

THIRD DIVISION

[G.R. No. 139587, November 22, 2000]

**IN THE MATTER OF THE INTESTATE ESTATE OF DECEASED
ISMAEL REYES, THE HEIRS OF OSCAR R. REYES, PETITIONERS,
VS. CESAR R. REYES, RESPONDENT.**

DECISION

GONZAGA-REYES, J.:

In this petition for review on certiorari, petitioners seek to annul the decision of the respondent Court of Appeals in CA-G.R. CV No. 46761^[1] which affirmed the Order^[2] dated January 26, 1994 of the Regional Trial Court, Branch 96, Quezon City, in Special Proceeding No. 89-2519, a petition for issuance of letters of administration, and the resolution dated July 28, 1999 denying their motion for reconsideration.^[3]

Spouses Ismael Reyes and Felisa Revita Reyes are the registered owners of parcels of land situated in Arayat Street, Cubao, Quezon City covered by Transfer Certificates of Title Nos. 4983 and 3598 (39303). The spouses have seven children, namely: Oscar, Araceli, Herminia, Aurora, Emmanuel, Cesar and Rodrigo, all surnamed Reyes.

On April 18, 1973, Ismael Reyes died intestate. Prior to his death, Ismael Reyes was notified by the Bureau of Internal Revenue (BIR) of his income tax deficiency which arose out of his sale of a parcel land located in Tandang Sora, Quezon City. For failure to settle his tax liability, the amount increased to about P172,724.40 and since no payment was made by the heirs of deceased Ismael Reyes, the property covered by TCT No. 4983 was levied^[4] sold and eventually forfeited by the Bureau of Internal Revenue in favor of the government.^[5]

Sometime in 1976, petitioners' predecessor Oscar Reyes availed of the BIR's tax amnesty and he was able to redeem the property covered by TCT No. 4983^[6] upon payment of the reduced tax liability in the amount of about P18,000.^[7]

On May 18, 1982, the Office of the City Treasurer of Quezon City sent a notice to Felisa Revita Reyes informing her that the Arayat properties will be sold at public auction on August 25, 1982 for her failure to settle the real estate tax delinquency from 1974-1981.^[8]

On December 15, 1986, petitioners' predecessor Oscar Reyes entered into an amnesty compromise agreement with the City Treasurer and settled the accounts of Felisa R. Reyes.^[9]

On May 10, 1989, private respondent Cesar Reyes, brother of Oscar Reyes, filed a petition for issuance of letters of administration with the Regional Trial Court of

Quezon City praying for his appointment as administrator of the estate of the deceased Ismael Reyes which estate included 50% of the Arayat properties covered by TCT Nos. 4983 and 3598.^[10] Oscar Reyes filed his conditional opposition thereto on the ground that the Arayat properties do not form part of the estate of the deceased as he (Oscar) had acquired the properties by redemption and or purchase.^[11]

The probate court subsequently issued letters of administration in favor of Cesar Reyes where the latter was ordered to submit a true and complete inventory of properties pertaining to the estate of the deceased and the special powers of attorney executed by the other heirs who reside in the USA and that of Aurora Reyes-Dayot conforming to his appointment as administrator.^[12] Cesar Reyes filed an inventory of real and personal properties of the deceased which included the Arayat properties with a total area of 1,009 sq. meters.^[13] On the other hand, Oscar Reyes filed his objection to the inventory reiterating that the Arayat properties had been forfeited in favor of the government and he was the one who subsequently redeemed the same from the BIR using his own funds.^[14]

A hearing on the inventory was scheduled where administrator Cesar Reyes was required to present evidence to establish that the properties belong to the estate of Ismael Reyes and the oppositor to adduce evidence in support of his objection to the inclusion of certain properties in the inventory.^[15] After hearing the parties' respective arguments, the probate court issued its Order dated January 26, 1994, the dispositive portion of which reads:^[16]

"WHEREFORE, pursuant to the foregoing findings, the Court hereby modifies the inventory submitted by the administrator and declares to belong to the estate of the late Ismael Reyes the following properties, to wit:

1. One half (1/2) of the agricultural land located in Montalban, Rizal containing an area of 31,054 square meters, covered by TCT 72730 with an approximate value of P405,270.00;
2. One half (1/2) of two (2) adjoining residential lots located on Arayat Street, Cubao, Quezon City, with total area of 1,009 square meters, more or less, covered by TCTs No. 4983 AND 3598 (39303), with an approximate value of P3,027,000.00; but this determination is provisional in character and shall be without prejudice to the outcome of any action to be brought hereafter in the proper Court on the issue of ownership of the properties; and,
3. The building constructed by and leased to Sonny Bernardo and all its rental income from the inception of the lease, whether such income be in the possession of oppositor, in which case he is hereby directed to account therefor, or if such income be still unpaid by Bernardo, in which case the administrator should move to collect the same.

Consistent with the foregoing things, either of the administrator oppositor, or heir Felisa R. Reyes, in her personal capacity as apparent co-owner of the Arayat Street properties, may commence the necessary proper action for settling the issue of ownership of such properties in the Regional Trial Court in Quezon City and to inform the Court of the commencement thereof by any of them as soon as possible.

The administrator is hereby directed to verify and check carefully on whether other properties, particularly the real properties allegedly situated in Montalban, Rizal; in Marikina, Metro Manila (near Boys Town); and in Bulacan, otherwise referred to as the Hi-Cement property truly pertained to the estate; to determine their present condition and the status of their ownership; and to render a report thereon in writing within thirty (30) days from receipt of this Order.

The motion demanding for accounting to be done by oppositor Oscar Reyes is hereby denied for being unwarranted, except whatever incomes he might have received from Sonny Bernardo, which he is hereby directed to turn over to the administrator within thirty (30) days from finality of this Order.

A motion for reconsideration was filed by Oscar Reyes which was denied in an Order dated May 30, 1994.^[17] He then filed his appeal with the respondent Court of Appeals. While the appeal was pending, Oscar died and he was substituted by his heirs, herein petitioners.

On May 6, 1999, the respondent Court issued its assailed decision which affirmed the probate court's order. It ruled that the probate court's order categorically stated that the inclusion of the subject properties in the inventory of the estate of the deceased Ismael Reyes "is provisional in character and shall be without prejudice to the outcome of any action to be brought hereafter in the proper court on the issue of ownership of the properties"; that the provisional character of the inclusion of the contested properties in the inventory as stressed in the order is within the jurisdiction of intestate court. It further stated that although the general rule that question of title to property cannot be passed upon in the probate court admits of exceptions, i.e. if the claimant and all other parties having legal interest in the property consent, expressly or impliedly, to the submission of the question to the probate court for adjudication, such has no application in the instant case since petitioner-appellee and oppositor-appellant are not the only parties with legal interest in the subject property as they are not the only heirs of the decedent; that it was never shown that all parties interested in the subject property or all the heirs of the decedent consented to the submission of the question of ownership to the intestate court.

Petitioners filed their motion for reconsideration which was denied in a resolution dated July 28, 1999. Hence this petition for review on certiorari alleging that the respondent Court erred (1) in ruling that the court a quo correctly included one half (1/2) of the Arayat properties covered by TCT Nos. 4983 and 3598 (39303) in the inventory of the estate of the deceased Ismael Reyes (2) in upholding that the court a quo has no jurisdiction to determine the issue of ownership.

Petitioners argue that a probate court's jurisdiction is not limited to the determination of who the heirs are and what shares are due them as regards the estate of a deceased person since the probate court has the power and competence to determine whether a property should be excluded from the inventory of the estate or not, thus the Court a quo committed a reversible error when it included the Arayat properties in the inventory of the estate of Ismael Reyes despite the overwhelming evidence presented by petitioner-oppositor Oscar Reyes proving his claim of ownership. Petitioners contend that their claim of ownership over the Arayat properties as testified to by their predecessor Oscar Reyes was based on two (2) grounds, to wit (1) his redemption of the Arayat properties and (2) the abandonment of the properties by his co-heirs; that his act of redeeming the properties from the BIR in 1976 and thereafter from the City Treasurer of Quezon City using his own funds have the effect of vesting ownership to him. Petitioners claim that private respondent is already barred from claiming the Arayat properties since he only filed this petition 16 years after the death of Ismael Reyes and after the prices of the real properties in Cubao have already escalated tremendously.

We find no merit in this argument.

The jurisdiction of the probate court merely relates to matters having to do with the settlement of the estate and the probate of wills of deceased persons, and the appointment and removal of administrators, executors, guardians and trustees.^[18] The question of ownership is as a rule, an extraneous matter which the Probate Court cannot resolve with finality.^[19] Thus, for the purpose of determining whether a certain property should or should not be included in the inventory of estate proceeding, the probate court may pass upon the title thereto, but such determination is provisional, not conclusive, and is subject to the final decision in a separate action to resolve title.^[20]

We find that the respondent Court did not err in affirming the provisional inclusion of the subject properties to the estate of the deceased Ismael Reyes without prejudice to the outcome of any action to be brought thereafter in the proper court on the issue of ownership considering that the subject properties are still titled under the torrens system in the names of spouses Ismael and Felisa Revita Reyes which under the law is endowed with incontestability until after it has been set aside in the manner indicated in the law.^[21] The declaration of the provisional character of the inclusion of the subject properties in the inventory as stressed in the order is within the jurisdiction of the Probate Court.

Petitioners next claim that as an exception to the rule that the probate court is of limited jurisdiction, the court has jurisdiction to resolve the issue of ownership when the parties interested are all heirs of the deceased and they submitted the question of title to the property, without prejudice to third persons. Petitioners allege that the parties before the probate court were all the heirs of deceased Ismael Reyes and they were allowed to present evidence proving ownership over the subject properties, thus private respondent cannot argue that he did not in any way consent to the submission of the issue of ownership to the probate court as the records of this case is replete with evidence that he presented evidence in an attempt to prove ownership of the subject properties.

We are not persuaded.

Settled is the rule that the Regional Trial Court acting as a probate court exercises but limited jurisdiction, thus it has no power to take cognizance of and determine the issue of title to property claimed by a third person adversely to the decedent, unless the claimant and all other parties having legal interest in the property consent, expressly or impliedly, to the submission of the question to the Probate Court for adjudgment, or the interests of third persons are not thereby prejudiced.

[22]

The facts obtaining in this case, however, do not call for the application of the exception to the rule. It bears stress that the purpose why the probate court allowed the introduction of evidence on ownership was for the sole purpose of determining whether the subject properties should be included in the inventory which is within the probate court's competence. Thus, when private respondent Cesar Reyes was appointed as administrator of the properties in the court's Order dated July 26, 1989, he was ordered to submit a true inventory and appraisal of the real and personal properties of the estate which may come into his possession or knowledge which private respondent complied with. However, petitioner Oscar Reyes submitted his objection to the inventory on the ground that it included the subject properties which had been forfeited in favor of the government on April 21, 1975 and which he subsequently redeemed on August 19, 1976. The Court resolved the opposition as follows:

At the hearing today of the pending incidents, it was agreed that the said incidents could not be resolved without introduction of evidence.

Accordingly, the hearing on the inventory of real and personal properties is hereby set on April 24, 1990 at 10:00 A.M. at which date and time the petitioner/administrator shall be required to present evidence to establish that the properties stated in the inventory belong to the estate of Ismael Reyes. The oppositor shall thereafter adduce his evidence in support of his objection to the inclusion of certain properties of the estates in the inventory.

Notably, the Probate Court stated, from the start of the hearing, that the hearing was for the merits of accounting and inventory, thus it had jurisdiction to hear the opposition of Oscar Reyes to the inventory as well as the respective evidence of the parties to determine for purposes of inventory alone if they should be included therein or excluded therefrom. In fact, the probate court in its Order stated that "for resolution is the matter of the inventory of the estate, mainly to consider what properties should be included in the inventory and what should not be included." There was nothing on record that both parties submitted the issue of ownership for its final resolution. Thus the respondent Court did not err in ruling that the trial court has no jurisdiction to pass upon the issue of ownership conclusively.

In fact, the probate court, aware of its limited jurisdiction declared that its determination of the ownership was merely provisional and suggested that either the administrator or the widow Felisa Reyes may commence the proper action in the Regional Trial Court. Moreover, the court admitted that it was not competent to