

## SECOND DIVISION

[ G.R. No. 133000, October 02, 2001 ]

**PATRICIA NATCHER, PETITIONER, VS. HON. COURT OF APPEALS  
AND THE HEIRS OF GRACIANO DEL ROSARIO – LETICIA DEL  
ROSARIO, EMILIA DEL ROSARIO-MANANGAN, ROSALINDA  
FUENTES LLANA, RODOLFO FUENTES, ALBERTO FUENTES,  
EVELYN DEL ROSARIO, AND EDUARDO DEL ROSARIO,  
RESPONDENTS.**

### DECISION

**BUENA, J.:**

May a Regional Trial Court, acting as a court of general jurisdiction in an action for reconveyance and annulment of title with damages, adjudicate matters relating to the settlement of the estate of a deceased person particularly in questions as to advancement of property made by the decedent to any of the heirs?

Sought to be reversed in this petition for review on *certiorari* under Rule 45 is the decision<sup>[1]</sup> of public respondent Court of Appeals, the decretal portion of which declares:

"Wherefore in view of the foregoing considerations, judgment appealed from is reversed and set aside and another one entered annulling the Deed of Sale executed by Graciano Del Rosario in favor of defendant-appellee Patricia Natcher, and ordering the Register of Deeds to Cancel TCT No. 186059 and reinstate TCT No. 107443 without prejudice to the filing of a special proceeding for the settlement of the estate of Graciano Del Rosario in a proper court. No costs.

"So ordered."

Spouses Graciano del Rosario and Graciana Esguerra were registered owners of a parcel of land with an area of 9,322 square meters located in Manila and covered by Transfer Certificate of Title No. 11889. Upon the death of Graciana in 1951, Graciano, together with his six children, namely: Bayani, Ricardo, Rafael, Leticia, Emiliana and Nieves, entered into an extrajudicial settlement of Graciana's estate on 09 February 1954 adjudicating and dividing among themselves the real property subject of TCT No. 11889. Under the agreement, Graciano received 8/14 share while each of the six children received 1/14 share of the said property. Accordingly, TCT No. 11889 was cancelled, and *in lieu* thereof, TCT No. 35980 was issued in the name of Graciano and the six children.

Further, on 09 February 1954, said heirs executed and forged an "Agreement of Consolidation-Subdivision of Real Property with Waiver of Rights" where they

subdivided among themselves the parcel of land covered by TCT No. 35980 into several lots. Graciano then donated to his children, share and share alike, a portion of his interest in the land amounting to 4,849.38 square meters leaving only 447.60 square meters registered under Graciano's name, as covered by TCT No. 35988. Subsequently, the land subject of TCT No. 35988 was further subdivided into two separate lots where the first lot with a land area of 80.90 square meters was registered under TCT No. 107442 and the second lot with a land area of 396.70 square meters was registered under TCT No. 107443. Eventually, Graciano sold the first lot<sup>[2]</sup> to a third person but retained ownership over the second lot.<sup>[3]</sup>

On 20 March 1980, Graciano married herein petitioner Patricia Natcher. During their marriage, Graciano sold the land covered by TCT No. 107443 to his wife Patricia as a result of which TCT No. 186059<sup>[4]</sup> was issued in the latter's name. On 07 October 1985, Graciano died leaving his second wife Patricia and his six children by his first marriage, as heirs.

In a complaint<sup>[5]</sup> filed in Civil Case No. 71075 before the Regional Trial Court of Manila, Branch 55, herein private respondents alleged that upon Graciano's death, petitioner Natcher, through the employment of fraud, misrepresentation and forgery, acquired TCT No. 107443, by making it appear that Graciano executed a Deed of Sale dated 25 June 1987<sup>[6]</sup> in favor of herein petitioner resulting in the cancellation of TCT No. 107443 and the issuance of TCT No. 186059 in the name of Patricia Natcher. Similarly, herein private respondents alleged in said complaint that as a consequence of such fraudulent sale, their legitimes have been impaired.

In her answer<sup>[7]</sup> dated 19 August 1994, herein petitioner Natcher averred that she was legally married to Graciano on 20 March 1980 and thus, under the law, she was likewise considered a compulsory heir of the latter. Petitioner further alleged that during Graciano's lifetime, Graciano already distributed, in advance, properties to his children, hence, herein private respondents may not anymore claim against Graciano's estate or against herein petitioner's property.

After trial, the Regional Trial Court of Manila, Branch 55, rendered a decision dated 26 January 1996 holding:<sup>[8]</sup>

"1) The deed of sale executed by the late Graciano del Rosario in favor of Patricia Natcher is prohibited by law and thus a complete nullity. There being no evidence that a separation of property was agreed upon in the marriage settlements or that there has been decreed a judicial separation of property between them, the spouses are prohibited from entering (into) a contract of sale;

"2) The deed of sale cannot be likewise regarded as a valid donation as it was equally prohibited by law under Article 133 of the New Civil Code;

"3) Although the deed of sale cannot be regarded as such or as a donation, it may however be regarded as an extension of advance inheritance of Patricia Natcher being a compulsory heir of the deceased."

On appeal, the Court of Appeals reversed and set aside the lower court's decision ratiocinating, *inter alia*:

"It is the probate court that has exclusive jurisdiction to make a just and legal distribution of the estate. The court a quo, trying an ordinary action for reconveyance/annulment of title, went beyond its jurisdiction when it performed the acts proper only in a special proceeding for the settlement of estate of a deceased person. XXX

"X X X Thus the court a quo erred in regarding the subject property as an advance inheritance. What the court should have done was merely to rule on the validity of (the) sale and leave the issue on advancement to be resolved in a separate proceeding instituted for that purpose. X X X"

Aggrieved, herein petitioner seeks refuge under our protective mantle through the expediency of Rule 45 of the Rules of Court and assails the appellate court's decision "for being contrary to law and the facts of the case."

We concur with the Court of Appeals and find no merit in the instant petition.

Section 3, Rule 1 of the 1997 Rules of Civil Procedure defines civil action and special proceedings, in this wise:

"X X X a) A civil action is one by which a party sues another for the enforcement or protection of a right, or the prevention or redress of a wrong.

"A civil action may either be ordinary or special. Both are governed by the rules for ordinary civil actions, subject to specific rules prescribed for a special civil action.

"X X X

"c) A special proceeding is a remedy by which a party seeks to establish a status, a right or a particular fact."

As could be gleaned from the foregoing, there lies a marked distinction between an action and a special proceeding. An action is a formal demand of one's right in a court of justice in the manner prescribed by the court or by the law. It is the method of applying legal remedies according to definite established rules. The term "special proceeding" may be defined as an application or proceeding to establish the status or right of a party, or a particular fact. Usually, in special proceedings, no formal pleadings are required unless the statute expressly so provides. In special proceedings, the remedy is granted generally upon an application or motion."<sup>[9]</sup>

Citing American Jurisprudence, a noted authority in Remedial Law expounds further: