

THY WILL BE DONE by Atty. Angelo M. Cabrera

WHEN HEIRS ARE UNLAWFULLY DEPRIVED OF INHERITANCE II

Last week, we learned that an heir who had been deprived of his share in the inheritance could take legal action against his co-heirs who caused the falsification of a deed of succession that named themselves as the only surviving heirs of the deceased estate owner. In its ruling, the Supreme Court affirmed the decision of the lower court that found a woman and her children guilty of falsification by the use of the phrase, "the parties hereto are the **only heirs of the decedent...**" in the deed of succession that they signed. The Supreme Court ruled that there could be no good faith on the part of the woman and her children since they knew of the untruthful character of statements contained in the deed of succession that they signed.

Another way by which heirs can be unlawfully deprived of inheritance is by making it appear that the property of the deceased had already been sold to one or some of the heirs prior to the death of the property owner. By such sale, other heirs would no longer have anything to inherit. If the property owner or some heirs are already dead, the only way by which this can be done is by forging their signatures in the deed.

Apart from holding to account those responsible for this unlawful act, what can an heir do to protect his interest, where new titles have already been issued?

In one case, an heir sought the annulment of a deed of partition and sale and the cancellation and invalidation of new titles upon a claim that the signatures of some of the heirs had been falsified and that the remaining signatories could not have signed the deed as they were already dead.

In said case, the Supreme Court reversed the ruling of the trial court that upheld the validity of the deed in spite of the clear evidence that when the deed was notarized, two of the signatories in the deed were already dead.

The Court reiterated an earlier ruling in *Heirs of Rosa Dumaliang v. Serban* and stressed in no uncertain terms that..."if it is established that petitioner's consent was not given to the Deed of Extra-Judicial Settlement and Sale which became the basis for the issuance of the new title over the entire lot in the respondent's name, the absence of such consent makes the Deed null and void *ab initio* and subject to attack anytime. It is recognized in our jurisprudence that a forged deed is a nullity and conveys no title. Article 1410 of the Civil Code clearly provides that an action to declare the inexistence of a void contract does not prescribe."

The Supreme Court further ruled that when there is showing of such illegality, the property registered is deemed to be simply held in trust for the real owner by the person in whose name it is registered, and the former then has the right to sue for reconveyance of the property. The action for this purpose is also imprescriptible,

and as long as the land wrongfully registered under the Torrens system is still in the name of the person who caused such registration.

If indeed petitioner's consent was not given, respondents could not have acquired ownership of the property by virtue of the Deed of Extra-Judicial Settlement and Sale. While a certificate of title was issued in respondents' favor such title could not vest upon them ownership of the property; neither could it validate a deed which is null and void. Registration does not vest title; it is merely the evidence of such title. (Based on G.R. 191889, January 31, 2011).

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