

THE HONORABLE COURT OF FIRST INSTANCE OF RIZAL, BRANCH IX, QUEZON CITY, AND ELENA ONG ESCUTIN, PETITIONERS, VS. THE HONORABLE COURT OF APPEALS AND FELIX ONG, RESPONDENTS, GAN HE...

G.R. No. 51785. July 25, 1981

Ponente: CONCEPCION Jr., J.

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CONCEPCION Jr., J.:

Review on certiorari of the resolution of the Court of Appeals promulgated on June 21, 1979 in CA-G.R. No. 08472-SP, entitled: "Felix Ong, petitioner, versus Hon. Court of First Instance of Rizal, Branch IX, Quezon City and Elena Ong Escutin, respondents", which set aside the order of the probate court in Spec. Proc. No. Q-14700, "Testate Estate of the late Ponciano Ong Lacson; Elena Ong Escutin, executrix", confirming the sale of property belonging to the estate in favor of the intervenor Gan Heng.

The record shows that on October 20, 1977, Elena Ong Escutin, executrix of the Testate Estate of the Late Ponciano Ong Lacson, asked the probate court in Spec. Proc. No. Q-14700 of the Court of First Instance of Rizal, Branch IX, Quezon City, for authority to sell property of the estate in order to pay the taxes and other claims against the estate. After a cursory inquiry on the current market value of properties within the vicinity where the property to be sold is located, the probate court, in an order dated February 3, 1978, authorized the executrix to sell the property for not less than P360,000.00.

On February 28, 1978, the executrix sold the property to the herein intervenor, Gan Heng, for P400,000.00, and from this amount she paid the taxes amounting to P54,480.28. On March 16, 1978, she submitted the Deed of Sale to the probate court for approval and the hearing thereof was set for April 17, 1978.

On April 11, 1978, however, Felix Ong filed an opposition to the approval of the sale, alleging, among others, that he (Felix Ong) had offered to buy the property at a higher price of P450,000.00, which claim was denied by the executrix. In view thereof, the probate court set for hearing the only issue of whether or not Felix Ong had made an offer to purchase the property for P450,000.00 before the sale was made in favor of Gan Heng.

After hearing, or on August 10, 1978, the probate court found that Felix Ong had not made an offer to buy the property prior to its sale to Gan Heng, and approved the sale to Gan Heng.[1]

Whereupon, Felix Ong filed a petition for certiorari with the Court of Appeals, docketed therein as CA-G.R. No. 08472-SP, to annul and set aside the order of the probate court approving the sale, and to direct the probate court and the executrix to accept his offer to buy the property for P450,000.00. After prior proceedings, the Court of Appeals rendered a decision on April 6, 1979, dismissing the petition of Felix Ong.[2]

However, on June 21, 1979, the Court of Appeals, acting upon the motion for reconsideration filed by Felix Ong, found that the probate court gravely abused its discretion in approving the sale to Gan Heng since there was an offer from Felix Ong to buy the property at a higher price at the hearing of the motion for the approval of the sale

to Gan Heng and, consequently, reversed its previous decision and granted the petition of Felix Ong.[3]

Hence, the present recourse.

The petitioners contend that the Court of Appeals erred in setting aside the order of the probate court approving the sale of the property to Gan Heng; and in ordering them (petitioners) to accept the offer of Felix Ong to buy the property for P450,000.00.

There is merit in the contention. Whether or not Felix Ong had offered P450,000.00 for the property is of little importance. It appears that the sale sought to be annulled is a private sale duly authorized by the probate court and not a public auction sale, although the executrix had offered the property to different persons, so that Felix Ong, who merely offered to buy the property, has no legal personality to impugn the validity of the said sale. It is well-settled that for a person to be able to intervene in an administration proceeding concerning the estate of a deceased person, it is necessary for him to have an interest in such estate. An interested party in the estate of a decedent has been defined as one who would be benefitted by the estate, such as an heir, or one who has a claim against the estate, such as a creditor.[4] Felix Ong does not claim to be a creditor of the estate of Ponciano Ong Lacson. Neither is he an heir of the decedent. Consequently, he has no right to intervene either in the proceedings brought in connection with the estate or in the settlement of the succession.[5]

At any rate, in a special proceeding for administration of an estate, the probate court enjoys ample discretion in determining under what conditions a particular sale would be most beneficial to all persons interested, and appellate courts are wont not to interfere with or attempt to replace the action taken by it unless it be shown that there has been positive abuse of discretion.[6] In the instant case, the offer of Felix Ong to buy the property at a higher price would not make the approval of the sale a grave abuse of discretion because the difference in the prices was not the only factor taken into consideration by the probate court in approving the sale. As the probate court said: "The price was not at all bad and although Felix Ong and/or Manuel Ong are willing to pay P50,000.00 more which would benefit the estate, we are not inclined to disapprove the sale on that account alone; as otherwise, this could put the executrix in a very embarrassing position. After all, the Deed of Sale as executed is in accordance with our order."

Besides, the creditors of the estate and the heirs of the late Ponciano Ong Lacson, including Ponciano Ong Lacson, Jr., who manifested, through counsel, that he has no objection to selling the property to Felix Ong,[7] did not actively oppose the sale of the property to Gan Heng, such that there is no indication that the sale to the said Gan Heng was not beneficial to the estate.

Moreover, Felix Ong did not comply with the provisions of Section 3, Rule 89 of the Rules of Court by submitting a bond in order to prevent the sale of the property. Said section reads, as follows:

"Sec. 3. Persons interested may prevent such sale, etc., by giving bond. - No such authority to sell, mortgage, or otherwise encumber real or personal estate shall be granted if any person interested in the estate gives a bond, in a sum to be fixed by the court, conditioned to pay the debts, expenses of administration, and legacies within such time as the court directs; and such bond shall be for the security of the creditors, as well as of the executor or administrator, and may be prosecuted for the benefit of either."

It results that the Court of Appeals erred in setting aside the order of the probate court approving the sale of the property to Gan Heng; and in ordering the executrix to accept the bid of Felix Ong to buy the property.

With respect to the prayer of the executrix that she be allowed to withdraw her Motion to Approve Sale and Motion to Sell, which she filed with the probate court, on the ground that the said sale is detrimental to the estate because the property is now worth P1,000,000.00, it is important to bear in mind that the sale was actually made

and the vendee, intervenor herein, made the purchase in good faith. He had already paid the purchase price to the executrix who used part of it "to pay the estate and inheritance taxes due from the estate of the late Ponciano Ong Lacson, Sr., and his late wife Eugenia Ocampo Lacson as well as in the necessary repairs made to preserve the family residence and the 4-door apartment building belonging to the estate." [8] It would be highly iniquitous to set aside the sale after the executrix had accepted benefits therefrom. Besides, it has already been held that the subsequent increase in the value of the property is not sufficient reason for turning down a conveyance made by an administrator of an estate. [9]

WHEREFORE, the judgment appealed from is hereby reversed, and another one entered affirming the order of the probate court issued in Spec. Proc. No. Q-14700 of the Court of First Instance of Rizal, Branch IX, Quezon City, entitled: "Testate Estate of the Late Ponciano Ong Lacson, Sr., Dra. Elena Ong Escutin, executrix," on August 10, 1978. With costs against Felix Ong.

SO ORDERED.

Barredo, (Chairman), Guerrero, and De Castro, JJ., concur.
Aquino, J., in the result.

[1] Rollo, p. 51.

[2] Id., p. 58.

[3] Id., p. 67.

[4] Saguinsin vs. Lindayag, 116 Phil. 1193.

[5] Litonjua vs. Montilla, 90 Phil. 757.

[6] Fernandez vs. Montejo, 109 Phil. 701.

[7] Rollo, p. 132.

[8] Id., p. 127.

[9] Cruz vs. Ilagan, 81 Phil. 554.

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