

THIRD DIVISION

[G.R. No. 204029, June 04, 2014]

AVELINA ABARIENTOS REBUSQUILLO [SUBSTITUTED BY HER HEIRS, EXCEPT EMELINDA R. GUALVEZ] AND SALVADOR A. OROSCO, PETITIONERS, VS. SPS. DOMINGO AND EMELINDA REBUSQUILLO GUALVEZ, RESPONDENTS.

D E C I S I O N

VELASCO JR., J.:

Before Us is a Petition for Review on Certiorari under Rule 45 assailing the Decision^[1] and Resolution^[2] dated March 30, 2012 and September 25, 2012, respectively, of the Court of Appeals (CA) in CA-G.R. CV No. 93035, which reversed and set aside the Decision dated January 20, 2009 of the Regional Trial Court (RTC), Branch 4 in Legazpi City, in Civil Case No. 10407.

The antecedent facts may be summarized as follows:

On October 26, 2004, petitioners Avelina Abarientos Rebusquillo (Avelina) and Salvador Orosco (Salvador) filed a Complaint for annulment and revocation of an Affidavit of Self-Adjudication dated December 4, 2001 and a Deed of Absolute Sale dated February 6, 2002 before the court *a quo*. In it, petitioners alleged that Avelina was one of the children of Eulalio Abarientos (Eulalio) and Victoria Villareal (Victoria). Eulalio died intestate on July 3, 1964, survived by his wife Victoria, six legitimate children, and one illegitimate child, namely: (1) Avelina Abarientos-Rebusquillo, petitioner in this case; (2) Fortunata Abarientos-Orosco, the mother of petitioner Salvador; (3) Rosalino Abarientos; (4) Juan Abarientos; (5) Feliciano Abarientos; (6) Abraham Abarientos; and (7) Carlos Abarientos. His wife Victoria eventually died intestate on June 30, 1983.

On his death, Eulalio left behind an untitled parcel of land in Legazpi City consisting of two thousand eight hundred sixty-nine (2,869) square meters, more or less, which was covered by Tax Declaration ARP No. (TD) 0141.

In 2001, Avelina was supposedly made to sign two (2) documents by her daughter Emelinda Rebusquillo-Gualvez (Emelinda) and her son-in-law Domingo Gualvez (Domingo), respondents in this case, on the pretext that the documents were needed to facilitate the titling of the lot. It was only in 2003, so petitioners claim, that Avelina realized that what she signed was an Affidavit of Self-Adjudication and a Deed of Absolute Sale in favor of respondents.

As respondents purportedly ignored her when she tried to talk to them, Avelina sought the intervention of the RTC to declare null and void the two (2) documents in order to reinstate TD 0141 and so correct the injustice done to the other heirs of Eulalio.

In their answer, respondents admitted that the execution of the Affidavit of Self-Adjudication and the Deed of Sale was intended to facilitate the titling of the subject property. Paragraph 9 of their Answer reads:

Sometime in the year 2001, [petitioner] Avelina together with the other heirs of Eulalio Abarientos brought out the idea to [respondent] Emelinda Rebusquillo-Gualvez to have the property described in paragraph 8 of the complaint registered under the Torrens System of Registration. **To facilitate the titling of the property, so that the same could be attractive to prospective buyers, it was agreed that the property's tax declaration could be transferred to [respondents] Spouses [Emelinda] R. Gualvez and Domingo Gualvez who will spend all the cost of titling subject to reimbursement by all other heirs in case the property is sold;** That it was agreed that all the heirs will be given their corresponding shares on the property; That pursuant to said purpose Avelina Abarientos-Rebusquillo with the knowledge and consent of the other heirs signed and executed an Affidavit of Self-Adjudication and a Deed of Absolute Sale in favor of [respondents] Gualvez. In fact, [petitioner] Avelina Rebusquillo was given an advance sum of FIFTY THOUSAND PESOS (P50,000.00) by [respondent] spouses and all the delinquent taxes paid by [respondents].^[3]

After trial, the RTC rendered its Decision dated January 20, 2009 annulling the Affidavit of Self-Adjudication and the Deed of Absolute Sale executed by Avelina on the grounds that (1) with regard to the Affidavit of Self-Adjudication, she was not the sole heir of her parents and was not therefore solely entitled to their estate; and (2) in the case of the Deed of Absolute Sale, Avelina did not really intend to sell her share in the property as it was only executed to facilitate the titling of such property. The dispositive portion of the RTC Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered, as follows:

1. The subject Affidavit of Self-Adjudication of the Estate of the Deceased Spouses Eulalio Abarientos and Victoria Villareal, dated December 4, 2001 as well as the subject Deed of Absolute Sale, notarized on February 6, 2002, covering the property described in par. 8 of the Amended Complaint are hereby ordered ANNULLED;
2. That defendant City Assessor's Officer of Legazpi City is hereby ordered to CANCEL the Tax Declaration in the name of private [respondents] spouses Gualvez under ARP No. 4143 and to REINSTATE the Tax Declaration under ARP No. 0141 in the name of Eulalio Abarientos;
3. By way of restitution, [petitioner] Avelina Abarientos Rebusquillo is hereby ordered to return or refund to [respondents] spouses Domingo Gualvez and Emelinda Gualvez, the P50,000.00 given by the latter spouses to the former.^[4]

Assailing the trial court's decision, respondents interposed an appeal with the CA arguing that the Deed of Sale cannot be annulled being a public document that has for its object the creation and transmission of real rights over the immovable subject property. The fact that Avelina's testimony was not offered in evidence, so respondents argued, the signature on the adverted deed remains as concrete proof of her agreement to its terms. Lastly, respondents contended that the Complaint filed by petitioners Avelina and Salvador before the RTC is not the proper remedy provided by law for those compulsory heirs unlawfully deprived of their inheritance.

Pending the resolution of respondents' appeal, Avelina died intestate on September 1, 2009 leaving behind several living heirs^[5] including respondent Emelinda.

In its Decision dated March 30, 2012, the appellate court granted the appeal and reversed and set aside the Decision of the RTC. The CA held that the RTC erred in annulling the Affidavit of Self-Adjudication simply on petitioners' allegation of the existence of the heirs of Eulalio, considering that issues on heirship must be made in administration or intestate proceedings, not in an ordinary civil action. Further, the appellate court observed that the Deed of Absolute Sale cannot be nullified as it is a notarized document that has in its favor the presumption of regularity and is entitled to full faith and credit upon its face.

Aggrieved by the CA's Decision, petitioner Avelina, as substituted by her heirs except respondent Emelinda, and petitioner Salvador are now before this Court ascribing reversible error on the part of the appellate court.

We find merit in the instant petition.

It has indeed been ruled that the declaration of heirship must be made in a special proceeding, not in an independent civil action. However, this Court had likewise held that recourse to administration proceedings to determine who heirs are is sanctioned only if there is a good and compelling reason for such recourse.^[6] Hence, the Court had allowed exceptions to the rule requiring administration proceedings as when the parties in the civil case already presented their evidence regarding the issue of heirship, and the RTC had consequently rendered judgment upon the issues it defined during the pre-trial.^[7] In *Portugal v. Portugal-Beltran*,^[8] this Court held:

In the case at bar, respondent, believing rightly or wrongly that she was the sole heir to Portugal's estate, executed on February 15, 1988 the questioned Affidavit of Adjudication under the second sentence of Rule 74, Section 1 of the Revised Rules of Court. Said rule is an exception to the general rule that when a person dies leaving a property, it should be judicially administered and the competent court should appoint a qualified administrator, in the order established in Sec. 6, Rule 78 in case the deceased left no will, or in case he did, he failed to name an executor therein.

Petitioners claim, however, to be the exclusive heirs of Portugal. A probate or intestate court, no doubt, has jurisdiction to declare who are the heirs of a deceased.

It appearing, however, that in the present case the only property of the intestate estate of Portugal is the Caloocan parcel of land to still subject it, under the circumstances of the case, to a special proceeding which could be long, hence, not expeditious, just to establish the status of petitioners as heirs is not only impractical; it is burdensome to the estate with the costs and expenses of an administration proceeding. And it is superfluous in light of the fact that the parties to the civil case - subject of the present case, could and had already in fact presented evidence before the trial court which assumed jurisdiction over the case upon the issues it defined during pre-trial.

In fine, under the circumstances of the present case, there being no compelling reason to still subject Portugal's estate to administration proceedings since a determination of petitioners' status as heirs could be achieved in the civil case filed by petitioners, the trial court should proceed to evaluate the evidence presented by the parties during the trial and render a decision thereon upon the issues it defined during pre-trial x xx. (emphasis supplied)

Similar to *Portugal*, in the present case, there appears to be only one parcel of land being claimed by the contending parties as the inheritance from Eulalio. It would be more practical, as *Portugal* teaches, to dispense with a separate special proceeding for the determination of the status of petitioner Avelina as sole heir of Eulalio, especially in light of the fact that **respondents spouses Gualvez admitted in court that they knew for a fact that petitioner Avelina was not the sole heir of Eulalio and that petitioner Salvador was one of the other living heirs with rights over the subject land.** As confirmed by the RTC in its Decision, respondents have stipulated and have thereby admitted the veracity of the following facts during the pre-trial:

IV – UNCONTROVERTED FACTS: (Based on the stipulation of facts in the Pre-Trial Order)

A. x x x

B. [Petitioners] and private [respondents] spouses Gualvez admitted the following facts:

1. Identity of the parties;
2. Capacity of the [petitioners] and private [respondents] to sue and be sued;
3. **[Petitioner] Avelina Abarientos-Rebusquillo is not the only surviving heir of deceased spouses Eulalio and Victoria Abarientos;**
4. **Petitioner Salvador Orosco is a co-owner/possessor of a portion of the subject property;**