538 Phil. 40

SECOND DIVISION

[G.R. NOS. 140371-72, November 27, 2006]

DY YIENG SEANGIO,BARBARA D. SEANGIO AND VIRGINIA D. SEANGIO, PETITIONERS, VS. HON. AMOR A. REYES, IN HER CAPACITY AS PRESIDING JUDGE, REGIONAL TRIAL COURT, NATIONAL CAPITAL JUDICIAL REGION, BRANCH 21, MANILA, ALFREDO D. SEANGIO, ALBERTO D. SEANGIO, ELISA D. SEANGIO-SANTOS, VICTOR D. SEANGIO, ALFONSO D. SEANGIO, SHIRLEY D. SEANGIO-LIM, BETTY D. SEANGIO-OBAS AND JAMES D. SEANGIO, RESPONDENTS.

DECISION

AZCUNA, J.:

This is a petition for *certiorari*[1] with application for the issuance of a writ of preliminary injunction and/or temporary restraining order seeking the nullification of the orders, dated August 10, 1999 and October 14, 1999, of the Regional Trial Court of Manila, Branch 21 (the RTC), dismissing the petition for probate on the ground of preterition, in the consolidated cases, docketed as SP. Proc. No. 98-90870 and SP. Proc. No. 99-93396, and entitled, "In the Matter of the Intestate Estate of Segundo C. Seangio v. Alfredo D. Seangio, et al." and "In the Matter of the Probate of the Will of Segundo C. Seangio v. Dy Yieng Seangio, Barbara D. Seangio and Virginia Seangio."

The facts of the cases are as follows:

On September 21, 1988, private respondents filed a petition for the settlement of the intestate estate of the late Segundo Seangio, docketed as Sp. Proc. No. 98-90870 of the RTC, and praying for the appointment of private respondent Elisa D. Seangio-Santos as special administrator and guardian *ad litem* of petitioner Dy Yieng Seangio.

Petitioners Dy Yieng, Barbara and Virginia, all surnamed Seangio, opposed the petition. They contended that: 1) Dy Yieng is still very healthy and in full command of her faculties; 2) the deceased Segundo executed a general power of attorney in favor of Virginia giving her the power to manage and exercise control and supervision over his business in the Philippines; 3) Virginia is the most competent and qualified to serve as the administrator of the estate of Segundo because she is a certified public accountant; and, 4) Segundo left a holographic will, dated September 20, 1995, disinheriting one of the private respondents, Alfredo Seangio, for cause. In view of the purported holographic will, petitioners averred that in the event the decedent is found to have left a will, the intestate proceedings are to be automatically suspended and replaced by the proceedings for the probate of the will.

On April 7, 1999, a petition for the probate of the holographic will of Segundo,

docketed as SP. Proc. No. 99-93396, was filed by petitioners before the RTC. They likewise reiterated that the probate proceedings should take precedence over SP. Proc. No. 98-90870 because testate proceedings take precedence and enjoy priority over intestate proceedings.[2]

The document that petitioners refer to as Segundo's holographic will is quoted, as follows:

> Kasulatan sa pag-aalis ng mana
>
> Tantunin ng sinuman
>
> Ako si Segundo Seangio Filipino may asawa naninirahan sa 465-A Flores St., Ermita, Manila at nagtatalay ng maiwanag na pag-iisip at disposisyon ay tahasan at hayagang inaalisan ko ng lahat at anumang mana ang paganay kong anak na si Alfredo Seangio dahil siya ay naging lapastangan sa akin at isan beses siya ng sasalita ng masama harapan ko at mga kapatid niya na si Virginia Seangio labis kong kinasama ng loob ko at sasabe rin ni Alfredo sa akin na ako nasa ibabaw gayon gunit daratin ang araw na ako nasa ilalim siya at siya nasa ibabaw.
>
> Labis kong ikinasama ng loob ko ang gamit ni Alfredo ng akin pagalan para makapagutang na kuarta siya at kanya asawa na si Merna de los Reyes sa China Bangking Corporation na millon pesos at hindi ng babayad at hindi ng babayad ito ay nagdulot sa aking ng malaking kahihiya sa mga may-ari at stockholders ng China Banking.
>
> At ikinagalit ko pa rin ang pagkuha ni Alfredo at ng kanyang asawa na mga custome[r] ng Travel Center of the Philippines na pinagasiwaan ko at ng anak ko si Virginia.
>
> Dito ako nagalit din kaya gayon ayoko na bilanin si Alfredo ng anak ko at hayanan kong inaalisan ng lahat at anoman mana na si Alfredo at si Alfredo Seangio ay hindi ko siya anak at hindi siya makoha mana.
>
> Nila[g]daan ko ngayon ika 20 ng Setyembre 1995 sa longsod ng Manila sa harap ng tatlong saksi. [3]
>
> (signed)
> Segundo Seangio
>
> Nilagdaan sa harap namin
>
> (signed)
> Dy Yieng Seangio (signed)
> Unang Saksi ikalawang saksi
>
> (signed)
> ikatlong saksi

On May 29, 1999, upon petitioners' motion, SP. Proc. No. 98-90870 and SP. Proc. No. 99-93396 were consolidated.[4]

On July 1, 1999, private respondents moved for the dismissal of the probate proceedings[5] primarily on the ground that the document purporting to be the holographic will of Segundo does not contain any disposition of the estate of the deceased and thus does not meet the definition of a will under Article 783 of the Civil Code. According to private respondents, the will only shows an alleged act of disinheritance by the decedent of his eldest son, Alfredo, and nothing else; that all other compulsory heirs were not named nor instituted as heir, devisee or legatee, hence, there is preterition which would result to intestacy. Such being the case, private respondents maintained that while procedurally the court is called upon to rule only on the extrinsic validity of the will, it is not barred from delving into the intrinsic validity of the same, and ordering the dismissal of the petition for probate when on the face of the will it is clear that it contains no testamentary disposition of the property of the decedent.

Petitioners filed their opposition to the motion to dismiss contending that: 1) generally, the authority of the probate court is limited only to a determination of the extrinsic validity of the will; 2) private respondents question the intrinsic and not the extrinsic validity of the will; 3) disinheritance constitutes a disposition of the estate of a decedent; and, 4) the rule on preterition does not apply because Segundo's will does not constitute a universal heir or heirs to the exclusion of one or more compulsory heirs.[6]

On August 10, 1999, the RTC issued its assailed order, dismissing the petition for probate proceedings:

> A perusal of the document termed as "will" by oppositors/petitioners Dy Yieng Seangio, et al., clearly shows that there is preterition, as the only heirs mentioned thereat are Alfredo and Virginia. [T]he other heirs being omitted, Article 854 of the New Civil Code thus applies. However, insofar as the widow Dy Yieng Seangio is concerned, Article 854 does not apply, she not being a compulsory heir in the direct line.
>
> As such, this Court is bound to dismiss this petition, for to do otherwise would amount to an abuse of discretion. The Supreme Court in the case of *Acain v. Intermediate Appellate Court* [155 SCRA 100 (1987)] has made its position clear: "for ... respondents to have tolerated the probate of the will and allowed the case to progress when, on its face, the will appears to be intrinsically void ... would have been an exercise in futility. It would have meant a waste of time, effort, expense, plus added futility. The trial court could have denied its probate outright or could have passed upon the intrinsic validity of the testamentary provisions before the extrinsic validity of the will was resolved (underscoring supplied).
>
> WHEREFORE, premises considered, the Motion to Suspend Proceedings is hereby DENIED for lack of merit. Special Proceedings No. 99-93396 is hereby DISMISSED without pronouncement as to costs.
>
> SO ORDERED.[7]

Petitioners' motion for reconsideration was denied by the RTC in its order dated October 14, 1999.

Petitioners contend that:

> THE RESPONDENT JUDGE ACTED IN EXCESS OF HER JURISDICTION OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION AND DECIDED A QUESTION OF LAW NOT IN ACCORD WITH LAW AND JURISPRUDENCE IN ISSUING THE QUESTIONED ORDERS, DATED 10 AUGUST 1999 AND 14 OCTOBER 1999 (ATTACHMENTS "A" AND "B" HEREOF) CONSIDERING THAT:
>
> I
>
> THE RESPONDENT JUDGE, WITHOUT EVEN COMPLYING WITH SECTIONS 3 AND 4 OF RULE 76 OF THE RULES OF COURT ON THE PROPER PROCEDURE FOR SETTING THE CASE FOR INITIAL HEARING FOR THE ESTABLISHMENT OF THE JURISDICTIONAL FACTS, DISMISSED THE TESTATE CASE ON THE ALLEGED GROUND THAT THE TESTATOR'S WILL IS VOID ALLEGEDLY BECAUSE OF THE EXISTENCE OF PRETERITION, WHICH GOES INTO THE INTRINSIC VALIDITY OF THE WILL, DESPITE THE FACT THAT IT IS A SETTLED RULE THAT THE AUTHORITY OF PROBATE COURTS IS LIMITED ONLY TO A DETERMINATION OF THE EXTRINSIC VALIDITY OF THE WILL, I.E., THE DUE EXECUTION THEREOF, THE TESTATOR'S TESTAMENTARY CAPACITY AND THE COMPLIANCE WITH THE REQUISITES OR SOLEMNITIES PRESCRIBED BY LAW;
>
> II
>
> EVEN ASSUMING *ARGUENDO* THAT THE RESPONDENT JUDGE HAS THE AUTHORITY TO RULE UPON THE INTRINSIC VALIDITY OF THE WILL OF THE TESTATOR, IT IS INDUBITABLE FROM THE FACE OF THE TESTATOR'S WILL THAT NO PRETERITON EXISTS AND THAT THE WILL IS BOTH INTRINSICALLY AND EXTRINSICALLY VALID; AND,
>
> III
>
> RESPONDENT JUDGE WAS DUTY BOUND TO SUSPEND THE PROCEEDINGS IN THE INTESTATE CASE CONSIDERING THAT IT IS A SETTLED RULE THAT TESTATE PROCEEDINGS TAKE PRECEDENCE OVER INTESTATE PROCEEDINGS.

Petitioners argue, as follows:

First, respondent judge did not comply with Sections 3 and 4 of Rule 76 of the Rules of Court which respectively mandate the court to: a) fix the time and place for proving the will when all concerned may appear to contest the allowance thereof, and cause notice of such time and place to be published three weeks successively previous to the appointed time in a newspaper of general circulation; and, b) cause the mailing of said notice to the heirs, legatees and devisees of the testator Segundo;

Second, the holographic will does not contain any institution of an heir, but rather, as its title clearly states, *Kasulatan ng Pag-Aalis ng Mana*, simply contains a disinheritance of a compulsory heir. Thus, there is no preterition in the decedent's will and the holographic will on its face is not intrinsically void;