

MILAGROS PACHECO RIVERA, PETITIONER, VS. HON. ARSENIO SANTOS, PRESIDING JUDGE, COURT OF FIRST INSTANCE OF MANILA, BRANCH IV, THE SHERIFF OF THE CITY OF MANILA, AND GLORIFICADOR ...

G.R. No. L-24563. November 29, 1966

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

On February 20, 1964, Glorificador R. Tiglao filed a petition for issuance of letters of administration in the Court of First Instance of Manila in settlement of the intestate estate of his deceased wife Emerenciana S. Pacheco-Tiglao, who died on February 13, 1964. The petition, docketed as Special Proceedings No. 56375, was thereafter set for hearing.

Subsequently, on March 31, 1964, Tiglao moved ex parte to be appointed special administrator. On April 11, 1964, Milagros Pacheco-Rivera, alleged only sister of the deceased, opposed Tiglao's motion, claiming that as heir and as co-owner of the deceased she is entitled to three-fourths (3/4) of the estate and thus should be the one appointed as administratrix. She later filed a motion praying that instead of the proposed hearing on the appointment of a special administrator, the same be changed to one on the appointment of a regular administrator.^[1]

On September 1, 1964, Tiglao petitioned to be allowed to perform acts of preservation over the D.R. Pacheco Private Detective and Special Watchman Agency, which he thereunder alleged to be one of the properties of the estate in settlement. Rivera opposed said petition, on the ground that she owns three-fourths (3/4) of said agency—one-half (1/2) as co-owner and one-fourth (1/4) as heir of her deceased sister Emerenciana—and is thus better entitled to administer and manage said agency as she has been doing since the death of her sister.

On September 25, 1964, the court issued an order stating:

"After considering the motion of oppositor Milagros Pacheco de Rivera, dated August 27, 1964, and the opposition of petitioner Glorificador R. Tiglao, dated September 20, 1964, the Court is of the opinion that the evidence being presented by the parties in connection with the issuance of letters of special administration may be continued for the purpose of hearing the proofs of the parties in support of their respective allegations regarding the issuance of letters of general administration, but, in that case, the parties will have to establish the jurisdictional facts, namely, the fact of publication of the notice of the time and place for hearing the petition, the service of copies of such notice to the known heirs and creditors, the death of the person whose estate is sought to be administered, the last residence of the decedent, the probable value and character of the estate and its location, and the qualifications of the person seeking to administer the estate. On the part of the oppositor, he may prove that letters of administration must not be issued to the proposed administrator either because he is incompetent or the oppositor has a better right to the appointment.

"The continuation of the hearing may proceed before Deputy Clerk Delfin Anama of this court branch.

"The parties are hereby directed to inform this Court, within five (5) days, of the incidents pending resolution of this Court."

The petitioner and oppositor, on December 2, 1964, together filed a petition seeking approval of an "Extra-judicial Partition/Settlement" covering part of the estate and submitting a stipulation of facts with respect to the unsettled portion of the estate. The parties then submitted their memoranda.

The settlement court ordered the parties, on March 4, 1965, to show cause why the hearing on the appointment of an administrator should not be continued. Tiglao filed a compliance stating that sufficient evidence had been presented thereon and he was resting his case.

On April 19, 1965 the Court of First Instance issued an order stating that, without deciding on the fitness or unfitness of therein petitioner (Tiglao) or the oppositor (Rivera), but solely to enhance early settlement of the the estate, it exercises its discretion and appoints Tiglao as administrator, for him to undertake payment of estate and inheritance taxes and any debts of the deceased, and to administer the D.B. Pacheco Private Detective and Special Watchman Agency and the unsettled portions of the estate, pending final adjudication "by said court. This order's dispositive portion stated:

"WHEREFORE, the Court hereby appoints the petitioner Glorificador Tiglao as administrator of the estate left by the deceased Emerenciana Pacheco de Tiglao, who shall file a bond in the sum of P5,000.00, executed by a surety company of good standing, which must be submitted to the Court for approval, and upon his taking his oath as such administrator, let letters of administration issue in favor of the said petitioner.

"Upon assuming his duties as such administrator, the said petitioner Glorificador Tiglao shall cause the publication of this proceeding, in accordance with law, for the filing of claims against the estate of the said deceased Emerenciana Pacheco de Tiglao, if any; to render and submit to this Court a complete account of the estate left by the deceased, and to pay the estate and inheritance taxes.

"The Court hereby approves the 'extrajudicial partition/settlement' dated November 16, 1964, Annex 'A' to the petition filed by the parties on December 2, 1964. With respect to the unsettled portion of the estate of the deceased, the Court holds in abeyance its resolution until after the estate and inheritance taxes and the claims against the estate, if any, have been finally settled."

Rivera filed a motion for reconsideration of the order. Subsequently, Tiglao assumed the position of administrator and moved for authority to administer the D.R. Pacheco Detective and Special Watchman Agency. thereon, the court on May 8, 1965 denied Rivera's motion for reconsideration and granted Tiglao's motion for authority to administer the agency business.

Assailing these orders of April 19, 1965 and of May 8, 1965, Rivera filed in this Court on May 28, 1965 the present suit for certiorari with preliminary injunction. And We gave it due course, with preliminary injunction upon a P1,000.00-"bond. Thus, on June 25, 1965, after posting the bond, this Court issued a writ of preliminary injunction restraining the Court of First Instance, its sheriff and their agents from executing the order of April 19, 1965 in Special Proceedings No. 56375, which appointed Tiglao administrator.

After issues were joined herein, the case was heard and submitted for decision. Respondent, on October 21, 1966, then filed a motion to dissolve this Court's writ of preliminary injunction. We shall consider said motion together with the petition on the merits herein.

The first point at issue is the propriety of Tiglao's appointment as administrator without his fitness or unfitness for the position first being passed upon. It is rather clear that the appointment extended to Tiglao was that of special administrator. And it is the rule followed here that: "The appointment of a special administrator lies entirely in the

sound discretion of the court" (De Gala v. Gonzales, 53 Phil. 104, 106).

As now found in the Rules of Court, Sections 1 and 2 of Rule 80 provides:

"SECTION 1. Appointment of special administrator.—When there is delay in granting letters testamentary or of administration by any cause including an appeal from the allowance or disallowance of a will, the court may appoint a special administrator to take possession and charge of the estate of the deceased until the questions causing the delay are decided and executors or administrators appointed.

"SEC. 2. Powers and duties of special administrator.—Such special administrator shall take possession and charge of the goods, chattels, rights, credits, and estate of the deceased and preserve the same for the executor or administrator afterwards appointed, and for that purpose may commence and maintain suits as administrator. He may sell only such perishable and other property as the court orders sold. A special administrator shall not be liable to pay any debts of the deceased unless so ordered by the court."

It follows that for purposes of the specific and limited powers of a special administrator, the selection of whom is left to the sound discretion of the court, the need to first pass upon and resolve the issues of fitness or unfitness as would be proper in the case of a regular administrator, does not obtain. The April 19, 1965 order of the respondent Judge, therefore, insofar as it provided for (1) the publication of notice to file claims, (2) rendition of accounts and (3) payment of estate and inheritance taxes, as set forth in its dispositive portion afore-quoted, is perfectly valid.

However, the order of May 8, 1965, directed Milagros Pacheco-Rivera to deliver to special administrator Tiglao, and ordered the latter to take possession of, the following properties: "(a) the house and lot at No. 2441-D San Anton St., Sampaloc, Manila; (b) all personal property found therein; and (c) the D.R. Pacheco Private Detective and Special Watchman Agency including all its assets, records, premises and management." (Annex "Z" to Petition)

Now it is of record that the parties in their stipulation of facts below agreed that of said properties, the house and the agency business were owned by the late Donato R. Pacheco; that the lot was owned by Donato R. Pacheco to the extent of 46.9% and by Emerenciana Pacheco- Tiglao to the extent of 53.1%; that upon Donato R. Pacheco's death in 1956 his properties passed by intestate succession to his daughters, the late Emerenciana Pacheco-Tiglao and Milagros Pacheco-Rivera; and that said daughters thereafter executed on September 7, 1956 an affidavit of extra-judicial partition stating that said properties shall be held by them in co-ownership in equal shares but the administration and control thereof are vested on Emerenciana.

If such is the case—a point to be definitely threshed out below and not herein—it would result that Milagros Pacheco-Rivera, as co-owner as well as heir of OK Emerenciana, would be owner to the extent of three-fourths (3/4) of said properties, except as to the lot, wherein Donato R. Pacheco's ownership was about one-half (1/2), so that Milagros would be entitled to one-fourth (1/4), as Donato's heir and one-fourth (1/4) as Eraerenciana's heir, for a total of one-half (1/2). And, furthermore, the afore-stated shares pertaining to her as co-owner of Emerenciana would form part, not of the estate of the late Emerenciana Pacheco-Tiglao, but of the late Donato R. Pacheco, their deceased father.

In light of these considerations, this Court is inclined to exclude from the coverage of special administrator Tiglao's powers the above-stated house and lot and the agency business, pending final adjudication on the nature of said properties.

All this, however, only stresses the need for the appointment, as soon as feasible, of a regular administrator. For one thing, it is in the interest of the estate that the administration be in the hands of someone whose fitness and qualifications have been passed upon and duly ascertained. And for another, the full settlement of the remaining portion of the estate not covered by the parties' "Extra-judicial Partition/Settlement" would not be accomplished,

because of the restricted scope of the powers of the special administrator. Accordingly, the respondent Judge is hereby directed forthwith to proceed with the appointment of a regular administrator, in regard to which the parties have apparently rested their case.

WHEREFORE, the assailed order of April 19, 1965 appointing respondent Tiglao special administrator is sustained, with the addition that as to payment of estate and inheritance taxes, the same should be made at the proper time; but the order of May 8, 1965 insofar as it would place the D.R. Pacheco Private Detective and Special Watchman Agency and the house and lot at 2441-D San Anton, Sampaloc, Manila, within his powers as special administrator, is set aside; and the preliminary injunction herein issued is continued and/or extended as regards said house and lot and agency business, but lifted in all other respects. Respondent Judge is hereby directed to appoint a regular administrator without further delay. No costs.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Barrera, Dizon, Regala, Makalintal, Zaldivar Sanchez, and Ruiz Castro, JJ., concur.

[1] Stated as surviving heirs of the deceased are Mllagro Pacheco-Rivera (sister) and Glorificador Tiglao (spouse). Petition for letters of administration, par. 5.[2] The court's order stated only "administrator" but from its tenor it is a special administrator that was therein appointed (Annex "U" to Petition).

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