

G.R. No. 232579 – Dr. Nixon L. Treyes, *Petitioner*, v. Antonio L. Larlar, Rev. Fr. Emilio L. Larlar, Heddy L. Larlar, et al., *Respondents*.

Promulgated:
September 8, 2020

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CONCURRING OPINION

ZALAMEDA, J.:

Petitioner filed the instant petition before this Court, adamant that the regular court is without jurisdiction over the complaint filed by the respondents for lack of a prior determination of heirship by a special court. In denying the petition, the *ponencia*, citing Article 777 of the New Civil Code and a myriad of jurisprudence, debunked petitioner's view. It concluded that the legal heirs, like herein respondents, have the right to file the instant suit arising out of their right of succession, without the need for a separate prior judicial declaration of heirship, provided only that there is no pending special proceeding for the settlement of the decedent's estate.¹

Contrary to petitioner's posture, a prior determination of heirship in a special proceeding is not a condition *sine qua non* in the institution of an ordinary civil proceeding involving heirs. This jurisprudence is not novel. The *ponencia* pointed that the Court *en banc* made it clear, as early as the 1939 case of *De Vera v. Galauran*,² that "unless there is a pending special proceeding for the settlement of the estate of the deceased person, the legal heirs may commence an ordinary action arising out of a right belonging to the ancestor, without the necessity of a previous and separate judicial declaration of their status as such."³

Following long-settled precedents, the *ponencia* correctly held that the legal heirs, like herein respondents, are authorized, by operation of law and from the moment of the decedent's death, to fully protect their successional rights, without having to first go through the rigors of proving their filiation or relation to the decedent in a separate special proceeding for that purpose. There is indeed clearly no judicial declaration of heirship necessary for an

¹ *Ponencia*, p. 28.

² G.R. No. L-45170, 10 April 1939.

³ *Id.*

heir to assert his or her right to the property of the deceased, as what the Court emphasized in the fairly recent case of *Capablanca v. Heirs of Bas (Capablanca)*.⁴ The putative or alleged heirs are to be considered real parties-in-interest to file the ordinary civil actions for cancellation of a deed or instrument and reconveyance of property, despite lack of a previous judicial declaration of heirship in an appropriate civil proceeding, for as long as they can show preponderant proof of their relationship or filiation to the deceased. This is because they are merely asserting their successional rights on the property, which are transmitted to them from the moment of death of the decedent, in accordance with Article 777 of the New Civil Code.

Although said rule may have endured the test of time, the same is still not firmly cast in stone. Indeed, this rule has not been immune to attack. There have been a number of cases where the ordinary civil actions filed by the putative heirs were ultimately dismissed for lack of a prior declaration of heirship in a special proceeding. These conflicting rulings of the Court on this issue became the anchor of petitioner's steadfast stance for the dismissal of the complaint below. As the confusion brought to fore is capable of repetition if left unresolved, the *ponente* is thus right to use this opportunity to rid the jurisprudence of such obscurity, once and for all.

It is an equally long-standing rule that the determination of who the legal heirs of the deceased are must be made in the proper special proceedings in court, and not in an ordinary suit for recovery of ownership and possession of property.⁵ And it is for good reasons. As elucidated by the Court in *Intestate Estate of Wolfson v. Testate Estate of Wolfson*⁶:

Paraphrasing the jurisprudence on this score, the salutary purpose of the rule is to prevent confusion and delay. It is not inserted in the law for the benefit of the parties litigant but in the public interest for the better administration of justice, for which reason the parties have no control over it. Consequently, every challenge to the validity of the will, any objection to its authentication, every demand or claim by any heir, legatee or party in interest in intestate or testate succession **must be acted upon and decided within the same special proceedings, not in a separate action, and the same judge having jurisdiction in the administration of the estate should take cognizance of the question raised**, for he will be called upon to distribute or adjudicate the property to the interested parties. WE stressed that the main function of a probate court is to settle and liquidate the estates of the deceased either summarily or through the process of administration; and towards this end the probate court has to determine who the heirs are and their respective shares in the net assets of the estate. Section 1 of Rule 73, speaking as it does of "settlement of the estates of the deceased," applies equally to both testate and intestate proceedings. And the conversion of an intestate proceedings into a testate one is "entirely a matter of form and lies within the sound discretion of the court. (Emphasis supplied.)

⁴ G.R. No. 224144, 28 June 2017.

⁵ *Heirs of Gabatan v. Hon. Court of Appeals, et al.*, G.R. No. 150206, 13 March 2009.

⁶ G.R. No. L-28054, 15 June 1972.

The rationale for the doctrine that the declaration of heirship must be made in a special proceeding, and not in an independent civil action,⁷ cannot be disregarded. A prior special proceeding must, in some cases, be instituted for the declaration of heir precisely because it seeks to **establish the parties' right or status as an heir**. This cannot be done in an ordinary civil action considering that it serves a different purpose, *i.e.*, the **enforcement or protection of rights**.

While the rights of succession are transmitted from the moment of death of the decedent, there must still be some factual determination as to who the actual heirs of the decedent are, and their particular shares as provided by law. This orderly procedure should be followed to determine all the heirs of the decedent before the latter's properties may be rightfully distributed. Disregarding this orderly procedure may create confusion and disorder as this allows any heir to institute separate ordinary civil actions in different courts, which may eventually lead to inconsistent findings regarding the rights of the heirs. Indeed, while the rights of the heirs are transmitted from the moment of death of the decedent, pursuant to the provision of the Civil Code, the said transmission is still subject to the claims of administration and the inherited properties may still be subjected to the payment of debts, expenses, and obligations incurred by the decedent or the estate.⁹

Indeed, even if the right to assert a cause of action by an alleged heir, although he has not been judicially declared to be so, has been acknowledged in a number of subsequent cases,⁸ the Court may still ultimately order the dismissal of a pertinent complaint if the heirs' claim of filiation turns out to be dubious or heavily in dispute. For instance, in the case of *Heirs of Yaptinchay v. Hon. Del Rosario, et al. (Yaptinchay)*,⁹ cited by petitioner, the plaintiffs claimed to be the legal heirs of the deceased, but had not shown any proof of filiation or even a semblance of it – except the allegations that they were the legal heirs of the deceased. In affirming the dismissal of the complaint by the regular court, the Court emphasized that the trial court cannot make a declaration of heirship in the civil action for the reason that such a declaration can only be made in a special proceeding. The Court added that the determination of who the legal heirs of the deceased are must be made in the proper special proceedings in court, and not in an ordinary suit for reconveyance of property. This must take precedence over the action for reconveyance.

The same notwithstanding, the Court has had a few occasions to make an exception to the rule that a declaration of heirship must be made in a special proceeding, such as when: (1) the parties in the civil case had voluntarily submitted the issue to the trial court, presented their evidence

⁷ *Heirs of Gabatan v. Hon. Court of Appeals, et al.*, G.R. No. 150206, 13 March 2009.

⁸ *Cabuyao v. Caagbay, et al.*, G.R. No. L-6636 02 August 1954.

⁹ G.R. No. 124320, 2 March 1999.

regarding the issue of heirship, and the RTC had consequently rendered judgment thereon; or (2) when a special proceeding had been instituted, but had been finally closed and terminated; hence, it cannot be re-opened.

In the case of *Portugal v. Portugal-Beltran*,¹⁰ the Court allowed the proceeding for annulment of title to determine the status of the party therein as heirs even without a separate action for declaration of heirship, viz:

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 (*Vide Pereira v. Court of Appeals*, 174 SCRA 154 [1989]; *Intestate Estate of Mercado v. Magtibay*, 96 Phil. 383 [1955]), 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 x x x

In the same vein, the Court allowed the exception to be applied in *Rebusquillo v. Sps. Gualvez, et al.*¹¹:

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 x x x x

Also, in *Heirs of Basbas v. Basbas*,¹² an ordinary civil action for annulment of title and reconveyance with damages was instituted by the petitioners, who were among the heirs of Severo Basbas. They alleged that therein respondents fraudulently executed an extrajudicial settlement of estate without including all the heirs so as to acquire and register the parcel of land of the decedent for themselves. The trial court granted the ordinary civil action based on its findings that respondents failed to include all the

¹⁰ G.R. No. 155555, 504 Phil. 456 (2005).

¹¹ G.R. No. 204029, 04 June 2014.

¹² G.R. No. 188773, 742 Phil. 658 (2014).

heirs in the extrajudicial settlement. However, the CA reversed the trial court, and ruled that the determination of filiation or heirship is only made in a special proceeding before a probate court. Upon appeal, the Court reinstated the findings of the trial court, holding that **a separate special proceeding for declaration of heirship is no longer necessary in view of the uncontroverted evidence presented during trial in the ordinary civil action that the petitioners are the heirs of the decedent.** The issue of heirship having been established, a special proceeding for such purpose would be superfluous.

More recently, in *Heirs of Fabillar v. Paller*,¹³ the Court applied the exception stated in *Heirs of Ypon v. Ricaforte (Ypon)*¹⁴ and ruled that a special proceeding for declaration of heirship was not necessary in said case, considering the parties had voluntarily submitted the issue of heirship before the trial court. The Court recognized that recourse to administration proceedings to determine the heirs is sanctioned only if there are good and compelling reasons; otherwise, the special proceeding may be dispensed with for the sake of practicality.

It should be stressed, however, that regular courts were allowed to dispose the issue of heirship in those cases only in the interest of justice, pragmatism, and expediency in view of the existence of the peculiar circumstances therein. I find analogous here is the situation in a testate or intestate proceedings where the question of ownership or title to the property generally cannot be passed upon by the special court **unless** there be compelling reason to do so. The Court was faced with such compelling reason in the case of *Coca v. Borromeo*,¹⁵ and disposed the issue with a practical approach, thus:

The appellant contend that the lower court, as a probate court, has no jurisdiction to decide the ownership of the twelve-hectare portion of Lot No. 1112. On the other hand, the appellees or the heirs of Francisco Pangilinan counter that the lower court did not decide the ownership of the twelve hectares when it ordered their exclusion from the project of partition. So, the problem is how the title to the twelve hectares should be decided, whether in a separate action or in the intestate proceeding.

It should be clarified that whether a particular matter should be resolved by the Court of First Instance in the exercise of its general jurisdiction or of its limited probate jurisdiction is in reality not a jurisdictional question. In essence, it is a procedural question involving a mode of practice 'which may be waived' (*Cunanan vs. Amparo*, 80 Phil. 227, 232. Cf. *Reyes vs. Diaz*, 73 Phil. 484 re jurisdiction over the issue).

As a general rule, the question as to title to property should not be passed upon in the estate or intestate proceeding. That question should be ventilated in a separate action. (*Lachenal vs. Salas*, L-42257, June 14, 1976, 71 SCRA 262, 266). That general rule has qualifications or exceptions justified by expediency and convenience.

Thus, the probate court may provisionally pass upon in an

¹³ G.R. No. 231459, 21 January 2019.

¹⁴ G.R. No. 198680, 08 July 2013.

¹⁵ G.R. No. L-29545 and G.R. No. L-27082, 31 January 1978.

intestate or testate proceeding the question of inclusion in, or exclusion from, the inventory of a piece of property without prejudice to its final determination in a separate action *Lachenal vs. Salas*, supra).

Although generally, a probate court may not decide a question of title or ownership, yet if the interested parties are all heirs or the question is one of collation or advancement, or the parties consent to the assumption of jurisdiction by the probate court and the rights of third parties are not impaired, then the probate court is competent to decide the question of ownership (*Pascual vs. Pascual*, 73 Phil. 561; *Alvarez vs. Espiritu*, L-18833, August 14, 1965, 14 SCRA 892; *Cunanan vs. Amparo*, supra; 3 Morans Comments on the Rules of Court, 1970 Ed., p. 4731).

We hold that the instant case may be treated as an exception to the general rule that questions of title should be ventilated in a separate action.

Here, the probate court had already received evidence on the ownership of the twelve-hectare portion during the hearing of the motion for its exclusion from title inventory. The only interested parties are the heirs who have all appeared in the intestate proceeding.

As pointed out by the appellees, they belong to the poor stratum of society. They should not be forced to incur additional expenses (such as filing fees) by bringing a separate action to determine the ownership of the twelve-hectare portion.

With all the foregoing being said, the varying rulings on the matter should now be reconciled, harmonized, and clarified to avoid further confusions and disagreements. There should be no question by now that **absent an exceptional reason to do so, it would be an excess of jurisdiction for the regular court to nonchalantly thresh out the issue of heirship in an ordinary civil action.**

The purpose of an ordinary civil action is the enforcement or protection of a right, or the prevention or redress of a wrong.¹⁶ The ultimate aim of such ordinary civil action is only to recover the ownership and possession of the property of the decedent, for the benefit of the estate and subsequent distribution thereof in accordance with law, or to declare the nullity of deeds, instruments and conveyances. Since the regular court's authority is confined only to the resolution of the rights and liabilities of the parties, it can only declare who the rightful owner is, not who the heirs are. As Justice Marvic Leonen fittingly expressed, the mere fact that one is declared the rightful owner by the regular court does not necessarily come with it the declaration of heirship, the same being proper only in a special proceeding.¹⁷

To be sure, **a regular court must refrain from delving into the issue of heirship for any purpose other than to determine the legal standing of the putative heirs to file the civil action, and the result of which should**

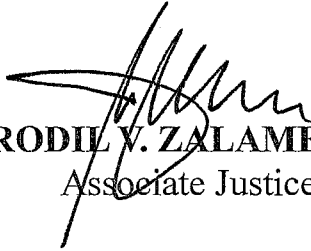
¹⁶ See *Reyes v. Enriquez*, G.R. No. 162956, 10 April 2008.

¹⁷ J. Leonen's Reflection, p. 8.

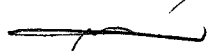
not be a bar to a subsequent appropriate proceeding on the ascertainment of the heirs between or among the parties. The *ponencia* noted that this determination shall only be in relation to the appropriate cause or causes of action in the ordinary civil action initiated by the putative heirs.¹⁸ However, **when a compelling reason exists for the regular court to dispose the issue of heirship, as in *Capablanca* and similar jurisprudence, the trial court should proceed to evaluate the evidence presented by the parties during the trial and render a decision thereon,¹⁹ which shall be binding only upon the parties properly impleaded.²⁰**

And as comprehensively argued in the *ponencia*, it should be clear at this juncture that **unless there is already a pending special proceeding for the settlement of the decedent's estate or for the determination of heirship, the heirs, subject to the presentation of sufficient proof of their filiation to the decedent, have legal standing, by virtue of their successional rights, to commence and prosecute an ordinary civil action, even without a prior judicial declaration of heirship, so they may assert their right to the estate of the decedent.**

ACCORDINGLY, I vote to DENY the Petition.


RODIL V. ZALAMEDA
Associate Justice

CERTIFIED TRUE COPY


EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court

¹⁸ *Ponencia*, p. 15.

¹⁹ See *Capablanca v. Heirs of Bas*, G.R. No. 224144, 28 June 2017.

²⁰ *Ponencia*, p. 15.