

TOMAS JIMENEZ, VISITACION JIMENEZ, DIGNO JIMENEZ, ANTONIO JIMENEZ, AMADEO JIMENEZ, MODESTO JIMENEZ AND VIRGINIA JIMENEZ, PETITIONERS, VS. HONORABLE INTERMEDIATE APPELLATE COURT,...

G.R. NO. 75773. April 17, 1990

Ponente: FERNAN, C.J.

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FERNAN, C.J.:

This is a petition for review on certiorari seeking to reverse and set aside the decision[1] of the Court of Appeals dated May 29, 1986 which dismissed the petition for certiorari and mandamus in AC-G.R. No. 06578 entitled "Tomas Jimenez, et. al vs. Hon. Amanda Valera-Cabigao."

The facts are as follows:

The marriage of Leonardo (Lino) Jimenez and Consolacion Ungson produced four (4) children, namely: Alberto, Leonardo, Sr., Alejandra and Angeles. During the existence of the marriage, Lino Jimenez acquired five (5) parcels of land in Salomague, Bugallon, Pangasinan.

After the death of Consolacion Ungson, Lino married Genoveva Caolboy with whom he begot the seven petitioners herein: Tomas, Visitacion, Digno, Antonio, Amadeo, Modesto and Virginia, all surnamed Jimenez. Lino Jimenez died on August 11, 1951 while Genoveva Caolboy died on November 21, 1978.

Thereafter, in April 1979, Virginia Jimenez filed a petition before the Court of First Instance of Pangasinan, Branch V, docketed as Special Proceedings No. 5346, praying to be appointed as administratrix of the properties of the deceased spouses Lino and Genoveva. Enumerated in her petition were the supposed heirs of the deceased spouses which included herein co-petitioners and the four children of Lino Jimenez by Consolacion Ungson, his previous wife.[2]

In October, 1979, herein private respondent Leonardo Jimenez Jr., son of Leonardo Jimenez Sr., filed a motion for the exclusion of his father's name and those of Alberto, Alejandra, and Angeles from the petition, inasmuch as they are children of the union of Lino Jimenez and Consolacion Ungson and not of Lino Jimenez and Genoveva Caolboy and because they have already received their inheritance consisting of five (5) parcels of lands in Salomague, Bugallon, Pangasinan.[3]

On March 23, 1981, petitioner Virginia Jimenez was appointed administrator of the Intestate Estate of Lino Jimenez and Genoveva Caolboy.[4] On May 21, 1981, she filed an inventory of the estate of the spouses Lino Jimenez and Genoveva Caolboy wherein she included the five (5) parcels of land in Salomague, Bugallon, Pangasinan. As a consequence, Leonardo Jimenez Jr. moved for the exclusion of these properties from the inventory on the ground that these had already been adjudicated to Leonardo Sr., Alberto, Alejandra and Angeles by their deceased father Lino Jimenez. Private respondent Leonardo Jimenez, Jr. presented testimonial and documentary evidence in support of his motion while petitioner Virginia Jimenez, other than cross-examining the

witnesses of Leonardo, presented no evidence of her own, oral or documentary.

On September 29, 1981, the probate court ordered the exclusion of the five (5) parcels of land from the inventory on the basis of the evidence of private respondent Leonardo Jimenez, Jr. which consisted among others of: (1) Tax Declaration showing that the subject properties were acquired during the conjugal partnership of Lino Jimenez and Consolacion Ungson; and, (2) a Deed of Sale dated May 12, 1964 wherein Genoveva Caolboy stated that the subject properties had been adjudicated by Lino Jimenez to his children by a previous marriage, namely: Alberto, Leonardo, Alejandra and Angeles.[5] The motion for reconsideration of said order was denied on January 26, 1982.[6]

Petitioner Virginia Jimenez then went to the Court of Appeals on a petition for certiorari and prohibition, docketed thereat as CA-G.R. No. SP-13916, seeking the annulment of the order dated September 29, 1981 as well as the order of January 26, 1982. On November 18, 1982, the Court of Appeals dismissed the petition because (1) Genoveva Caolboy, petitioners' mother, had admitted that the subject parcels of land had been adjudicated to the children of the previous nuptial; (2) the subject properties could not have been acquired during the marriage of Lino Jimenez to Genoveva Caolboy because they were already titled in the name of Lino Jimenez even prior to 1921, long before Lino's marriage to Genoveva in 1940; (3) the claim of Virginia Jimenez was barred by prescription because it was only in 1981 when they questioned the adjudication of the subject properties, more than ten (10) years after Genoveva had admitted such adjudication in a public document in 1964; and, (4) petitioner Virginia Jimenez was guilty of laches. This decision became final and executory.[7]

Two (2) years after, petitioners filed an amended complaint dated December 10, 1984 before the Regional Trial Court of Pangasinan, Branch XXXVII, docketed thereat as Civil Case No. 16111, to recover possession/ownership of the subject five (5) parcels of land as part of the estate of Lino Jimenez and Genoveva Caolboy and to order private respondents to render an accounting of the produce therefrom. Private respondents moved for the dismissal of the complaint on the grounds that the action was barred by prior judgment in CA-G.R. No. SP-13916 dated November 18, 1982 and by prescription and laches. However, petitioners opposed the motion to dismiss contending that (1) the action was not barred by prior judgment because the probate court had no jurisdiction to determine with finality the question of ownership of the lots which must be ventilated in a separate action; and, 2) the action instituted in 1981 was not barred by prescription or laches because private respondents' forcible acquisition of the subject properties occurred only after the death of petitioners' mother, Genoveva Caolboy in 1978.

On February 13, 1985, the trial court resolved to dismiss the complaint on the ground of res judicata.[8] On May 31, 1985, petitioners' motion for reconsideration of the resolution was denied. As earlier intimated, the petition for certiorari and mandamus filed by petitioners before the appellate court was likewise denied due course and dismissed in a decision dated May 29, 1986.[9]

Hence, this recourse.

The issue in this case is whether in a settlement proceeding (testate or intestate) the lower court has jurisdiction to settle questions of ownership and whether res judicata exists as to bar petitioners' present action for the recovery of possession and ownership of the five (5) parcels of land. In the negative, is the present action for reconveyance barred by prescription and/or laches?

We reverse. Petitioners' present action for recovery of possession and ownership is appropriately filed because as a general rule, a probate court can only pass upon questions of title provisionally. Since the probate court's findings are not conclusive, being prima facie,[10] a separate proceeding is necessary to establish the ownership of the five (5) parcels of land.[11]

The patent reason is the probate court's limited jurisdiction and the principle that questions of title or ownership, which result in inclusion or exclusion from the inventory of the property, can only be settled in a separate action.[12]

All that the said court could do as regards said properties is 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 a dispute as to the ownership, then the opposing parties and the administrator have to resort to an ordinary action for a final determination of the conflicting claims of title because the probate court cannot do so.[13]

The provisional character of the inclusion in the inventory of a contested property was again reiterated in the following cases: Pío Barreto Realty Development, Inc. vs. Court of Appeals,[14] Junquera vs. Borromeo,[15] Borromeo vs. Canonoy,[16] Recto vs. de la Rosa.[17] It has also been held that in a special proceeding for the probate of a will, the question of ownership is an extraneous matter which the probate court cannot resolve with finality.[18] This pronouncement no doubt applies with equal force to an intestate proceeding as in the case at bar.

Res judicata[19] does not exist because of the difference in the causes of actions. Specifically in S.P. No. 5346, the action was for the settlement of the intestate estate of Lino Jimenez and Genoveva Caolboy while Civil Case No. 16111 was an action for the recovery of possession and ownership of the five (5) parcels of land. Moreover, while admittedly, the Court of First Instance of Pangasinan, Branch V in S.P. No. 5346 had jurisdiction, the same was merely limited jurisdiction. Any pronouncement by said court as to title is not conclusive and could still be attacked in a separate proceeding. Civil Case No. 16111, on the other hand, was lodged before the Regional Trial Court of Pangasinan, Branch XXXVII in the exercise of the court's general jurisdiction. It was, in fact, such "separate or ordinary proceedings" contemplated by the rules for a final determination of the issue of ownership of the disputed properties. To repeat, since the determination of the question of title to the subject properties in S.P. No. 5346 was merely provisional, petitioners are not barred from instituting the appropriate action in Civil Case No. 16111.

Indeed, the grounds relied upon by private respondents in their motion to dismiss do not appear to be indubitable. Res judicata has been shown here to be unavailable and the other grounds of prescription and laches pleaded by private respondents are seriously disputed. The allegation in the complaint is that the heirs of Leonardo Jimenez, Sr. (referring to private respondents) forcibly intruded into and took possession of the disputed properties only in 1978, after the death of Genoveva Caolboy. Since the action for reconveyance was instituted in 1984, it would appear that the same has not yet prescribed or otherwise barred by laches.

There are a number of factual issues raised by petitioners before the lower court which cannot be resolved without the presentation of evidence at a full-blown trial and which make the grounds for dismissal dubitable. Among others, the alleged admission made by petitioners' mother in the deed of sale is vehemently denied, as well as the fact itself of adjudication, there being no showing that the conjugal partnership of Lino Jimenez and Consolacion Ungson had been liquidated nor that a judicial or extra judicial settlement of the estate of Lino Jimenez was undertaken whereby such adjudication could have been effected.

The grounds stated in the motion to dismiss not being indubitable, the trial court committed grave abuse of discretion in dismissing the complaint in Civil Case No. 16111.

WHEREFORE, the questioned decision of the respondent appellate court is hereby REVERSED. Civil Case No. 16111 is reinstated and the Regional Trial Court of Pangasinan, Branch XXXVII is directed to proceed in said case with dispatch.

SO ORDERED.

Feliciano, Bidin, and Cortes, JJ., concur.

Gutierrez, Jr., J., on leave.

[1] Luis Javellana, J., ponente, Mariano Zosa, Vicente Mendoza and Ricardo Tensuan, JJ., concurring.

[2] Rollo, pp. 33.

[3] Rollo, p. 34.

[4] Rollo, p. 36.

[5] Rollo, p. 57

[6] Rollo, p. 31.

[7] Rollo, pp. 32-45, p. 57-58.

[8] Rollo, p. 21.

[9] Rollo, pp. 59-60.

[10] Bolisay vs. Alcid, No. L-45494, 31 August 1978, 85 SCRA 213.

[11] 3 Moran's Comments on the Rules of Court, 1970 Edition, pages 448-449 and 473; Lachenal vs. Salas, L-42257, June 14, 1976, 71 SCRA 262, 266.

[12] Vda. de Rodriguez vs. Court of Appeals, 91 SCRA 540.

[13] Mallari vs. Mallari, 92 Phil 694; Baquial vs. Amihan, 92 Phil 501; Valero Vda. de Rodriguez vs. Court of Appeals, 91 SCRA 540.

[14] 131 SCRA 606.

[15] 19 SCRA 656.

[16] 19 SCRA 667.

[17] 75 SCRA 226.

[18] Spouses Alvaro Pastor Jr. vs. CA, 122 SCRA 885; Baybayan vs. Aquino, No L-42678, April 9, 1987 149 SCRA 186.

[19] For res judicata to apply, the following requisites must concur: (1) there must be a prior final judgment or order; (2) the court rendering the judgment or order must have jurisdiction over the subject matter and over the parties; (3) the judgment or order must be on the merits; and (4) there must be between the two cases, the earlier and the instant, identity of parties, identity of subject matter and identity of cause of action. (Lorenzana vs. Macagba, 154 SCRA 723).

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