

PABLO RALLA, PETITIONER, VS. HON. ROMULO P. UNTALAN, HON. DOMINGO CORONEL REYES, AND LEONIE RALLA, PETER RALLA AND MARINELLA RALLA, RESPONDENTS.

G.R. Nos. 63253-54. April 27, 1989

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

This petition seeks the nullification of the Order of respondent Judge Romulo P. Untalan,[1] dated July 16, 1981, excluding from the probate proceedings sixty-three parcels of land, as well as the Orders issued by respondent Judge Domingo Coronel Reyes,[2] denying the petitioner's motions for reconsideration of the same Order of Judge Untalan dated July 16, 1981.

The petition's beginnings are traced to January 27, 1959, when Rosendo Ralla, a widower, filed a petition for the probate of his own will in the then Court of First Instance (now Regional Trial Court) of Albay, which was docketed as Special Proceedings No. 564. In his will, he left his entire estate to his son, Pablo (the petitioner herein who, upon his death during the pendency of this petition, was substituted by his heirs), leaving nothing to his other son, Pedro.

In the same year, Pedro Ralla filed an action for the partition of the estate of their mother, Paz Escarella; this was docketed as Civil Case No. 2023.

In the course of the hearing of the probate case (Special Proceedings No. 564), Pablo Ralla filed a motion to dismiss the petition for probate on the ground that he was no longer interested in the allowance of the will of his late father, Rosendo Ralla, for its probate would no longer be beneficial and advantageous to him. This motion was denied, and the denial was affirmed by the Court of Appeals. (The latter court agreed with the lower court's conclusion that, indeed, the petitioner stood to gain if the testate proceedings were to be dismissed because then he would not be compelled to submit for inclusion in the inventory of the estate of Rosendo Ralla 149 parcels of land from which he alone had been collecting rentals and receiving income, to the exclusion and prejudice of his brother, Pedro Ralla, who was being deprived of his successional rights over the said properties.) The denial of this motion to dismiss was likewise affirmed by this Court (in G.R. No. L-26253).[3] On the scheduled hearing on November 3, 1966, the petitioner reiterated his lack of interest in the probate of the subject will. Consequently, the court, through Judge Perfecto Quicho, declared Pedro and Pablo Ralla the only heirs of Rosendo Ralla who should share equally upon the division of the latter's estate, and thereupon converted the testate proceedings into one of intestacy.

Meanwhile, the brothers agreed to compromise in the partition case (Civil Case No. 2023). On December 18, 1967, they entered into a project of partition whereby sixty-three parcels of land, apparently forming the estate of their deceased mother, Paz Escarella, were amicably divided between the two of them. This project of partition was approved on December 19, 1967 by Judge Ezekiel Grageda.

Eleven years later, or on February 28, 1978, Joaquin Chancoco, brother-in-law of the petitioner (Pablo) filed a

petition, docketed as Special Proceedings No. 1106, for the probate of the same will of Rosendo Ralla on the ground that the decedent owed him P5,000.00. Pablo Ralla then filed a manifestation stating that he had no objections to the probate; thereafter, he filed a "Motion to Intervene as Petitioner for the Probate of the Will." This motion was heard ex parte and granted despite the written opposition of the heirs of Pedro Ralla. Likewise, the petition for probate was granted; Teodorico Alimine, son-in-law of the petitioner, was appointed special administrator, again, over and above the objection of the heirs of Pedro Ralla. However, in taking possession of the properties belonging to the estate of Rosendo Ralla. Teodorico Alimine also took possession of the sixty-three parcels of land covered by the project of partition mentioned earlier. Consequently, the heirs of Pedro Ralla (the private respondents herein) moved to exclude from the estate of Rosendo Ralla the aforesaid parcels of land.

In an Omnibus Order dated August 3, 1979,[4] respondent Judge Romulo P. Untalan ruled, inter alia, that the sixty-three parcels of land should be included in the proceedings for the settlement of the estate of Rosendo Ralla and that said proceedings (both Special Proceedings No. 564 and Special Proceedings No. 1106, which were ordered consolidated by this Court) should proceed as probate proceedings.

About two years later, or on June 11, 1981, the private respondents filed a "Petition To Submit Anew For Consideration Of The Court The Exclusion Of 67 (sic) Parcels Of Land Subject Of The Project Of Partition In Civil Case No. 2023." [5] In his Order of July 16, 1981, Judge Untalan reconsidered his earlier Order, to wit:

Premises considered, Order is hereby issued reconsidering the Omnibus Order of this Court dated August 3, 1979, more particularly paragraph 3 of the dispositive portion thereof. The Project of Partition should, therefore, be respected and upheld. Hence, the sixty three (63) parcels referred to therein should be excluded from the probate proceedings and, likewise from the administration of Special Administrator Teodorico Alimine, Jr.

SO ORDERED.[6]

Thereafter, the petitioner filed a motion for reconsideration of the foregoing order but the same was denied[7] by respondent Judge Domingo Coronel Reyes, to whose sala Special Proceedings No. 564 and No. 1106 were apparently transferred. Still, a second motion for reconsideration was filed the same, however, was also denied.[8]

In assailing the aforesaid Order of July 16, 1981, the following arguments are raised in the present special civil action for certiorari.

The first argument is stated as follows:

x x x The extra judicial partition of the 63 parcels made after the filing of the petition for the probate of the Will, and before said Will was probated, is a NULLITY, considering that as already decided by this Court in the case or Ernesto M. Guevara, vs. Rosario Guevara et al., Vol. 74 Phil. Reports, there can be no valid partition among the heirs till after the Will had been probated. x x x[9]

The above argument is obviously flawed and misleading for the simple reason that the aforementioned partition was made in the civil case for partition or the estate of Paz Escarella, which is distinct from, and independent of, the special proceedings for the probate of the will of Rosendo Ralla.

Verily, the rule is that there can be no valid partition among the heirs till after the will has been probated. This, of course, presupposes that the properties to be partitioned are the same properties embraced in the will. Thus, the rule invoked is inapplicable in this instance where there are two separate cases (Civil Case No. 2023 for partition, and Special Proceedings No. 564 originally for the probate of a will), each involving the estate of a different person (Paz Escarella and Rosendo Ralla, respectively) comprising dissimilar properties.

In his second and third arguments,[10] the petitioner claims that the Order of August 3, 1979 mentioned earlier

could no longer be validly reversed by the court two years after it was issued. Thus, it is alleged that by flip-flopping, Judge Untalan committed a grave abuse of discretion.

An examination of the August 3, 1979 Order would reveal that the same resolved a number of divergent issues (ten as enumerated)[11] springing from four separate special proceedings,[12] all of which were pending in Branch I of the then Court of First Instance of Albay; accordingly, there are at least nine[13] specific directives contained therein. However, a distinction must be made between those directives that partake of final orders and the other directives that are in the nature of interlocutory orders.

Two closely related orders are the following quoted portions of the said August 3, 1979 Order of respondent Judge Untalan:

x x x

2. The 149 parcels referred to in our elucidation on issue No. 2 as well as the 63 lots also mentioned therein all of which may be summed up to 212 parcels, except those already validly disposed, conveyed, or transferred to third persons, should be submitted, at least provisionally, to the probate or testate proceedings. Hence, the Motion to exclude the 149 parcels filed on June 2, 1979, by petitioner intervenor Pablo Ralla thru counsel in Special Proceeding 1106 and the motion for exclusion filed by the heirs of Pedro Ralla thru counsel in Special Proceedings 564 and 1106 are hereby Denied; (Emphasis supplied.)

3. The Project of partition, for purposes of these proceedings, is hereby stripped of its judicial recognition;[14]

x x x

As regards the abovequoted paragraph 2, this Court finds that the same is interlocutory in character because it did not decide the action with finality and left substantial proceedings still to be had.[15] The foregoing order of inclusion of the subject parcels of land was a mere incident that arose in the settlement of the estate of Rosendo Ralla. It is elementary that interlocutory orders, prior to the rendition of the final judgment, are, at any time, subject to such corrections or amendments as the court may deem proper. Thus, in issuing the questioned Order dated July 16, 1981, which reversed the aforementioned interlocutory order and upheld the project of partition, respondent Judge Untalan acted well within his jurisdiction and without grave abuse of discretion.

There is, however, a more important reason why we do not find any grave abuse of discretion in the issuance of the questioned Order dated July 16, 1981. Consider the following undisputed facts: the properties involved in the present petition were the subject of the project of partition signed by both the petitioner, Pablo Ralla, and Pedro Ralla in Civil Case No. 2023; the lower court approved the said project of partition on December 19, 1967; subsequently, Pablo and Pedro Ralla jointly manifested that they had already received "the ownership and possession of the respective parcels of land adjudicated to them in the said project of partition,"[16] and upon their motion Judge Ezekiel Grageda declared the partition case closed and terminated in its Order of December 29, 1967; there was no appeal made from this decision within the reglementary period to do so, consequently, it attained finality.

Furthermore, the Court had occasion to rule that:

Where a partition had not only been approved and thus become a judgment of the court, but distribution of the estate in pursuance of such partition had fully been carried out, and the heirs had received the property assigned to them, they are precluded from subsequently attacking its validity or any part of it.[17]

Likewise:

Where a piece of land has been included in a partition and there is no allegation that the inclusion was effected

through improper means or without the petitioners' knowledge, the partition barred any further litigation on said title and operated to bring the property under the control and jurisdiction of the court for proper disposition according to the tenor of the partition ... They can not attack the partition collaterally, as they are trying to do in this case.[18] (Emphasis supplied.)

Based on the foregoing pronouncements, the Order of August 3, 1979 setting aside the project of partition was clearly erroneous. Realizing this and the fact that it was not yet too late for him to correct his mistake, respondent Judge Untalan issued the questioned Order of July 16, 1981.

In fine, the partition in Civil Case No. 2023 is valid and binding upon the petitioner and Pedro Ralla, as well as upon their heirs, especially as this was accompanied by delivery of possession to them of their respective shares in the inheritance from their mother, the late Paz Escarella. They are duty bound to respect the division agreed upon by them and embodied in the document of partition.

Thus, the petitioner could no longer question the exclusion of the lands subject of the partition from the proceedings for the settlement of the estate of Rosendo Ralla. Could it be that the petitioner's keen interest in including these lands in the estate proceedings is directly related to the fact that his son-in-law is the administrator of the said estate of Rosendo Ralla?

WHEREFORE, the petition is hereby DISMISSED. Costs against the petitioner.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Regalado, JJ., concur.

[1] Branch I, Court of First Instance of Albay.

[2] Branch III, Court of First Instance of Albay.

[3] Rollo, 113 A.

[4] Rollo 22-32.

[5] Rollo, 35-38.

[6] Rollo, 42-45.

[7] Rollo, 52.

[8] Rollo, 57.

[9] Ibid., 7.

[10] Ibid.

[11] Rollo, 22-23.

[12] Spec. Proc. Nos. 564, 1078, 1106, and M-8674.

[13] Rollo, 31-32. Should be ten, as discussed in the body of the Order.

[14] Rollo, 31.

[15] People vs. Doriquez, Nos. L-24444-45, July 29, 1968, 24 SCRA 163.

[16] Rollo, 129. 163

[17] Torres vs. Encarnacion and De Borja, No. L-4681, July 31, 1951, 89 Phil. 678.

[18] Ibid., 682.

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