

**HADJI WAHIDA MUSA, HADJI SALMA MUSA, RIZAL MUSA AND
BASSER MUSA, PETITIONERS, VS. HON. COROCOY D. MOSON, IN HIS
CAPACITY AS PRESIDING JUDGE, SHARI'A DISTRICT COURT,
FIFTH SHARI'A DISTRICT,...**

G.R. No. 95574. August 16, 1991

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

Questions of jurisdiction of the Shari'a District Court, and of venue, in an intestate proceeding, are herein raised.

Involved is the intestate estate of the late Jamiri Musa, a Muslim, who passed away on 31 December 1987. He had six (6) wives, three (3) of whom he later divorced, and twenty three (23) children. He had extensive real and personal properties located in the provinces of Maguindanao, Davao del Sur and Davao Oriental. Petitioners, Hadji WAHIDA Musa and Hadji SALMA Musa, are among those he divorced, while private respondent Hadji Jahara ABDURAHIM is one of the three (3) surviving widows. RIZAL Musa and BASSER Musa are two (2) of his sons.

On 7 July 1989, Respondent ABDURAHIM filed a "Joint Petition for the Administration and Settlement of the Intestate Estate of the Late Jamiri Musa and Liquidation of Conjugal Partnership," before the Shari'a District Court, Fifth Shari'a District, with station at Cotabato City (SDC Spec. Proceedings No. 89-19) (the Intestate Case). That Court embraces the province of Maguindanao within its jurisdiction but not the provinces of Davao del Sur and Davao Oriental.

The Petition averred that the decedent Jamiri Musa, a resident of Linao, Upi, Maguindanao, left various properties located in the provinces of Maguindanao (184 hectares), Davao del Sur (61 hectares), and Davao Oriental (207 hectares). Aside from the settlement of the vast estate, also prayed for was the liquidation of the conjugal partnership assets of the decedent and ABDURAHIM and the segregation and turn-over to the latter of her one-half (1/2) share.

Appearing as oppositors were: Petitioners WAHIDA and SALMA, the divorced wives, who also claim to be widows of the deceased; RIZAL, Putih Musa and Erum Musa, children of WAHIDA with the decedent; and BASSER, another son. They alleged that venue was improperly laid, and that the properties of the decedent located outside Maguindanao were beyond the jurisdiction of the Shari'a District Court, Fifth Shari'a District.

Finding the Joint Petition to be sufficient in form and substance. Respondent Judge issued the Order of Publication on 11 July 1989 and initially set the case for hearing on 18 September 1989.

All interested parties were duly represented during the hearing on said date where petitioners, through counsel, manifested their desire to have the case amicably settled. Respondent Judge "in the interest of peace and harmony among the heirs of the deceased Jamiri Musa," appointed the following as Special Administrators: ABDURAHIM, for all properties situated in Maguindanao; RIZAL, for all properties situated in Davao Oriental;

and BASSER, for all properties situated in Davao del Sur.

However, on 4 October 1989, ABDURAHIM, in her "Manifestation and Motion to Cite for Contempt," accused BASSER, among others, of having allegedly fired upon the house of her son-in-law in Maguindanao on 21 September 1989.

Whereupon, on 13 October 1989, an "Opposition to Petition for Administration and Liquidation of Conjugal Partnership" was filed by Petitioners, alleging that ABDURAHIM was never legally married to the decedent and, as such, there was "nothing to support her claim" of having had a conjugal partnership with the latter; and that venue was improperly laid. Petitioners also asked that RIZAL be issued Letters of Administration instead.

In her Reply, filed on 25 October 1989, ABDURAHIM averred that, her marriage to the decedent was admitted by the latter in various Deeds of Sale he had signed, which were presented as documentary evidence. Since there was no amicable settlement reached, hearings on the Joint Petition were conducted, commencing on 27 December 1989.

On 16 May 1990, Respondent Judge, issued an Order appointing ABDURAHIM as Regular Administratrix upon the finding that she was legally married to the decedent. Petitioners moved for reconsideration.

In the interim, Respondent Judge issued an Amended Order, dated 4 June 1990, incorporating the testimonies of the two (2) other witnesses presented by Petitioners, which were omitted in the Order, dated 16 May 1990. Otherwise, the appointment of ABDURAHIM as Regular Administratrix was maintained.

On 10 August 1990, Petitioners filed a "Motion for Reconsideration With Motion to Dismiss," raising once again, mainly the questions of venue and of jurisdiction of the respondent Court over the real properties of the decedent situated in the provinces of Davao del Sur and Davao Oriental.

Respondent Judge denied both Motions and upheld the Court's jurisdiction in his Order, dated 22 August 1990. Hence, the elevation of the instant Petition for Prohibition before this Court seeking to enjoin respondent Judge Corocoy D. Moson, presiding over the Shari'a District Court, Fifth Shari'a District, from further taking action on the "Joint Petition."

Petitioners take the position that Respondent Judge should have dismissed the Intestate Case for lack of jurisdiction and for improper venue. Private respondent maintains the contrary.

We rule against Petitioners.

Pres. Decree No. 1083, otherwise known as the Code of Muslim Personal Laws of the Philippines, explicitly provides that exclusive original jurisdiction, in matters of settlement of the estate of deceased Muslims, belong to Shari'a District Courts. Thus:

"Art. 143. Original Jurisdiction. - The Shari'a District Court shall have exclusive original jurisdiction over:

"x x x x x x x x

"(b) All cases involving disposition, distribution and settlement of the estate of deceased Muslims, probate of wills, issuance of letters of administration or appointment of administrators or executors regardless of the nature or the aggregate value of the property." (Chapter I, Title I, Book IV, par. (b)). (Emphasis supplied).

Since the disposition, distribution and settlement of the estate of a deceased Muslim is, in fact, involved herein, the Joint Petition was correctly filed before the Shari'a District Court, Fifth Shari'a District.

In invoking improper venue, however, petitioners call attention to the Rules of Court mandating that:

Sec. 1. Where estate of deceased persons settled. - If the decedent is an inhabitant of the Philippines at the time of his death, whether a citizen or an alien, his will shall be proved, or letters of administration granted, and his estate settled, in the Court of First Instance in the province in which he resides at the time of his death, and if he is an inhabitant of a foreign country, the Court of First Instance of any province in which he had estate. The court first taking cognizance of the settlement of the estate of a decedent, shall exercise jurisdiction to the exclusion of all other courts. The jurisdiction assumed by a court, so far as it depends on the place of residence of the decedent, or of the location his estate, shall not be contested in a suit or proceeding, except in an appeal from that court, in the original case, or when the want of jurisdiction appears on the record." (Rule 73). (Underscoring ours).

It is then claimed that since the residence of the decedent at the time of his death was actually in Davao City, not Maguindanao, as averred by ABDURAHIM, the proceeding is beyond the jurisdiction of the Shari'a District Court, Fifth Shari'a District, and that venue is more properly laid in Davao City before the Regional Trial Court since there are no Shari'a District Courts therein.

At this juncture, it should be recalled that the residence of the deceased in an estate proceeding is not an element of jurisdiction over the subject matter but merely of venue. The law of jurisdiction confers upon Courts of First Instance (now Regional Trial Courts) jurisdiction over all probate cases independently of the place of residence of the deceased (In the matter of the intestate estate of Kaw Singco, 74 Phil. 239 [1943]).

To all appearances, the decedent was a resident of both Linao, Upi, Maguindanao, and Davao City. In fact, in various Deeds of Sale presented as evidence by the parties, the decedent alternately stated his place of residence as either Linao, Upi, Maguindanao, which is the residence of ABDURAHIM, or Davao City, where Petitioners reside. As this Court held in *Uytengsu v. Republic*, 95 Phil. 890 (1954), "a man can have but one domicile for one and the same purpose at any time, but he may have numerous places of residence." Venue, therefore, ordinarily could be at either place of the decedent's residence, i.e., Maguindanao or Davao City, but for the provisions of the Muslim Code vesting exclusive original jurisdiction, in matters of disposition and settlement of estates of deceased Muslims, in Shari'a District Courts (*supra*).

But petitioners also contend that the Shari'a District Court, Fifth Shari'a District, presided over by respondent Judge, has no territorial jurisdiction over properties of the decedent situated in the provinces of Davao del Sur and Davao Oriental, citing as statutory authority therefor the Code of Muslim Personal Laws, which provides:

"Art. 138. Shari'a judicial districts. - Five special judicial districts, each to have one Shari'a District Court presided over by one judge, are constituted as follows:

"x x x x x x x x

"(e) The Fifth Shari'a District, the Provinces of Maguindanao, North Cotabato and Sultan Kudarat, and the City of Cotabato."

Indeed, Davao del Sur and Davao Oriental are not comprised within the Fifth Shari'a District. In fact, those provinces are outside the Autonomous Region in Muslim Mindanao created by Republic Act No. 6734, its Organic Act. But as stated in that law, "the Shari'a District Court and the Shari'a Circuit Courts created under existing laws shall continue to function as provided therein." (Art. IX, Sec. 13).

Additionally, the same Organic Act explicitly provides:

(4) Except in cases of successional rights, the regular courts shall acquire jurisdiction over controversies involving real property outside the area of autonomy." (Art. IX, Section 17 [4]). (Underlining ours).

Since the subject intestate proceeding concerns successional rights, coupled with the fact that the decedent was

also a resident of Linao, Upi, Maguindanao, owning real estate property located in that province, venue has been properly laid with the Shari'a District Court, Fifth Shari'a District, which is vested with territorial jurisdiction over Maguindanao, notwithstanding the location in different provinces of the other real properties of the decedent.

A contrary ruling would only result in multiplicity of suits, to the detriment of the expeditious settlement of estate proceedings (See *Ngo Bun Tiong v. Sayo*, 30 June 1988, 163 SCRA 237 [1988]). Besides, the judgment that may be rendered by the 'Shari'a District Court, Fifth Shari'a District, may be executed in other provinces where the rest of the real estate is situated.

"When an action covers various parcels of land situated in different provinces, venue may be laid in the Court of First Instance of any of said provinces, and the judgment rendered therein may be executed in other provinces where the rest of the real estate is situated" (*National Bank v. Barreto*, 52 Phil. 818 [1929]; *Monte Piedad v. Rodrigo*, 56 Phil. 310 [1931]; *El Hogar Filipino v. Seva*, 57 Phil. 573 [1932]; *Bank of P.I. v. Green*, 57 Phil. 712 [1932]).

The Rules of Court likewise provide that the Court first taking cognizance of the settlement of the estate of a decedent, shall exercise jurisdiction to the exclusion of all other Courts (Rule 73, sec. 1). There should be no impediment to the application of said Rules as they apply suppletorily to the Code of Muslim Personal Laws, there being nothing inconsistent with the provisions of the latter statute (Article 187 of said Code).

And while Rule 73 provides that "the jurisdiction assumed by a court, so far as it depends on the place of residence of the decedent, or of the location of his estate, shall not be contested in a suit or proceeding except in an appeal from that court, in the original case, or when the want of jurisdiction appears on the record," we have taken cognizance of this Petition for Prohibition considering that the jurisdiction of a Shari'a District Court, a relatively new Court in our judicial system, has been challenged.

WHEREFORE, this Petition for Prohibition is DENIED, and the case hereby REMANDED to the Shari'a District Court, Fifth Shari'a District, for continuation of the intestate proceedings. No costs.

SO ORDERED.

Paras, Padilla, Sarmiento, and Regalado, JJ., concur.

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