

**FRANCISCO CUIZON, ROSITA CUIZON, PURIFICACION C. GUIDO
MARRIED TO TEODORO GUIDO, AND JUAN ARCHE, PETITIONERS,
VS. HON. JOSE R. RAMOLETE, PRESIDING JUDGE OF THE COURT OF
FIRST IN...**

G.R. No. 51291. May 29, 1984

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

The sole issue in this petition for certiorari is whether or not a probate court has jurisdiction over parcels of land already covered by a Transfer Certificate of Title issued in favor of owners who are not parties to the intestate proceedings if the said parcels have been included in the inventory of properties of the estate prepared by the administrator.

For a clearer understanding of the present case, the background facts may be appreciated. As far back as 1961, Marciano Cuizon applied for the registration of several parcels of land located at Opao, Mandaue City then covered by Certificates of Tax Declaration in Land Registration Case No. N-179. In 1970, he distributed his property bet-ween his two children, Rufina and Irene. Part of the property given to Irene consisted largely of salt beds which eventually became the subject of this controversy.

On December 29, 1971, Irene Cuizon executed a Deed of Sale with Reservation of Usufruct involving the said salt beds in favor of the petitioners Francisco, Rosita and Purificacion, all surnamed Cuizon. At that time, Francisco and Rosita were minors and assisted by their mother, Rufina, only sister of Irene. However, the sale was not registered because the petitioners felt it was unnecessary due to the lifetime usufructuary rights of Irene.

Although the decision in L.R. Case No. N-179 was rendered way back in 1962, the decree of registration No. N-161246 and the corresponding Original Certificate of Title No. 0171 was issued only in 1976 in the name of Marciano Cuizon. In that same year, Transfer Certificate of Title No. 10477 covering the property in question was issued by the Register of Deeds to Irene Cuizon. The latter died in 1978. In the extrajudicial settlement of the estate, her alleged half sister and sole heir Rufina adjudicated to herself all the property of the decedent including the property in question. After the notice of the extrajudicial settlement was duly published in a newspaper of general circulation, Rufina thereafter, executed a deed of Confirmation of Sale wherein she confirmed and ratified the deed of sale of December 29, 1971 executed by the late Irene and renounced and waived whatever rights, interest, and participation she may have in the property in question in favor of the petitioners. The deed was duly registered with the Registry of Deeds and annotated at the back of TCT No. 10477. Subsequently, TCT No. 12665 was issued in favor of the petitioners.

On September 28, 1978, a petition for letters of administration was filed before the Court of First Instance of Cebu (Sp. Proc. No. 3864-R) by respondent Domingo Antigua, allegedly selected by the heirs of Irene numbering seventeen (17) in all to act as administrator of the estate of the decedent. The petition was granted.

Respondent Antigua as administrator filed an inventory of the estate of Irene. He included in the inventory the property in question which was being administered by Juan Arche, one of the petitioners. On June 27, 1979, respondent Antigua filed a motion asking the court for authority to sell the salt from the property and praying that petitioner Arche be ordered to deliver the salt to the administrator. The motion was granted and respondent court issued the following order:

"The administrator, thru this motion, informs the Court that the estate owns some beds and fish pond located in Opao, Mandaue City; that these salt beds are producing salt which are now in the warehouse in Mandaue City, under the custody of Juan Arche; that the value of the salt in the warehouse is estimated to be worth P5,000.00 are beginning to melt and, unless they are sold as soon as possible, they may deprecate in value. It is likewise prayed in this motion that Juan Arche be ordered to deliver the salt in question to the administrator such other products of the land now in his (Juan Arche) possession.

xxx xxx xxx

"Let this motion be, as it is hereby GRANTED. The administrator is hereby authorized to sell the salt now in the custody of Juan Arche and the latter (Juan Arche) is hereby ordered to deliver the salt in question to the administrator in order to effect the sale thereof and he is likewise directed to deliver such other products of the land to the administrator.'

Subsequently, on three different occasions, respondent Segundo Zambo with the aid of several men, sought to enforce the order of the respondent court, compelling the petitioners to come to us on certiorari. On September 14, 1979, we issued a restraining order enjoining the respondents from enforcing the above order of the respondent court and from further interfering with the petitioners in their peaceful possession and cultivation of the property in question.

The thrust of the petitioners' argument is that the respondent court, as a court handling only the intestate proceedings, had neither the authority to adjudicate controverted rights nor to divest them of their possession and ownership of the property in question and hand over the same to the administrator. Petitioners further contend that the proper remedy of the respondent administrator is to file a separate civil action to recover the same.

On the other hand, the respondent administrator banked on the failure of the petitioners to first apply for relief in the court of origin before filing the present petition. According to him this was a fatal defect. In addition, the administrator stated that the deed of sale of December 29, 1971 lost its efficacy upon the rendition of judgment and issuance of the decree in favor of Irene Cuizon.

It is a well-settled rule that a probate court or one in charge of proceedings whether testate or intestate cannot adjudicate or determine title to properties claimed to be a part of the estate and which are equally claimed to belong to outside parties. All that the said court could do as regards said properties is to determine whether they should or should not be included in the inventory or list of properties to be administered by the administrator. If there is no dispute, well and good; but if there is, then the parties, the administrator, and the opposing parties have to resort to an ordinary action for a final determination of the conflicting claims of title because the probate court cannot do so (*Mallari v. Mallari*, 92 Phil. 694; *Baquial v. Amihan*, 92 Phil. 501).

Similarly, in *Valero Vda. de Rodriguez v. C.A.*, (91 SCRA 540) we held that for the purpose of determining whether a certain property should or should not be included in the inventory, the probate court may pass upon the title thereto but such determination is not conclusive and is subject to the final decision in a separate action regarding ownership which may be instituted by the parties (3 Moran's Comments on the Rules of Court, 1970 Edition, pages 448-9 and 473; *Lachenal v. Salas*, L-42257, June 14, 1976, 71 SCRA 262, 266).

In the instant case, the property involved is not only claimed by outside parties but it was sold seven years before

the death of the decedent and is duly titled in the name of the vendees who are not party to the proceedings. In *Bolisay v. Alcid*, (85 SCRA 213), this Court was confronted with a similar situation. The petitioners therein sought to annul the order of the respondent court in a special proceeding which in effect ruled that notwithstanding that the subject property was duly titled in the name of petitioners, the administratrix of the intestate estate involved in said proceeding had the right to collect the rentals of said property over the objection of the titled owners just because it was included in the inventory of said estate and there was an ordinary action in the regular court over the ownership thereof and the estate was one of the parties therein. This Court viewed the petition as one seeking for a prima facie determination and not a final resolution of the claim of ownership.

We held that:

"xxx Considering that as aforesated the said property is titled under the Torrens System in the names of the petitioners, it does appear strange, in the light of the probate court's own ruling that it has no jurisdiction to pass on the issue of ownership, that the same court deemed the same as part of the estate under administration just because the administratrix, alleges it is still owned by the estate and has in fact listed it in the inventory submitted by her to the court.

"It does not matter that respondent administratrix has evidence purporting to support her claim of ownership, for, on the other hand, petitioners have a Torrens title in their favor, which under the law is endowed with incontestability until after it has been set aside in the manner indicated in the law itself, which, of course, does not include, bringing up the matter as a mere incident in special proceedings for the settlement of the estate of deceased persons. In other words, in Our considered view, the mere inclusion in the inventory submitted by the administrator of the estate of a deceased person of a given property does not of itself deprive the probate court of authority to inquire into the property of such inclusion in case an heir or a third party claims adverse title thereto. To hold otherwise would render inutile the power of that court to make a prima facie determination of the issue of ownership recognized in the above quoted precedents. The correct rule is that the probate court should resolve the issue before it provisionally, as basis for its inclusion in or exclusion from the inventory. It does not even matter that the issue is raised after approval of the inventory because "ap-parently, it is not necessary that the inventory and appraisal be approved by the Court." (Francisco on the Rules of Court Vol. V-B, p. 99, citing *Siy Chong Keng v. Collector of Internal Revenue*, 60 Phil. 494)

"In regard to such incident of inclusion or exclusion, We hold that if a property covered by Torrens Title is involved, the presumptive conclusiveness of such title should be given due weight, and in the absence of strong compelling evidence to the contrary, the holder thereof should be considered as the owner of the property in controversy until his title is nullified or modified in an appropriate ordinary action, particularly, when as in the case at bar, possession of the property itself is in the persons named in the title."

Having been apprised of the fact that the property in question was in the possession of third parties and more important, covered by a transfer certificate of title issued in the name of such third parties, the respondent court should have denied the motion of the respondent administrator and excluded the property in question from the inventory of the property of the estate. It had no authority to deprive such third persons of their possession and ownership of the property. Respondent court was clearly without jurisdiction to issue the order of June 27, 1979. Thus, it was unnecessary for the petitioners to first apply for relief with the intestate court.

Even assuming the truth of the private respondents' allegations that the sale of December 29, 1971 was effected under suspicious circumstances and tainted with fraud and that the right of Rufina as alleged half-sister and sole heir of Irene remains open to question, these issues may only be threshed out in a separate civil action filed by the respondent administrator against the petitioners and not in the intestate proceedings.

WHEREFORE, the petition for certiorari is GRANTED and the respondent court's order dated June 27, 1979 is hereby set aside and declared void as issued in excess of its jurisdiction. Our restraining order enjoining the

enforcement of the June 27, 1979 order and the respondents from further interfering, through the intestate proceedings, in the peaceful possession and cultivation of the land in question by the petitioners is hereby made PERMANENT. SO ORDERED.

Teehankee, (Chairman), Melencio-Herrera, Plana, Relova, and De la Fuente, JJ., concur.

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