

IN RE INTESTATE ESTATE OF THE DECEASED MAURICIA DE GUZMAN. PEDRO RODRIGUEZ ET AL., PETITIONERS AND APPELLANTS, VS. TRINIDAD MACTAL, ADMINISTRATRIX AND APPELLEE.

G. R. No. 39720. April 04, 1934

Ponente: GODDARD, J.

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GODDARD, J.:

This is an appeal from an order of the Court of First Instance of Nueva Ecija, issued in the intestate proceeding of Mauricia de Guzman, deceased, denying the motion of the appellants in which they sought to annul a sale, executed January 23, 1926, by the administratrix Trinidad Mactal, of a parcel of land to Silverio Choco and a resale of the same land on March 10, 1928, to the administratrix Trinidad Mactal.

The appellants Pedro, Catalina and Benigno Rodriguez, and the appellee Trinidad Mactal, are all heirs of Mauricia de Guzman whose estate is under administration in civil case No. 3152 of the Court of First Instance of Nueva Ecija. At the time the motion in question was filed in that case the appellants were 24, 19 and 15 years of age. Mauricia de Guzman died on March 22, 1922.

On March 17, 1923, the appellee Trinidad Mactal was appointed and duly qualified as administratrix of the intestate estate of Mauricia de Guzman. The committee of claims, on April 16, 1924, submitted a report in which the following claims against the estate were allowed: Irene de Gonzales and Isidro Gonzales for the sum of P3,050; Esperanza Fernandez and Fruto Aquino for P200; and the Philippine National Bank for P200.88, a total of P3,450.88 aside from the fees of the members of the committee of claims which amounted to P104. The report of this committee was approved by the court on April 29, 1924, and in this order of approval the court ordered the administratrix "que se provea de fondos para pagar las deudas admitidas por la Comision de Avaluo y Reclamaciones y sancionadas por el Juzgado." By reason of this order the administratrix in a motion dated May 13, 1924, prayed that she be allowed to sell the only parcel of land belonging to the estate with an area of 19 hectares, 79 ares and 74 centares for the purpose of paying debts. This land was a part of a parcel of land of 23 hectares, 79 ares and 74 centares, 4 hectares of which belonged to Teofilo Rodriguez. A copy of this motion was served upon Juliana del Rosario, the mother and guardian of the appellants, all of whom were minors and under her care at that time. That Juliana del Rosario was the guardian of her children is evidenced by the fact that she and Trinidad Mactal executed on July 6, 1922, a contract of lease of this same land to Timoteo de Guzman, at an annual rental of P150, in which it appears that Juliana del Rosario executed the same "en concepto de tutora de sus hijos" VOL. 60, APRIL 4, 1934 15

The court authorized the administratrix to sell the land for the sum of P9,000. Later it was found that no one would buy at that price and the authorized selling price was reduced to P7,000 and then, as the highest offer was for P3,800, the court, upon motion of the administratrix, fixed the selling price at no less than P3,800. Later the land was sold to Silverio Choco for the sum of P4,000 on January 23, 1926. Juliana del Rosario received a copy of

all motions. On February 16, 1926, the administratrix paid the approved claim of Irene de Gonzales and Isidro Gonzales of P3,050, and the claim of Esperanza Fernandez and Fruto Aquino of P200. The claim of the Philippine National Bank with interest thereon was also paid as were the fees of the members of the committee of claims amounting to "P104, the surveyor's fee of P120 for the segregation of the four hectares belonging to Teofilo Rodriguez and the overdue tax on the land amounting to more than P300.

These payments, all of which were made after the sale in favor of Silverio Choco, conclusively prove that that sale was not fictitious as alleged by the appellants. On March 10, 1928, more than two years later, Silverio Choco sold the same land to the spouses Pio Villar and Trinidad Mactal for the sum of P4,500, who in turn mortgaged it to the Philippine National Bank for the same amount. The appellants also allege that this sale was fictitious, that there was collusion between Silverio Choco and Trinidad Mactal and that the former never paid the latter the sum of P4,000. As we have seen, immediately after the sale to Choco, Trinidad Mactal paid out considerable sums of money, which undoubtedly came out of the P4,000 Choco paid her for the land.

The appellants rely on article 1459 of the Civil Code which reads in part as follows:

"The following persons cannot take by purchase, even at a public or judicial auction, either in person or through the mediation of another:

* * * * *

"2. An agent, any property of which the management or sale may have been intrusted to him;

"3. Executors, the property intrusted to their care;"

* * * * *

They insist the administratrix bought the land indirectly through the mediation of Silverio Choco and that both sales should be annulled under the provisions of the article cited above. The proofs in this case do not substantiate this claim of the appellants. The lower court refused to annul these sales and we find nothing in the record that would justify this court in reversing that finding. In order to bring the sale in this case within the part of article 1459, quoted above, it is essential that the proof submitted establish some agreement between Silverio Choco and Trinidad Mactal to the effect that Choco should buy the property for the benefit of Mactal. If there was no such agreement, either express or implied, then the sale can not be set aside. The evidence before this court does not establish such agreement.

The appellants also allege that the order of the court authorizing the administrator to sell the land in question is null and void due to the fact that the motion of Trinidad Mactal, praying that she be authorized to sell, was not accompanied by the written consent of the heirs or their duly authorized guardian. They rely upon section 714 of the Code of Civil Procedure which, before it was amended by Act No. 3882, provided that "* * * where a testator has not otherwise made sufficient provision for the payment of such debts and charges, the court, on application of the executor or administrator with the consent and approbation, in writing, of the heirs, devisees, and legatees, residing in the Philippine Islands, may grant a license to the executor or administrator to sell, mortgage or otherwise encumber for that purpose real, in lieu of personal estate, if it clearly appears that such sale, mortgaging or encumbrance of real estate would be beneficial to the persons interested and will not defeat any devise of land; in which case the assent of the devisee shall be required."

As amended by Act No. 3882, approved November 14, 1931, section 714 reads:

"Realty may be sold or encumbered.—When there is no personal estate of the deceased or when, though there be such, its sale would redound to the detriment of the interests of the participants in the estate and the

deceased has left no testamentary disposition for the payment of his debts and charges of administration, the court, on application of the executor or administrator, and on written notice to the heirs, devisees, and other persons interested, may grant him a license to sell, mortgage, or otherwise encumber for that purpose real estate, if it clearly appears that such sale, mortgaging or encumbrance would be beneficial to the persons interested and will not defeat any devise of land; in which case the assent of the devisee shall be required."

The last paragraph of this Act provides that it "shall take effect on its approval and shall be applicable to all testamentary or intestate proceedings pending at the time of its approval."

The record in this case shows that the intestate proceeding of Mauricia de Guzman, deceased, is still pending in the Court of First Instance of Nueva Ecija.

The appealed order of the lower court is affirmed with costs against the appellants-.

Malcolm, Villa-Real, Hull, and Imperial, JJ., concur.

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