

NARCISO PENGSON, ADMINISTRATOR OF THE INTESTATE ESTATE OF MARIA DE MANO Y BERNABE, PLAINTIFF AND APPELLANT, VS. MODESTO TECSON ET AL., DEFENDANTS AND APPELLEES.

G.R. No. 35258. February 06, 1932

Ponente: IMPERIAL, J.

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IMPERIAL, J.:

Narciso Pengson, plaintiff, in his capacity as administrator of the estate of Maria de Mano y Bernabe, appealed from the order of the Court of First Instance of Bulacan reading as follows:

"When the present case came up for trial, there appeared only the defendants and their counsel Attorney Cirilo B. Santos, who, in view of the non-appearance of plaintiff and his counsel, prayed the court to dismiss this case, alleging that the plaintiff instituted this action as administrator but has now no judicial capacity to litigate, inasmuch as his management of the intestate estate was terminated by an order of this court dated January 16, 1929.

"The petition being well founded, the present case is hereby dismissed, without costs. So ordered."

This action was instituted by the appellant in the afore-mentioned capacity to recover the possession of a certain portion of land situated in the municipality of San Miguel, Province of Bulacan, P10,000 damages, and, according to the supplemental complaint, to recover of the appellees the sum of P1,500 as the market value of the said property, it having been adjudicated as lot No. 2279 of the cadastral proceedings of that province to the coappellee Modesto Tecson, to whom the proper certificate of title was issued. With the filing of the supplemental complaint, of course, the appellant waived the recovery of possession.

As has been stated, the appellant brought the action as judicial administrator of the estate of Maria de Mano y Bernabe, because the pleadings alleged that the latter was the real owner of the land which is the subject of this litigation; but it happened that while this case was pending an order was issued by the probate court terminating the intestate proceedings, which reads as follows:

"In going over the record of this case, the court is at a loss to understand how and why. many proper stages indispensable in this kind of proceeding were not diligently observed, and such an omission is tantamount to non-compliance with the legal provisions which are in force in this jurisdiction; under the circumstances, it is but the duty of the court, called upon to administer justice in a proper manner, to decree the termination of the instant case, without prejudice to the right of the Government to Collect the inheritance tax assessable upon the estate left by the deceased Maria de Mano y Bernabe. It being more than probable that the interested parties might have partitioned extra-judicially the estate left by the said deceased with a view to avoid the payment of inheritance tax collectible from the estate of said deceased, it is ordered by the court that the provincial fiscal of Bulacan who is, in this jurisdiction, the officer primarily upon to see to it that the law is duly enforced, conduct a thorough investigation of the person or persons who might ultimately have been benefited by the properties left by the deceased Maria de Mano y Bernabe, and who are holding actually their shares in the estate of the said deceased which is the only way from he can report to the Collector of Internal Revenue, the

actual condition, rather the status of this intestate proceeding, thus enabling the officer or officers of the Bureau of Internal Revenue to levy the inheritance tax due the Government upon the estate left by the deceased. Only in such a manner the Government may hold inviolate the paramount interests of the administration of justice, and consequently of the law itself.

"The termination of this case is, therefore, decreed, and the clerk of court is ordered to furnish a copy of this resolution to the provincial fiscal, as well as to the Collector of Internal Revenue, through the Secretary of Justice.

"It is so ordered.

"Given at Malolos, Bulacan, January 16, 1929.

"(Sgd.) ANASTASIO R. TEODORO

"Judge."

On January 20, 1931, when the case came up for hearing, only the defendants-appellees and their counsel appeared, and the latter prayed for the dismissal of the action on the ground that the plaintiff-appellant no longer had legal personality to continue it, since a competent court had decreed the termination of the intestate proceedings he represented. Exhibit A was presented as a certified copy of the order referred to. Finding the oral motion to be well founded, the court dismissed the case without costs.

The appellant finds three alleged errors in the order appealed from; but the only question of law to be decided is whether the order appealed from is valid or not. After a careful review of the case, we hold that the dismissal is legal and binding. The order terminating the proceedings in re estate of Maria de Mano y Bernabe was well founded, in view of the circumstances of the case, and had the effect of divesting the administrator-appellant of his office. But assuming that, for some good reason, the proceedings were not yet in a condition to be finally closed, it was the duty of the administrator to apply to the court to have the order set aside and the proceedings reopened. Without deciding that the appellant cannot, for good reasons, have recourse to such a procedure in order to obtain what he sought through this appeal, it is held that he had lost his personality as legal representative of the said deceased, and could not therefore, under the law, continue the litigation, at least until the probate court reopens the intestate proceedings.

Wherefore, reserving to the appellant, or to the legal representative of the late Maria de Mano y Bernabe, the right to exercise any action for the recovery of the sums of money involved in this case from the defendants herein, we affirm the appealed order, without special pronouncement of costs.

So ordered.

Avanceña, C. J., Johnson, Street, Malcolm, Villamor, Ostrand, Romualdez, and Villa-Real, JJ., concur.

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