

**IN THE SUPREME COURT OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

IN THE ESTATE OF NICOLAS MUNA DE LEON GUERRERO)	APPEAL NO. 98-010 CIVIL ACTION NO. 96-0235
)	
Plaintiff/Appellee,)	
)	
v.)	
)	
ADELA I. QUITUGUA,)	OPINION
)	
Defendant/Appellant.)	
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Cite as: *Estate of De Leon Guerro v. Quitugua*, 2000 MP 1

Submitted on the Briefs April, 1999

Counsel for Appellant: David J. Highsmith (Highsmith & O'Mallan, P.C.), Guam.

Counsel for Appellee: Tred R. Eyerly (Law Offices Vicente T. Salas), Saipan.

BEFORE: CASTRO, Associate Justice, VILLAGOMEZ and LIZAMA, Justices *Pro Tem*.

CASTRO, Associate Justice:

[1,2]Appellant Adela I. Quitugua (“Appellant” or “Adela”) appeals certain Superior Court orders which basically denied her the opportunity to re-litigate paternity issues within this probate proceeding. We have jurisdiction pursuant to Article IV, Section 3 of the Commonwealth Constitution, as amended, and under Section 2206, Title 8 of the Commonwealth Code. We affirm.

ISSUES PRESENTED AND STANDARD OF REVIEW

- I. [3]Whether the lower court correctly determined that Adela’s claim to be the daughter of a second father was barred by collateral estoppel. This is a question of law which we review *de novo*. *In re Estate of Dela Cruz*, 2 N.M.I. 1 (1991).
- II. [4]Whether the lower court was correct in determining Adela was barred from litigating the issue of paternity within the probate proceedings. Dismissal for lack of subject matter jurisdiction is reviewed *de novo*. *In re Estate of Deleon Guerrero*, 3 N.M.I. 253 (1992).
- III. [5]Whether the lower court correctly decided that under the doctrine of collateral estoppel and the statute of limitations Adela could not raise issues of determination of ownership of property. Application of these principles is reviewed *de novo*. *In re Kaipat*, 3 N.M.I. 494(1993).

FACTUAL AND PROCEDURAL BACKGROUND

In 1969, Nicolas Muna De Leon Guerrero (“Nicolas” or “decedent”) received a parcel of land in San Vicente,¹ from his mother, Ana Muna De Leon Guerrero (“Ana”). In 1980, Nicolas subdivided the property, giving his two sisters each a portion thereof. The remaining portion which he kept for himself is now in litigation.

On February 17, 1996, Nicolas died intestate. His wife and daughter survived him and were named as heirs of his estate. *In re Nicolas Muna de Leon Guerrero*, No. 96-0235 (N.M.I. Super. Ct. Feb. 26, 1996) (Order Granting Motion to Dismiss) (“Motion to Dismiss”).

Appellant Adela filed an objection to the *Petition for Letters of Administration*, claiming an interest in Nicolas’ estate. Adela claims to be the collateral heir of Nicolas’ Estate by virtue of being the biological illegitimate daughter of Nicolas’ brother, Lorenzo De Leon Guerrero (“Lorenzo”).² Adela claims that certain properties in Nicolas’ estate were actually the property of her father, Lorenzo, and that she is entitled to them.

A year later, Adela filed a motion for DNA testing to prove her paternity by the purported father, Lorenzo. *Notice of Motion and Motion for DNA Testing* (Feb. 12, 1997). The lower court denied her motion for DNA testing. *In the Estate of Nicolas Muna De Leon Guerrero*, No. 96-0235 (N.M.I. Super. Ct. May 19, 1997) (Order Denying Motion for Disqualification).

Adela was born while her mother was married to Vicente Uol (“Uol”). In her deposition during the

¹ This lot is known as Lot No. T.D. 578.

² Lorenzo died in 1932.

course of Uol's probate case, Adela did not say anything about having another father. *In the Matter of the Estate of Nicolas Muna De Leon Guerrero*, No. 96-0235 (N.M.I. Super. Ct. Jan.14, 1998) (Order Granting Motion to Dismiss Claim) ("Order"). In fact, Adela testified that she was the legitimate daughter of Vicente Uol. As a result, the court found that she was one of the heirs of Uol and she received equal distribution of Uol's property. Order Denying Motion for Disqualification at 1.

Adela further acknowledged during the hearing in this matter that the Court found her to be the daughter of Uol in another matter. *Pangelinan v. Itaman*, 4 N.M.I. 114 (1994).

At the conclusion of the hearing in this matter, the lower court dismissed Adela's claim. *Order*. The Superior Court determined that the property in which Adela asserts an interest was the separate property of Ana (Nicolas and Lorenzo's mother). Ana conveyed her separate property to her only surviving son, Nicolas. *Order*. Adela sought reconsideration of the order. The motion was denied. *In the Matter of the Estate of Nicolas Muna De Leon Guerrero* No. 96-0235 (N.M.I. Super. Ct. Feb. 19, 1998) (Order Denying Claimant's Motion). Thereafter the Decree of Final Distribution was issued. *In the Matter of the Estate of Nicolas Muna De Leon Guerrero*, No. 96-0235 (N.M.I. Super Ct. Feb. 23, 1998) (Decree of Final Distribution). The parties timely appealed.

ARGUMENTS

I. Was the Appellant Collaterally Estopped From Asserting She Had a Second Father?

[6]Under the doctrine of collateral estoppel, a judgment in a prior suit "precludes re-litigation of issues actually litigated and necessary to the outcome of the first action." *Parklane Hosiery Co., Inc. v. Shore*, 439 U.S. 322, 326 n.5 (1979).

In two prior cases, Adela has been determined to be the daughter of Uol. Order, *supra*; *Pangelinan v. Itaman*, 4 N.M.I. 114 (1994). As a result, Adela inherited property from the estate of Uol. In the case at bar, the lower court determined that she was collaterally estopped from seeking to establish that she had a second father, because the issue of her father's identity had already been litigated.

[7]Adela argues that she cannot be collaterally estopped from contesting a stipulated fact. A fact which is assumed to be true in a stipulation and which is not actually litigated cannot be found to be the subject of collateral estoppel in a subsequent action. *McDaniels v. Carlson*, 738 P.2d 254 (Wash. 1987).

In *McDaniels*, where paternity was not fully litigated and the decision was based on a *stipulation*, the children were allowed to seek a different determination in a subsequent probate proceeding that decedent was their father. In contrast, the decision in *Estate of Uol*, that Adela was Uol's daughter, was based on litigation and Adela's own sworn testimony, not a stipulation.

Adela also asserts that collateral estoppel should not apply if the "party did not have sufficient motivation to litigate the matter vigorously in the previous action." Adela voluntarily injected herself into the *Uol* proceedings and benefitted from her action, thus Adela cannot now claim that she did not have sufficient motivation to litigate the matter vigorously.

[8,9]Notwithstanding all of the above arguments raised by Adela, the proper procedure to claim ownership of land through a quiet title action through the estate of Lorenzo, is to reopen the probate of *Lorenzo*, the probate of *Ana* and the *Uol* proceedings. If a judgment is erroneous, the remedy "is to have it set aside or reversed in the original proceedings." RESTATEMENT (SECOND) OF JUDGMENTS § 17 cmt. d (1980); 7 CMC § 3401. A judgment is not void merely because it is erroneous. It is void only if the court that rendered it lacked jurisdiction of the subject matter or of the parties or if it acted in a manner inconsistent with due process of law. *Sablan v. Iginioef*, 1 N.M.I. 190, 202 (1990). Regardless, this Court is not of the opinion that the lower court was erroneous, but the judgment in the probate court should not now be collaterally attacked.

II. Could Paternity by Lorenzo Be Established in the Probate of the Estate of Nicolas.

[10,11]The CNMI Probate Code expressly allows an heir proceeding to determine the legal heirs or successors of a decedent. 8 CMC § 2201. Under 8 CMC §2202,³ the probate court has wide discretion in probate proceedings to entertain any relevant matters that may come before it in a probate matter. *In re Estate of Tudela*, 4 N.M.I. 1 (1993), *appeal dismissed*, 43 F.3d 1479 (9th Cir. 1994). It specifically grants the court the authority to determine the heirs and successors of decedents. *In re Estate*

³ (a) To the full extent permitted by the Northern Mariana Islands Constitution and the Schedule on Transitional Matters, the Commonwealth Trial Court shall have jurisdiction over all subject matter relating to the estates of decedents, including construction of wills and determination of heirs and successors of decedents.

(b) The Commonwealth Trial Court shall have full power to make orders, judgments and decrees and take all other action necessary and proper to administer justice in matters which come before it.

8 CMC§ 2202

of *Rofag*, 2 N.M.I. 18, 24 (1991).

[12] However, since Adela is not an heir to the estate of Nicolas, her claim is misplaced. The heirs in the *Estate of Nicolas* have been properly determined and do not include or contemplate Adela. The trial court is given discretion in probate proceedings and such discretion was exercised correctly in this case. The lower court determined that “[p]robate courts do not resolve challenges by third parties to the ownership of [a] decedent’s real property”. Order at 6. (Third party seeking to enforce interest in land being probated filed independent action to assert his interest in property. See *Pangelinan v. Itaman*, 4 N.M.I. 114, 116 (1994)). The appropriate vehicle for recovery of real property is an independent quiet title action. *Williams v. Mulvihill*, 846 P.2d 1097, 1103 n.19 (1993).

Because Adela seeks a determination of paternity by Lorenzo and not a determination of intestate succession through Nicolas, we agree with the lower court’s ruling on this issue.

III. Whether the Lower Court Correctly Decided That Under the Doctrine of Collateral Estoppel and the Statute of Limitations Adela Could Not Raise Issues of Determination of Ownership of Property.

The lower court determined that the 1951 Trust Territory administrative determination constitutes res judicata.⁴ The court found there was “no evidence to suggest that the title determination issued to Nicolas’ mother, Ana, was improper.” Order at 5. The title determination here was issued directly to Ana in 1951 and not to a category of the Ana’s heirs. Motion to Dismiss at 4 (interpreting the holding of *In re Estate of Dela Cruz*, 2 N.M.I. 1,6 (1991)). The Trust Territory determination of ownership record supports the proposition that Ana was the sole owner of the property. Order at 5. As rightful owner of the property, Ana chose to distribute the land to Nicolas. We find the lower court was correct in barring Adela’s claim to the property in question.

CONCLUSION

For all of the foregoing reasons, we conclude Adela cannot claim under the probate of the *Estate of Nicolas Muna De Leon Guerrero*. The land in dispute is to be distributed solely to the heirs of Nicolas.

⁴ A quasi-judicial determination will not be given a res judicata effect if it is (1) void when issued, or (2) the record is patently inadequate to support the agency’s decision, or if according the ruling res judicata effect would (3) contravene an overriding public policy or (4) result in manifest injustice. *In re Dela Cruz*, 2 N.M.I. 1, 11 (1991).

The Superior Court's decision is hereby **AFFIRMED**.

ENTERED this 10th day of ~~January~~^{February}, 2000.

/s/ Alexandro C. Castro
ALEXANDRO C. CASTRO, Associate Justice

/s/ Ramon G. Villagomez
RAMON G. VILLAGOMEZ, Justice *Pro Tem*

/s/ Juan T. Lizama
JUAN T. LIZAMA, Justice *Pro Tem*