

**PASCUAL FALCASANTOS AND LORETO MARCELINO,
PLAINTIFFS-APPELLEES, VS. TIBURCIO FALCASANTOS, AS
ADMINISTRATOR OF THE INTESTATE ESTATE OF THE DECEASED
AMBROSIO FALCASANTOS, DEFENDAN...**

G.R. No. 4627. May 13, 1952

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

The present appeal of the intervenors was first taken to the Court of Appeals where the briefs for the parties were subsequently presented. After studying the case, said appellate court finding that the appeal involves only questions of law, by resolution certified the same to us.

The plaintiffs-appellees, PASCUAL FALCASANTOS and his wife LORETO MARCELINO, claim to have bought by virtue of two private instruments in 1939 and 1941 lots 2145 and 2223, respectively of Expediente No. 5 Record No. 477 of the City of Zamboanga described in Original Certificates of Title Nos. 8886 and 9040 from Ambrosio Falcasantos, now deceased. They filed the present action on December 27, 1948 to compel TIBURCIO FALCASANTOS, duly appointed administrator in Special Case No. 150, Court of first Instance of Zamboanga, of the estate of Ambrosio Falcasantos who died on June 20, 1947, to execute the necessary deeds of sale of the two lots in question so that they could be registered in the office of the Register of Deeds. Defendant administrator in his answer says that he has no knowledge or information sufficient to form a belief as to the claim made regarding the alleged sale of the lots by the deceased Ambrosio Falcasantos. However, on the day of the hearing he entered into a stipulation of facts with the plaintiffs to the effect that on October 13, 1941, during the lifetime of Ambrosio Falcasantos, plaintiffs had filed a suit against him, Civil Case No. 2536, Baking part of the complaint the two private documents of sale executed by Ambrosio, to compel him to execute the corresponding deeds of sale of the two lots involved, but that the war came, and the record of said case was destroyed; that Ambrosio Falcasantos died on June 20, 1947 and that on August 10, 1948, herein plaintiffs applied for the reconstitution of the destroyed record in Civil Case No. 2536, but the application was denied by the Court because it was filed out of time. On the basis of said stipulation of facts plaintiffs and defendants submitted the case for decision. On the same day Florencio de Leon and his wife Filomena Lago filed a motion for Intervention alleging that the two lots had already been sold to them, and that they are now in possession of the same. Plaintiffs and defendant objected to the intervention on the ground that the case had already, been submitted for decision, and that the movants-intervenors had no interest in the suit.

On July 13, 1949, the trial court rendered decision denying the motion for intervention on the ground that it was filed too late when the case had already been submitted by the parties, and granting the remedy prayed for in the complaint. Movants-intervenors filed a motion for reconsideration attaching to their motion a copy of a deed of sale of the two lots, purporting to have been executed by the deceased Ambrosio Falcasantos in favor of movants predecessors-in-interest, as well as the deeds of sale said to have been executed by the said predecessors-in-interest in favor of movants-intervenors. It is further claimed that the property had been

mortgaged to the Agricultural and Industrial Bank at Cebu to secure a loan given to Ambrosio, and that movants-intervenors had paid this loan and had the mortgage cancelled as shown by their annexes attached to their motion. They also asserted that their possession of the two lots had never been disturbed either by the plaintiffs or by the defendant-administrator. Lastly, it was Insinuated that the administrator who is a brother of plaintiff Pascual was in connivance with him as shown by the stipulation of facts which practically is a confession of judgment. It was further claimed that movants-intervenors came to know of the case between plaintiffs and defendant-administrator only on the very day of the hearing when the parties entered into a stipulation of facts and submitted the case for decision, and that they immediately filed their motion of intervention. The motion for reconsideration was denied, and the movants-intervenors are appealing from that order of denial, making the following assignment of errors:

I

THAT THE LOWER COURT ERRED IN NOT ALLOWING THE INTERVENORS TO INTERVENE AS AN OBJECTION AND OPPOSITION UNDER THE PROVISIONS OF SECTION 8 OF RULE 90 OF THE RULES OF COURT.

II

THAT THE LOWER COURT ERREDD IN NOT OBLIGING THE PLAINTIFFS TO COMPLY WITH THE PROVISIONS OF SECTION 8 OF RULE 90 OF THE RULES OF COURT BEFORE ENTERING INTO THE TRIAL OF THE CASE AT BAR.

III

THAT THE LOWER COURT LIKEWISE ERRED IN NOT DISMISSING THE COMPLAINT AGAINST THE DEFENDANT-ADMINISTRATOR AS THE LATTER HAS NO JUDICIAL PERSONALITY TO BE SUED IN THE CASE AT BAR UNDER ARTICLES 1279 AND 1280 OF THE CIVIL CODE (OLD CODE).

IV

THAT THE LOWER COURT ERRED IN DENYING THE INTERVENORS TO INTERVENE EITHER AS INDISPENSABLE OR NECESSARY PARTIES ON THE GROUND IT IS FILED OUT OF TIME.

After a careful study of the case we are convinced that the trial court erred in not allowing the appellants to intervene either as indispensable or necessary parties. True, allowing or disallowing a motion for intervention depends upon the discretion of the court. However, said discretion should be exercised properly and after considering all the circumstances obtaining in the case. That the motion for intervention in the present case was filed rather late, on the day when the case was already submitted for decision, by the plaintiffs and the defendant, is true, but it was not so late that it would have unduly delayed the disposition of the case and substantially impaired the rights of the original parties. On the other hand, the facts as may be gleaned from the pleadings, including the motion for intervention as well as the motion for reconsideration pointed to the advisability, even necessity of having the movants-intervenors take part in the proceedings.

It would seem that the deceased Ambrosio in his lifetime promised to convey the property in question to the plaintiffs, to executing the necessary deed of sale, a promise which he did not and would not fulfill, and for that reason the plaintiffs, just before the Pacific War, sued him in court. However although he survived the war because he died only in 1947, and the records of that suit were destroyed, plaintiffs rather neglected to have said records reconstituted as a result of which, their belated application for reconstitution was denied for having been filed out of time. It would also seem that said Ambrosio in October 1946, conveyed the same property to other persons who in turn conveyed them to the movants-intervenors, allegedly by virtue of a public instruments, all of

which instruments were never registered. The property is said to have been mortgaged to a bank to secure a loan obtained by Ambrosio, and movants-intervenors claim that they paid that loan to the bank and cancelled the encumbrance, and what is more, that they acquired possession and are still in possession of the land and had been paying taxes thereon, and that neither the plaintiffs nor the defendant-administrator had molested them in their possession. The movants-intervenors also insinuate, if not claim that the defendant-administrator who is supposed to protect the interest of the heirs of the estate which he is administering, is a brother of one of the plaintiffs, seems to have acted in connivance with him as shown by the stipulation into which he had entered with the plaintiffs, admitting all the allegations of the complaint, practically confessing judgment. With all these circumstances attending it was most advisable, if not imperative that the plaintiffs on the one hand and the movants-intervenors on the other, should face each other in establish court or refute each other's claims so that the court in the same case may decide the relative rights of the parties as to the property in question.

The plaintiffs who had vigorously opposed the motion for intervention could not have gained much, if anything by having the case decided independent of and without the intervenors for although they might have won the suit against the administrator, their right thus established would have been far from absolute, but only relative as regards the claim of the intervenors who later could and would file another suit to prove title to the property in themselves.

The appellants contend that according to cases decided by this Court, where a deceased in his lifetime promised or undertook to do something in favor of a party, to enforce that obligation after his death, the obligee should bring action not against his administrator, but against bis heirs, and that consequently, the present suit was not against the right parties.[1] Appellants also claim that inasmuch as the property in question is under custody of the court because it is. under administration in Special Case No. 150, the action brought by the plaintiffs to compel the administrator to convey the property may well be regarded as coming under the provisions of Rule 90, Sec. 8 of the Rules of Court which provides that when the deceased was in his lifetime under contract to deed real property, the court having Jurisdiction of the estate may, on application authorize the administrator to convey such property in pursuance of that contract, but that no such conveyance shall take place until notice for that purpose shall have been given to all persons interested and such further notice by publication or otherwise as the court may deem proper. However, according to the appellants, they had never been notified of the present proceedings, and that is the reason why they filed their motion for intervention only on the day of the hearing, and when the case was submitted for decision because that was the first time that they had knowledge of the suit.

We need not pass upon this claim and contention of the movants-intervenors in view of our conclusion that the motion for intervention should have been allowed, altho the trial court will do well to consider this phase of the case. Finding that the trial court acted with grave abuse of discretion in disallowing the motion for intervention, its order of denial is hereby reversed with costs, and the case is ordered returned to the trial court with instructions to admit said motion for intervention.

Paras Feria, Pablo, Bengzon, Tuason, and Bautista Angelo, JJ., concur.
Padilla, Reyes, Jugo, and Labrador, JJ., did not take part.

[1] Mojica v. Fernandez, 9 Phil. 403; Araneta v. Montelibano 14 Phil. 117.

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