

IN THE MATTER OF THE ESTATE OF THE DECEASED PAULINA VAZQUEZ VDA. DE GARCIA. TERESA GARCIA, PLAINTIFF AND APPELLANT, VS. LUISA GARCIA, MARIETA GARCIA, AND PURIFICACION GARCIA, AN...

G.R. No. 45430. April 15, 1939

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

After Luisa Garcia was appointed special administratrix of the properties left by the deceased Paulina Vasquez Vda. de Garcia, she filed with the competent court an inventory thereof on May 13, 1936.

On May 23, 1936, the heir Teresa Garcia objected to said inventory, taking exception to various items therein.

On June 20, 1936, the court issued the following order:

"Without prejudice to the filing of an ordinary action by the heir Teresa Garcia de Bartolome, the petition to include in the inventory certain properties of the estate, filed by Teresa Garcia and others with the conformity of counsel for the administratrix, is denied."

On July 28, 1936, Teresa Garcia filed a motion asking that she be appointed special administratrix of the intestate for the sole purpose of bringing any actions which she may believe necessary to recover for the benefit of the intestate the properties and credits set out in her motion, as well as other properties which might be discovered from time to time belonging to the said intestate.

After hearing said motion and the administratrix' opposition thereto, the Court of First Instance of Manila denied the motion by its order of August 19, 1936.

On motion for reconsideration filed by Teresa Garcia, which was opposed by the administratrix, the court issued the following order of September 28, 1936:

"This is a motion for reconsideration of the order of this Court of the 19th day of August last, denying the petition of Teresa Garcia, one of the daughters of the deceased, wherein she asked to be appointed special administratrix in order that she might bring an action for the recovery of certain properties which she claims belong to the estate and are in the possession of the regular administratrix and her other sisters.

"Before this petition was filed a hearing had been held to determine the ownership of these properties as a direct result of Teresa Garcia's objection to the inventory filed by the administratrix, in which, it was alleged, those properties should be included. Now the same party upon whose complaint that hearing was conducted repudiates the steps taken by the court on the ground of alleged lack of jurisdiction.

"The interrupted proceeding which the motion under consideration would have set aside was by no means irregular. It is in accordance with the general practice constantly followed in this jurisdiction. The jurisdiction to try controversies between heirs of a deceased person regarding the ownership of properties alleged to belong

to his estate, is vested in probate courts. In the last analysis, the purpose of intestate proceeding is the distribution of the decedent's estate among the persons entitled to succeed him. It is in the nature of an action of partition, and in a suit of partition it is proper that each party be required to bring into the mass whatever community property he or she may have in his or her 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.

"The cases relied upon by the movant have no bearing on the present case. In the cases cited, not only were the persons alleged to have in their possession properties of the estate strangers to the intestate, but their appearance had been ordered under different provisions and for a different purpose. The court was not aware of the fact that a proceeding under section 709 of the Code of Civil Procedure is not to try title to property.

"However that may be, the jurisdiction involved here is one over the person, not over the subject-matter; and it is a well-established rule that such jurisdiction may be acquired by consent. A general appearance, let alone going into trial without objection, has been always held to constitute a waiver of the party's right to object to the authority of the court over his person. The administratrix and other heirs have not objected.

"The motion for reconsideration is denied. The movant may however ask, if she cares to do so, that this proceeding be reset for the continuation of the hearing of her inventory of the administratrix and the determination of whether the properties in question belong to the estate and should be included in the said inventory for disposition according to law.

"So ordered."

From the foregoing order Teresa Garcia took this appeal, assigning four alleged errors committed by the lower Court in its order, which errors boil down to the proposition of whether or not a court has jurisdiction to hear and pass upon the exceptions which an heir takes to an inventory of the properties left by a deceased referring to the inclusion or exclusion of certain properties and credits.

It is the duty of every administrator, whether special or regular, imposed by section 668 of the Code of Civil Procedure, to return to the court within three months after his appointment a true inventory of the real estate and all the goods, chattels, rights, and credits of the deceased which come into his possession or knowledge, unless he is residuary legatee and has given the prescribed bond. The court which acquires jurisdiction over the properties of a deceased person through the filing of the corresponding proceedings, has supervision and control over the said properties, and under the said power, it is its inherent duty to see that the inventory submitted by the administrator appointed by it contains all the properties, rights and credits which the law requires the administrator to set out in his inventory. In compliance with this duty the court has also inherent power to determine what properties, rights and credits of the deceased should be included in or excluded from the inventory. Should an heir or person interested in the properties of a deceased person duly call the court's attention to the fact that certain properties, rights or credits have been left out in the inventory, it is likewise the court's duty to hear the observations, with power to determine if such observations should be attended to or not and if the properties referred to therein belong *prima facie* to the intestate, but no such determination is final and ultimate in nature as to the ownership of the said properties (28 C. J., p. 1163, par. 381).

The lower court, therefore, had jurisdiction to hear the opposition of the heir Teresa Garcia to the inventory filed by the special administratrix Luisa Garcia, as well as the observations made by the former as to certain properties and credits, and to determine for purposes of the inventory alone if they should be included therein or excluded therefrom. As Teresa Garcia withdrew her opposition after evidence was adduced tending to show whether or not

certain properties belonged to the intestate and, hence, whether they should be included in the inventory, alleging that the lower court had no jurisdiction to do so, she cannot be heard to complain that the court suspended the trial of her opposition.

In view of the foregoing, we are of the opinion and so hold, that a court which takes cognizance of testate or intestate proceedings has power and jurisdiction to determine whether or not the properties included therein or excluded therefrom belong prima facie to the deceased, al though such a determination is not final or ultimate in nature, and without prejudice to the right of the interested parties, in a proper action, to raise the question bearing on the ownership or existence of the right or credit.

Wherefore, the appealed order is affirmed, reserving to Teresa Garcia the right to ask for the reopening of the hearing of her opposition to the inventory, as well as to ask for the appointment of a special administrator in accordance with law, with the costs to the appellant. So ordered.

Avanceña, C. J., Imperial, Diaz, Laurel, Concepcion, and Moran, JJ., concur.

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