

**\*\*Title:** Broadwell Hagans vs. Adolph Wislizenus, Judge of First Instance of Cebu, et al.\*\*

**\*\*Facts:\*\***

Broadwell Hagans filed a petition for certiorari in the Philippine Supreme Court, challenging the authority of Judge Adolph Wislizenus and others from the Court of First Instance of Cebu. The crux of the dispute centered on whether the judge had the legal authority to appoint assessors in a “special proceeding” to determine the compensation due to an administrator or executor for their services and expenses in managing a deceased person’s estate.

The procedural history is as follows:

1. The Court of First Instance appointed assessors to determine the compensation and expenses of the administrator or executor in a special proceeding.
2. Broadwell Hagans contested this appointment, filing a petition for certiorari directly with the Supreme Court, arguing that no legal authority existed for such an appointment in special proceedings.
3. The respondent judge filed a demurrer, admitting to the facts alleged but maintaining that Act No. 190 permitted such appointments.

**\*\*Issues:\*\***

The primary legal issue before the Supreme Court was:

1. Whether or not a judge of the Court of First Instance is authorized under the law to appoint assessors for the purpose of fixing the amount due to an administrator or executor in “special proceedings.”

**\*\*Court’s Decision:\*\***

The Supreme Court overruled the demurrer filed by the respondent judge and granted the petition for certiorari. The Court’s analysis revolved around the statutory interpretation of Act No. 190 and other relevant legal provisions.

1. **\*\*Appointment of Assessors in Special Proceedings:\*\***
  - The respondent judge argued that the statutory provisions of Act No. 190 authorized the appointment of assessors in special proceedings.
  - Sections 57-62, Sections 153-161, Section 44(a) of Act No. 267, Section 2477 of Act No. 2711, and Section 2 of Act No. 2369 were considered.

- Upon examination, Sections 57-62 and Section 44(a) pertained to appointing assessors in the justice of the peace courts and the city of Manila, respectively, and Section 2 of Act No. 2369 dealt exclusively with criminal cases.
- The key provision was Section 154 of Act No. 190, which allowed for the appointment of assessors in an “action” upon application by either party.

## 2. **Distinction Between Action and Special Proceeding:**

- The Court examined Section 1 of Act No. 190, which delineates “action” as an ordinary suit in a court of justice and distinguishes it from “special proceeding” which encompasses every other legal remedy available.
- Based on these definitions, and legal precedents, an “action” is a formal demand of one’s legal rights, whereas a “special proceeding” is an application to establish a status or right, often without formal pleadings.

The Court concluded that special proceedings are distinct from actions and thus are not covered by provisions meant for actions within Sections 153-161 of Act No. 190. As a result, the appointment of assessors in such proceedings was unauthorized under existing laws.

## **Doctrine:**

The case established or reiterated the doctrine that the authority to appoint assessors as provided under Sections 153-161 of Act No. 190 applies exclusively to actions and not to special proceedings. Furthermore, it clarified the distinction between an “action” and a “special proceeding” in statutory interpretation.

## **Class Notes:**

### Key Elements/Concepts:

- **Action vs. Special Proceeding:**
- **Action:** A formal demand of legal rights in a court of justice.
- **Special Proceeding:** An application to establish status, right, or fact, without formal pleadings, unless statute provides otherwise.
- **Appointment of Assessors:**
- Authorized under Sections 57-62, 153-161 of Act No. 190, but applicable only to actions.
- **Statutory Interpretation:** Distinctions in the terminology used by the legislature are crucial for understanding the scope of legal provisions.

### Relevant Statutes:

- **Section 1 of Act No. 190**: Defines “action” and “special proceeding”.
- **Sections 57-62, Sections 153-161 of Act No. 190**: Discusses the appointment of assessors in actions.
- **Section 44(a) of Act No. 267 and Section 2477 of Act No. 2711**: Pertains to assessors in Manila.
- **Section 2 of Act No. 2369**: Discusses assessors in criminal cases.

**Historical Background:**

The context of this case revolves around the early 20th-century judicial administration in the Philippines under American colonial rule. The legal system, based heavily on American law and procedures, introduced statutes aimed at regulating various procedural aspects. The distinction between actions and special proceedings was crucial in demarcating the scope and application of these legal remedies. This decision underscores the Philippine Supreme Court’s role in clarifying procedural ambiguities, contributing to the judicial framework’s development during a formative period in the nation’s legal history.