

EN BANC

G.R. No. 232579 – DR. NIXON 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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DISSENTING OPINION

LEONEN, J.:

It is well established that special proceedings have different procedural requirements from those of ordinary civil actions. Ordinary civil actions, whether they be actions *in personam* or *quasi in rem*, are binding only upon the parties. On the other hand, special proceedings, such as the settlement of a decedent's estate, are actions *in rem*—they entail a binding effect on the whole world.

Estate settlements and declarations of heirship, to be binding on the whole world, must undergo any of these: (1) an extrajudicial settlement pursuant to Rule 74, Section 4 of the Rules of Court; (2) a judicial summary settlement; or (3) testate or intestate settlement of estate. If none of these remedies are utilized, there could be no declaration of heirs. This rule is long entrenched in jurisprudence, and must likewise govern here.

This case centers on the estate of Rosie Larlar Treyes (Rosie), whose death left her husband, petitioner Nixon L. Treyes, and her siblings (private respondents) embroiled over the heirship to her 14 properties. Petitioner executed two Affidavits of Self-Adjudication, transferring the entire estate to himself as Rosie's sole heir—one that Rosie's siblings contested as they, too, claim to be compulsory heirs.

For the majority, the Court of Appeals correctly held that the Regional Trial Court did not gravely abuse its discretion in denying petitioner's second Motion to Dismiss private respondents' Complaint, where he cited the following grounds: (a) improper venue; (b) prescription; and (c) lack of jurisdiction over the subject matter. The majority maintained that none of these grounds were proper.

I dissent.

## I

Under the Omnibus Motion Rule, as provided in Rule 15, Section 8 of the Rules of Court, every motion that attacks a pleading, judgment, order, or proceeding shall include all grounds then available. All objections not included shall be deemed waived, unless the grounds are the lack of jurisdiction over the subject matter, *litis pendentia*, *res judicata*, and prescription.

Since petitioner failed to raise the ground of improper venue in his first Motion to Dismiss, he could not have raised the ground of improper venue in his second Motion to Dismiss, as that has been deemed waived. Nevertheless, the grounds of prescription and lack of jurisdiction over the subject matter may still be belatedly presented.

In asserting that private respondents' action had already prescribed, petitioner depended on Rule 74, Section 4 of the Rules of Court. The provision states that an heir or other persons unduly deprived of lawful participation in the estate "may compel the settlement of the estate in the courts" within two years after the estate settlement and distribution.

However, the majority states that Rule 74 applies only to special proceedings. Since private respondents' Complaint is an ordinary civil action and not a special proceeding, petitioner's assertion on the prescriptive period will not apply.<sup>1</sup>

The case being a civil action, the majority likewise believes that the ground of lack of jurisdiction is misplaced. Refuting petitioner's claim, it states that jurisdiction over the subject matter is conferred by law and determined by the allegations in a complaint. The law, it continues, confers jurisdiction on the Regional Trial Court for civil actions involving title or possession of real property, or any interest therein, where the property's assessed value exceeds ₱20,000.00 or, for civil actions in Metro Manila, ₱50,000.00; and if the action is not for forcible entry or unlawful detainer.<sup>2</sup> Since private respondents sought to annul the Affidavits of Self-Adjudication, the majority held that the trial court correctly assumed jurisdiction over the case.<sup>3</sup>

It is true that jurisdiction over the subject matter is conferred by law and determined by the allegations made in the complaint. In *Morta, Sr. v. Occidental*:<sup>4</sup>

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<sup>1</sup> Ponencia, p. 8.

<sup>2</sup> Batas Pambansa Bilang 129 (The Judiciary Reorganization Act of 1980).

<sup>3</sup> Ponencia, p. 10.

<sup>4</sup> 367 Phil. 438 (1999) [Per J. Panganiban, First Division].

It is axiomatic that what determines the nature of an action as well as which court has jurisdiction over it, are the allegations in the complaint and the character of the relief sought. "Jurisdiction over the subject matter is determined upon the allegations made in the complaint, irrespective of whether the plaintiff is entitled to recover upon a claim asserted therein — a matter resolved only after and as a result of the trial. Neither can the jurisdiction of the court be made to depend upon the defenses made by the defendant in his answer or motion to dismiss. If such were the rule, the question of jurisdiction would depend almost entirely upon the defendant."<sup>5</sup> (Citations omitted)

A review of the Complaint's allegations reveals that private respondents unambiguously claim to be entitled to half of Rosie's estate as compulsory heirs under Article 1001 of the Civil Code. Thus, they pray that the Affidavits of Self-Adjudication be annulled and the estate be distributed and partitioned. They further assert that petitioner fraudulently excluded them from the extrajudicial settlement to take hold of their conjugal properties for himself. They state:

1.6 Plaintiff's sister, ROSIE LARLAR TREYES, died without leaving any will. She also did not bear any children with the defendant TREYES.

1.7. Accordingly, the estate of ROSIE LARLAR TREYES, which consists of her one-half (1/2) share in the conjugal properties that she owns with her husband (defendant TREYES), became subject to the operation of the law on intestate succession.

1.8. In particular, Article 1001 of the Civil Code of the Philippines provides that where there are brothers and sisters who survive together with the widow or widower of the deceased, one-half (1/2) of the decedent's estate shall belong to the widow or widower, while the other half shall belong to the surviving brothers and sister. Thus:

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1.9. In effect, plaintiffs are legally the co-heirs of the estate of ROSIE LARLAR TREYES together with the defendant and are entitled to a share in the same.

1.10. However, in gross bad faith and with malicious intent, defendant TREYES falsely and fraudulently caused the above-described properties to be transferred in his own name to the exclusion of the herein plaintiffs by executing two (2) Affidavits of Self-Adjudication, the first one dated September 2, 2008 (copy attached as Annex "X"), while the second one is dated May 19, 2011 (copy hereto attached as Annex "Y"). The contents of both Affidavits of Self-Adjudication are practically identical, and only the dates appear to vary.<sup>6</sup>

From their allegations, it is evident that the annulment of petitioner's Affidavits of Self-Adjudication, the cancellation of the Transfer Certificates

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<sup>5</sup> Id. at 445.

<sup>6</sup> Complaint, p. 12.

of Title, may only be had if private respondents would be established as heirs. Only after being declared heirs can they be entitled to a portion of Rosie's estate.

Estate settlements are special proceedings cognizable by a probate court of limited jurisdiction, while the annulment of affidavits of adjudication and transfer certificates of title are ordinary civil actions cognizable by a court of general jurisdiction. It only follows that the trial court would be exceeding its jurisdiction if it entertained the issue of heirship. The subject matter and relief sought should have been threshed out in a special proceeding, and not in an ordinary civil action.

Yet, the majority emphasizes that the Complaint was not to establish heirship, but to annul the Affidavits of Self-Adjudication and Transfer Certificates of Title due to fraud. Thus, it rules that both Motions to Dismiss of petitioner were rightly struck down.

I disagree. Certain clarifications regarding the declaration of heirship in special proceedings as opposed to in ordinary civil actions must be made so as not to espouse confusion.

In *Heirs of Ypon v. Ricaforte*,<sup>7</sup> this Court laid down the distinction between an ordinary civil action and a special proceeding. It categorically stated that the determination of a decedent's lawful heirs should be made in a special proceeding:

In the case of *Heirs of Teofilo Gabatan v. CA*, the Court, citing several other precedents, held that the determination of who are the decedent's lawful heirs must be made in the proper special proceeding for such purpose, and not in an ordinary suit for recovery of ownership and/or possession, as in this case:

**Jurisprudence dictates that the determination of who are the legal heirs of the deceased must be made in the proper special proceedings in court, and not in an ordinary suit for recovery of ownership and possession of property.** This must take precedence over the action for recovery of possession and ownership. The Court has consistently ruled 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.** Under Section 3, Rule 1 of the 1997 Revised Rules of Court, a civil action is defined as *one by which a party sues another for the enforcement or protection of a right, or the prevention or redress of a wrong while a special proceeding is a remedy by which a party seeks to establish a status, a right, or a particular fact.* It is then decisively clear that the declaration of heirship can be made

<sup>7</sup> 713 Phil. 570 (2013) [Per J. Perlas-Bernabe, Second Division].

only in a special proceeding inasmuch as the petitioners here are seeking the establishment of a status or right.<sup>8</sup> (Emphasis in the original, citation omitted)

The majority is correct in saying that the main difference between an ordinary civil action and a special proceeding is that in an ordinary civil action, parties sue for the enforcement or protection of a right to which they claim entitlement, while in a special proceeding, parties merely seek to have a right established in their favor. However, this is not the only distinction between the two.

Special proceedings have different procedural requirements from ordinary civil actions. Necessarily, a question made for a special proceeding cannot be threshed out in a civil action, since a judgment from a special proceeding would have a different effect from that of an ordinary civil action.

In *Natcher v. Court of Appeals*,<sup>9</sup> widow Graciano Del Rosario (Del Rosario) married Patricia Natcher (Natcher) and transferred one of his lots to her through a sale. Upon Del Rosario's death, his children from his first marriage sought to annul the Deed of Sale in Natcher's favor on the ground of fraud. The trial court held the sale to be illegal; nevertheless, it considered the lot as part of Natcher's advanced inheritance as a compulsory heir of Del Rosario's estate.

This Court reversed the trial court's ruling, holding that matters of settlement and distribution of the decedent's estate fall within the exclusive province of the probate court, in its limited jurisdiction, and may not be concluded in an ordinary civil action. Thus:

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."

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

"It may accordingly be stated generally that actions include those proceedings which are instituted and

<sup>8</sup> Id. at 575-576 citing *Heirs of Teofilo Gabatan v. CA*, 600 Phil. 112 (2009) [Per J. Leonardo-De Castro, First Division].

<sup>9</sup> 418 Phil. 669 (2001) [Per J. Buena, Second Division].

prosecuted according to the ordinary rules and provisions relating to actions at law or suits in equity, and that special proceedings include those proceedings which are not ordinary in this sense, but is instituted and prosecuted according to some special mode as in the case of proceedings commenced without summons and prosecuted without regular pleadings, which are characteristics of ordinary actions. . . . A special proceeding must therefore be in the nature of a distinct and independent proceeding for particular relief, such as may be instituted independently of a pending action, by petition or motion upon notice.”

*Applying these principles, an action for reconveyance and annulment of title with damages is a civil action, whereas matters relating to settlement of the estate of a deceased person such as advancement of property made by the decedent, partake of the nature of a special proceeding, which concomitantly requires the application of specific rules as provided for in the Rules of Court.*

*Clearly, matters which involve settlement and distribution of the estate of the decedent fall within the exclusive province of the probate court in the exercise of its limited jurisdiction.*

Thus, under Section 2, Rule 90 of the Rules of Court, questions as to advancement made or alleged to have been made by the deceased to any heir may be heard and determined by the *court having jurisdiction of the estate proceedings*; and the final order of the court thereon shall be binding on the person raising the questions and on the heir.

While it may be true that the Rules used the word “may”, it is nevertheless clear that the same provision contemplates a probate court when it speaks of the “court having jurisdiction of the estate proceedings”.

Corollarily, the Regional Trial Court in the instant case, acting in its general jurisdiction, is devoid of authority to render an adjudication and resolve the issue of advancement of the real property in favor of herein petitioner Natcher, inasmuch as Civil Case No. 71075 for reconveyance and annulment of title with damages is not, to our mind, the proper vehicle to thresh out said question. Moreover, under the present circumstances, the RTC of Manila, Branch 55 was not properly constituted as a probate court so as to validly pass upon the question of advancement made by the decedent Graciano Del Rosario to his wife, herein petitioner Natcher.<sup>10</sup> (Emphasis supplied, citations omitted)

More important, ordinary civil actions are proceedings *quasi in rem*, which means they are binding only to the parties involved. Meanwhile, special proceedings, including estate settlement, are proceedings *in rem*, binding the whole world. This was enunciated in *Leriu v. Longa*<sup>11</sup> thus:

<sup>10</sup> Id. at 676–678.

<sup>11</sup> *Leriu v. Longa*, G.R. No. 203923, October 8, 2018, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64687>> [Per J. Leonardo- De Castro, First Division].

The Court in *Pilapil* adjudged:

While it is true that since the CFI was not informed that Maximino still had surviving siblings and so the court was not able to order that these siblings be given personal notices of the intestate proceedings, it should be borne in mind that the settlement of estate, whether testate or intestate, is a proceeding *in rem*, and that the publication in the newspapers of the filing of the application and of the date set for the hearing of the same, in the manner prescribed by law, is a notice to the whole world of the existence of the proceedings and of the hearing on the date and time indicated in the publication. The publication requirement of the notice in newspapers is precisely for the purpose of informing all interested parties in the estate of the deceased of the existence of the settlement proceedings, most especially those who were not named as heirs or creditors in the petition, regardless of whether such omission was voluntarily or involuntarily made. . . .<sup>12</sup> (Emphasis in the original)

An action *in rem* was further explained in *De Pedro v. Romasan Development Corporation*<sup>13</sup> vis-à-vis *quasi in rem* and *in personam* actions:

In actions *in personam*, the judgment is for or against a person directly. Jurisdiction over the parties is required in actions *in personam* because they seek to impose personal responsibility or liability upon a person.

Courts need not acquire jurisdiction over parties on this basis in *in rem* and *quasi in rem* actions. Actions *in rem* or *quasi in rem* are not directed against the person based on his or her personal liability.

*Actions in rem are actions against the thing itself. They are binding upon the whole world. Quasi in rem actions are actions involving the status of a property over which a party has interest. Quasi in rem actions are not binding upon the whole world. They affect only the interests of the particular parties.*

However, to satisfy the requirements of due process, jurisdiction over the parties in *in rem* and *quasi in rem* actions is required.

*The phrase, "against the thing," to describe in rem actions is a metaphor. It is not the "thing" that is the party to an in rem action; only legal or natural persons may be parties even in in rem actions. "Against the thing" means that resolution of the case affects interests of others whether direct or indirect. It also assumes that the interests — in the form of rights and duties — attach to the thing which is the subject matter of litigation. In actions in rem, our procedure assumes an active vinculum*

<sup>12</sup> Id. citing *Pilapil v. Heirs of Maximino R. Briones*, 519 Phil. 292 (2006) [Per J. Chico-Nazario, First Division].

<sup>13</sup> 748 Phil. 706 (2014) [Per J. Leonen, Second Division].

*over those with interests to the thing subject of litigation.*<sup>14</sup> (Emphasis supplied, citations omitted)

To illustrate: if an *in rem* action such as a succession proceeding were to declare heirship, this would be binding on the whole world, and would generally bar any third party from questioning such declaration. However, if an ordinary civil action—which is binding only on the parties involved—resolves causes of action that incidentally determine the question of heirship, any third party may simply assail that determination later on.

Thus, I do not agree that it is no longer necessary to go through a special proceeding to declare one's status as an heir, even if such declaration is merely incidental to the purpose of the ordinary civil action. There are only three (3) ways in which one may establish heirship, namely: (1) an extrajudicial settlement under Rule 74, Section 4<sup>15</sup> of the Rules of Court; (2) a judicial summary settlement; and (3) a settlement of estate through testate or intestate. If none of these remedies are utilized, there could be no declaration of heirs.

Granted, private respondents may be Rosie's heirs pursuant to Article 777 of the Civil Code, but this does not give the Regional Trial Court, in its ordinary jurisdiction, the authority to declare them as heirs.

Still, the majority highlights the exceptions to the rule that a determination of heirship in a special proceeding is a prerequisite to an ordinary civil action involving heirs, namely: (1) "when the parties in the civil case had voluntarily submitted the issue to the trial court and already presented their evidence regarding the issue of heirship"; and (2) when a special proceeding had been instituted but had been finally closed and terminated, and hence, cannot be re-opened."<sup>16</sup> Evidently, neither of the exceptions applies.

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<sup>14</sup> *Id.* at 725–726.

<sup>15</sup> SECTION 4. *Liability of distributees and estate.* — If it shall appear at any time within two (2) years after the settlement and distribution of an estate in accordance with the provisions of either of the first two sections of this rule, that an heir or other person has been unduly deprived of his lawful participation in the estate, such heir or such other person may compel the settlement of the estate in the courts in the manner hereinafter provided for the purpose of satisfying such lawful participation. And if within the same time of two (2) years, it shall appear that there are debts outstanding against the estate which have not been paid, or that an heir or other person has been unduly deprived of his lawful participation payable in money, the court having jurisdiction of the estate may, by order for that purpose, after hearing, settle the amount of such debts or lawful participation and order how much and in what manner each distributee shall contribute in the payment thereof, and may issue execution, if circumstances require, against the bond provided in the preceding section or against the real estate belonging to the deceased, or both. Such bond and such real estate shall remain charged with a liability to creditors, heirs, or other persons for the full period of two (2) years after such distribution, notwithstanding any transfers of real estate that may have been made. (Emphasis supplied)

<sup>16</sup> *Heirs of Ypon*, 713 Phil. 570, 576–577 (2013) [Per J. Perlas-Bernabe, Second Division] as cited in ponencia, p. 12.

In *Rebusquillo v. Spouses Gualvez*,<sup>17</sup> where an affidavit of adjudication was likewise questioned in an ordinary civil action for not including all the heirs, this Court said that the declaration of heirship must be made in a special proceeding, but allowed room for exceptions. Citing *Portugal v. Portugal-Beltran*,<sup>18</sup> it said:

It has indeed been ruled that the declaration of heirship must be made in a special proceeding, not in an independent civil action. However, this Court had likewise held that recourse to administration proceedings to determine who heirs are is sanctioned only if there is a good and compelling reason for such recourse. Hence, the Court had allowed exceptions to the rule requiring administration proceedings as when the parties in the civil case already presented their evidence regarding the issue of heirship, and the RTC had consequently rendered judgment upon the issues it defined during the pre-trial. In *Portugal v. Portugal-Beltran*, this Court held:

In the case at bar, respondent, believing rightly or wrongly that she was the sole heir to Portugal's estate, executed on February 15, 1988 the questioned Affidavit of Adjudication under the second sentence of Rule 74, Section 1 of the Revised Rules of Court. Said rule is an exception to the general rule that when a person dies leaving a property, it should be judicially administered and the competent court should appoint a qualified administrator, in the order established in Sec. 6, Rule 78 in case the deceased left no will, or in case he did, he failed to name an executor therein.

Petitioners claim, however, to be the exclusive heirs of Portugal. *A probate or intestate court, no doubt, has jurisdiction to declare who are the heirs of a deceased.*

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.

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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

<sup>17</sup> 735 Phil. 434 (2014) [Per J. Velasco, Jr., Third Division].

<sup>18</sup> 504 Phil. 456 (2005) [Per J. Carpio Morales, Third Division].

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.<sup>19</sup> (Emphasis supplied, citations omitted)

In *Rebusquillo* and *Portugal*, this Court allowed the determination of heirship in an ordinary civil action since both cases involved only one property. Moreover, the parties there had already presented sufficient evidence before the court on their status as heirs, which was admitted by the opposing parties.

The same cannot be said in this case. Here, 14 conjugal properties of petitioner and the decedent are involved. In addition, the only evidence presented in court were photocopies of private respondents' birth certificates attached to the Complaint. Consequently, the exception allowing the trial court to assume jurisdiction over the case will not lie.

## II

The majority went into an exhaustive explanation that ultimately concluded that private respondents are indeed heirs of Rosie. In arriving at this, it reviewed a flurry of cases that led it to abandon the long-established rule that a prior determination of heirship in a separate special proceeding is required before one can invoke their status and rights as a legal heir in an ordinary civil action.

However, the majority spoke of a line of cases that do not fall squarely upon this case.

In *Litam v. Espiritu*,<sup>20</sup> this Court unequivocally stated that the Regional Trial Court erred when it declared that the party involved was not an heir of the deceased. It stated:

Likewise, we are of the opinion that the lower court should not have declared, in the decision appealed from, that Marcosa Rivera is the only heir of the decedent, such declaration is improper in Civil Case No. 2071, it being within the exclusive competence of the court in Special Proceeding No. 1537, in which it is not as yet, in issue, and will not be, ordinarily, in issue until the presentation of the project of partition.<sup>21</sup>

Despite this clear pronouncement, the majority believes that a definite declaration of who the heirs are may be correctly made in an ordinary civil action as long as there is no special proceeding yet.

<sup>19</sup> *Rebusquillo v. Spouses Gualvez*, 735 Phil. 434, 441–443 (2014) [Per J. Velasco, Jr., Third Division].

<sup>20</sup> 100 Phil. 364 (1956) [J. Concepcion, En Banc].

<sup>21</sup> *Id.* at 378.

It is true that in the earlier cases of *De Vera v. Galauran*,<sup>22</sup> *Cabuyao v. Caagbay*,<sup>23</sup> and *Marabilles v. Spouses Quito*,<sup>24</sup> this Court held that heirs may assert their rights to the decedent's property without a previous judicial declaration of heirship. However, such pronouncement does not necessarily declare one's status as an heir in the same proceeding. Nor does it mean that a special proceeding can be dispensed with.

In *Morales v. Yañez*,<sup>25</sup> this Court held that while a hereditary right may be protected, its formal declaration must still undergo special proceedings:

It is clear that His Honor read the law correctly. Appellants contend, however, that for defendant to acquire a vested right to Eugenio's property, he must first commence proceedings to settle Eugenio's estate — which he had not done. There is no merit to the contention. This Court has repeatedly held that the right of heirs to the property of the deceased is vested from the moment of death. Of course the formal declaration or recognition or enforcement of such right needs judicial confirmation in proper proceedings. But we have often enforced or protected such rights from encroachments made or attempted before the judicial declaration. Which can only mean that the heir acquired hereditary rights even before judicial declaration in testate or intestate proceedings.<sup>26</sup>

Stated differently, even if one has not been declared an heir in a special proceeding, courts may still protect them from anyone who may encroach on the decedent's property. Based on the evidence presented in a particular case, the ordinary civil action may prosper, and whether one is the owner of a certain property may be determined. The court then decides on ownership, not heirship. Whether one is deemed the rightful owner does not make one an heir. That determination is only proper in a special proceeding.

The majority likewise used *Bonilla v. Barcena*<sup>27</sup> to support its theory. In that case, this Court reversed the lower court's ruling and held that the heirs' rights to the decedent's property vests in them even before a judicial declaration of heirship in a special proceeding. In that case, however, this Court did not dispense with the declaration of heirs in a separate special proceeding. Instead, it simply allowed the substitution of the decedent's children as plaintiff in the pending case, them having the legal standing to protect the decedent's rights to the property involved.

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<sup>22</sup> 67 Phil. 213 (1939) [Per J. Morean, En Banc].

<sup>23</sup> 95 Phil. 614 (1954) [Per J. Concepcion, En Banc].

<sup>24</sup> 100 Phil. 64 (1956) [Per J. Bautista-Angelo, En Banc].

<sup>25</sup> 98 Phil. 677 (1956) [Per J. Bengzon, First Division].

<sup>26</sup> Id. at 678-679.

<sup>27</sup> 163 Phil. 156 (1976) [Per J. Martin, First Division].

The same principle was reiterated in *Baranda v. Baranda*,<sup>28</sup> where it was held that heirs of a decedent may institute an ordinary civil action, there being no pending special proceeding, since this is to protect the rights of the decedent. Thus:

As heirs, the petitioners have legal standing to challenge the deeds of sale purportedly signed by Paulina Baranda for otherwise property claimed to belong to her estate will be excluded therefrom to their prejudice. Their claims are not merely contingent or expectant, as argued by the private respondents, but are deemed to have vested in them upon Paulina Baranda's death in 1982, as, under Article 777 of the Civil Code, "the rights to the succession are transmitted from the moment of the death of the decedent." While they are not compulsory heirs, they are nonetheless legitimate heirs and so, since they "stand to be benefited or injured by the judgment or suit," are entitled to protect their share of successional rights.

This Court has repeatedly held that "the legal heirs of a decedent are the parties in interest to commence ordinary actions arising out of the rights belonging to the deceased, without separate judicial declaration as to their being heirs of said decedent, provided that there is no pending special proceeding for the settlement of the decedent's estate."

*There being no pending special proceeding for the settlement of Paulina Baranda's estate, the petitioners, as her intestate heirs, had the right to sue for the reconveyance of the disputed properties, not to them, but to the estate itself of the decedent, for distribution later in accordance with law. Otherwise, no one else could question the simulated sales and the subjects thereof would remain in the name of the alleged vendees, who would thus have been permitted to benefit from their deception. In fact, even if it were assumed that those suing through attorneys-in-fact were not properly represented, the remaining petitioners would still have sufficed to impugn the validity of the deeds of sale.*<sup>29</sup> (Emphasis supplied)

Notably, in enforcing the rights of the plaintiffs in *Baranda*, this Court ordered the reinstatement of the trial court's decision, which made no declaration on the status of the heirs but instead directed that all the lots in question be transferred to the decedent's estate.

Likewise, in *Marquez v. Court of Appeals*,<sup>30</sup> this Court reinstated the trial court's ruling, which deemed an affidavit of adjudication and donation inter vivos void for excluding the decedent's other heirs in its execution, without making an outright declaration as to who the heirs were. A similar conclusion was held in *Pacaña-Contreras v. Rovila Water Supply, Inc.*,<sup>31</sup> where this Court allowed the decedent's heirs to be impleaded in an action for accounting and damages to protect the rights of the deceased.

<sup>28</sup> 234 Phil. 64 (1987) [Per. J. Cruz, First Division].

<sup>29</sup> Id. at 74-75.

<sup>30</sup> 360 Phil. 843 (1998) [Per J. Romero, Third Division].

<sup>31</sup> 722 Phil. 460 (2013) [Per J. Brion, Second Division].

In *Heirs of Gregorio Lopez v. Development Bank of the Philippines*,<sup>32</sup> this Court reinstated the trial court's decision nullifying an affidavit of self-adjudication simply because it did not reflect the interests of all the heirs. As with the other cases, this Court also made no declaration on heirship, opting to have it threshed out in a separate special proceeding. It only ruled insofar as to protect the decedent's rights and estate.

Lastly, in *Capablanca v. Heirs of Bas*,<sup>33</sup> this Court held that a judicial declaration of heirship is not necessary in order that heirs may assert their right to the property of the deceased. However, in the same case, it was made clear that the action filed by the plaintiff was one of protecting the right of the ancestor and not as right as an heir:

Contrary to the erroneous conclusion of the Court of Appeals, this Court finds no need for a separate proceeding for a declaration of heirship in order to resolve petitioner's action for cancellation of titles of the property.

The dispute in this case is not about the heirship of petitioner to Norberto but the validity of the sale of the property in 1939 from Pedro to Faustina, from which followed a series of transfer transactions that culminated in the sale of the property to Norberto. For with Pedro's sale of the property in 1939, it follows that there would be no more ownership or right to property that would have been transmitted to his heirs.

Petitioner's claim is anchored on a sale of the property to her predecessor-in-interest and not on any filiation with the original owner. What petitioner is pursuing is Norberto's right of ownership over the property which was passed to her upon the latter's death.

This Court has stated that no judicial declaration of heirship is necessary in order that an heir may assert his or her right to the property of the deceased. In *Marabilles v. Quito*:

*The right to assert a cause of action as an heir, although he has not been judicially declared to be so, if duly proven, is well settled in this jurisdiction. This is upon the theory that the property of a deceased person, both real and personal, becomes the property of the heir by the mere fact of death of his predecessor in interest, and as such he can deal with it in precisely the same way in which the deceased could have dealt, subject only to the limitations which by law or by contract may be imposed upon the deceased himself. Thus, it has been held that "[t]here is no legal precept or established rule which imposes the necessity of a previous legal declaration regarding their status as heirs to an intestate on those who, being of age and with legal capacity, consider themselves the legal heirs of a person, in order that they may maintain an action*

<sup>32</sup> 747 Phil. 427 (2014) [Per J. Leonen, Second Division].

<sup>33</sup> 811 Phil. 861 (2017) [Per J. Leonen, Second Division].

arising out of a right which belonged to their ancestor”[.]<sup>34</sup>  
(Emphasis in the original, citations omitted)

Like the other cases, this Court in *Capablanca* reinstated the trial court’s ruling, which once again made no declaration on heirship but simply canceled the transfer certificates of title.

This case is markedly different. Here, based on their claim as compulsory heirs, private respondents seek not only the annulment of the Affidavits of Self-Adjudication, *but also the partition of the estate of Rosie*. In so doing, they are not protecting the right of the decedent. Instead, they are attempting to protect their own claim to the estate as heirs through an ordinary civil action.

### III

Here, petitioner, whether in good or bad faith, executed Affidavits of Self-Adjudication stating that he was the sole heir of Rosie’s estate under Rule 74, Section 1<sup>35</sup> of the Rules of Court. On the other hand, private respondents, being the deceased’s siblings, claim that they are compulsory heirs. Although they seek to annul the affidavits and cancel the Transfer Certificates of Title, the main issues of their Complaint depends on the determination of whether they are indeed heirs. As such, what they filed was a special proceeding camouflaged as an ordinary civil action.

Even if the Complaint were deemed an ordinary civil action, all the trial court may declare is whether petitioner fraudulently executed the Affidavits of Self-Adjudication. If the trial court were to determine who Rosie’s heirs are, it would be in excess of its jurisdiction for, undeniably, it is only a probate or intestate court that has that kind of jurisdiction.

True, this Court has held several times that parties in interest may commence ordinary civil actions arising out of their rights of succession

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<sup>34</sup> Id. at 870–871.

<sup>35</sup> RULES OF COURT, Rule 74, sec. 1 (1) provides:

SECTION 1. *Extrajudicial settlement by agreement between heirs*. — If the decedent left no will and no debts and the heirs are all of age, or the minors are represented by their judicial or legal representatives duly authorized for the purpose, the parties may without securing letters of administration, divide the estate among themselves as they see fit by means of a public instrument filed in the office of the register of deeds, and should they disagree, they may do so in an ordinary action of partition. If there is only one heir, he may adjudicate to himself the entire estate by means of an affidavit filled in the office of the register of deeds. The parties to an extrajudicial settlement, whether by public instrument or by stipulation in a pending action for partition, or the sole heir who adjudicates the entire estate to himself by means of an affidavit shall file, simultaneously with and as a condition precedent to the filing of the public instrument, or stipulation in the action for partition, or of the affidavit in the office of the register of deeds, a bond with the said register of deeds, in an amount equivalent to the value of the personal property involved as certified to under oath by the parties concerned and conditioned upon the payment of any just claim that may be filed under section 4 of this rule. It shall be presumed that the decedent left no debts if no creditor files a petition for letters of administration within two (2) years after the death of the decedent.

without the need for a separate judicial declaration of heirship. However, the rulings in those cases would only affect the specific cause of action presented. It will not extend to other proceedings that may involve the heirs or properties of the deceased.

The rule that heirship must first be declared in a special proceeding is not merely so a probate court is given precedence over a regular court in estate proceedings. Instead, what is being prevented is the lack of notice an ordinary civil action has to the entire world as opposed to that of a special proceeding. If parties institute any ordinary civil action that essentially declares heirship, anyone outside of this action can simply contest the ruling, as this is not an action *in rem*. On the contrary, special proceedings are equipped with different procedures that would make its decision conclusive to all, and not just to the parties involved. This ensures that the partition of the decedent's estate would reach a finality.

Contrary to the majority's assertion, to allow the determination of heirship in an ordinary civil action would in no way contribute to judicial economy. Rather, it may potentially begin circuitous proceedings where, after a trial court declares a decedent's heirs in an ordinary civil action, other interested third parties will contest the decision and eventually elevate the matter to this Court—only to remand the case to a trial court sitting as a probate or intestate court to finally settle the question of heirship and estate of the deceased.

Thus, it is necessary to follow the rule that the issue of heirship must first be settled in an estate proceeding before it is declared in an ordinary proceeding. In *Natcher*:

Of equal importance is that before any conclusion about the legal share due to a compulsory heir may be reached, it is necessary that certain steps be taken first. The net estate of the decedent must be ascertained, by deducting all payable obligations and charges from the value of the property owned by the deceased at the time of his death; then, all donations subject to collation would be added to it. With the partible estate thus determined, the legitime of the compulsory heir or heirs can be established; and only thereafter can it be ascertained whether or not a donation had prejudiced the legitimes.

A perusal of the records, specifically the antecedents and proceedings in the present case, reveals that the trial court failed to observe established rules of procedure governing the settlement of the estate of Graciano Del Rosario. This Court sees no cogent reason to sanction the non-observance of these well-entrenched rules and hereby holds that under the prevailing circumstances, a probate court, in the exercise of its limited jurisdiction, is indeed the best forum to ventilate and adjudge the issue of advancement as well as other related matters



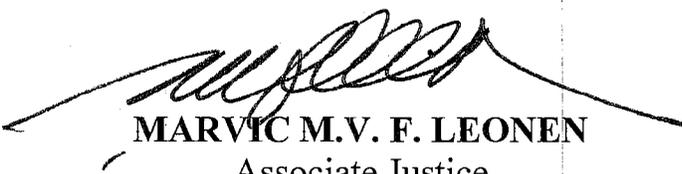
involving the settlement of Graciano Del Rosario's estate.<sup>36</sup> (Citations omitted)

This rule is one of procedure that does not contradict substantive law, particularly, Article 777 of the Civil Code. Remedial or procedural laws are designed precisely to facilitate the effective adjudication of cases. They "do not create new or take away vested rights, but only operate in furtherance of the remedy or confirmation of such rights."<sup>37</sup> Thus, compliance with procedural rules is the general rule. Abandoning them should only be done in the most exceptional circumstances.<sup>38</sup>

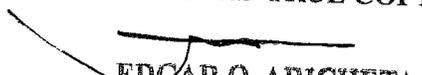
Though the Regional Trial Court may act on the annulment of the Affidavits of Self-Adjudication, this does not vest in it the authority to determine whether private respondents are heirs for the estate settlement, be it for convenience or practicality. Since the determination of private respondents as heirs is precisely what is being asked in this case, it follows that the Regional Trial Court cannot assume jurisdiction over the subject matter.

Ultimately, I cannot agree that a preliminary determination of heirship can be attained in an ordinary civil action, even if it is only regarding the cause of action. All that can be determined is whether the Affidavits of Self-Adjudication were invalid given the presence of fraud. More important, I do not agree that private respondents' Complaint was an ordinary civil action. The relief they ask pertains to the determination of their heirship. What they filed was a special proceeding disguised as an ordinary civil action—one beyond the Regional Trial Court's jurisdiction.

**ACCORDINGLY**, I vote to dismiss the Petition without prejudice to the refile of the proper proceeding to adjudicate their rights as heirs if warranted.

  
**MARVIC M.V. F. LEONEN**  
Associate Justice

**CERTIFIED TRUE COPY**

  
**EDGAR O. ARICHETA**  
Clerk of Court En Banc  
Supreme Court

<sup>36</sup> *Natcher v. Court of Appeals*, 418 Phil. 669, 679–680 (2001) [Per J. Buena, Second Division].

<sup>37</sup> *Tan, Jr. v. Court of Appeals*, 424 Phil. 556 (2002) [Per J. Puno, First Division].

<sup>38</sup> *Pilapil v. Heirs of Briones*, 543 Phil. 184 (2007) [Per J. Chico-Nazario, Third Division].