 2, Rule 90 of the Rules of Court provides:

Sec. 2. Questions as to advancement to be determined. - 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. (emphasis and underscoring supplied)

By express provision of law then, Lot 829-B-4-B, which was alleged to have been donated by the decedent and his wife to their son-respondent Vicente, should not be excluded from the inventory of the properties of the decedent.

WHEREFORE, the petition is GRANTED. The assailed November 6, 2008 Resolution of the Court of Appeals is SET ASIDE. Petitioner Corazon M. Gregorio and her co-administratrix Dolores Madarang are DIRECTED to include Lot 829-B-4-B in the Inventory of the properties of the intestate estate of Casimiro V. Madarang, Sr.

Let the records of the case be remanded to the court of origin, the Regional Trial Court of Cebu City, Branch 57, which is DIRECTED to proceed with the disposition of the case with dispatch.

SO ORDERED.

Puno, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Villarama, Jr., concur.

[1] Records, Vol. 1, "Petition for Letters of Administration," p. 2.

[2] Id. at 44.

[3] Id. at 222-226.

[4] Id. at 225-226.

[5] Manifestation and Motion, id. at 273, 276-277.

[6] Id. at 305-306.

[7] Id. at 324-325.

[8] Penned by Associate Justice Francisco P. Acosta, with the concurrence of Associate Justices Pampio A. Abarintos and Amy C. Lazaro-Javier, records, Vol. 2, pp. 1242-1243.

[9] Id. at 1192-1202.

[10] Id. at 1197-1199.

[11] CA rollo, p. 121.

[12] Rollo, pp. 51-52.

[13] Reyes v. Hon. Regional Trial Court of Makati, Branch 142, G.R. No. 165744, August 11, 2008, 561 SCRA 593.

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