

**ADELA C. SALAS-GATLIN, PETITIONER, V. HON. CORAZON AGRAVA,
AS JUDGE OF THE JUVENILE & DOMESTIC RELATIONS COURT,
RESPONDENT. AUGUSTO SALAS, JR., INTERVENOR.**

G. R. No. L-20827. September 29, 1967

Ponente: FERNANDO, J.

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FERNANDO, J.:

This petition for certiorari against respondent Judge of the Juvenile and Domestic Relations Court, the Honorable Corazon Agrava, challenges her authority to issue an order allegedly in contravention of what was previously decided in a special proceeding before the Court of First Instance of Manila. In the answer in intervention of intervenor Augusto Salas, Jr., the ward of petitioner, Adela C. Salas-Gatlin, the filing of this action in her capacity as guardian was impugned and squarely put in issue.

The petition for certiorari, dated January 28, 1963, alleged that no other respondent was named because no person other than respondent Judge appeared to be interested in sustaining the order sought to be corrected; that petitioner was the guardian of the property of Augusto Salas, Jr., minor, in Special Proceedings No. 7556 of the Juvenile and Domestic Relations Court, Rosario Lacson Salas being the guardian of the person of said minor; that the petitioner and minor, Augusto Salas, Jr., were co-heirs of the deceased Macaria Catigbak Vda. de Salas; that pursuant to the Project of Partition in Special Proceedings No. 6782 of the Court of First Instance of Manila entitled "Testate Estate of Macaria Catigbak Vda. de Salas," all the real properties adjudicated to Augusto Salas, Jr. were encumbered with the condition that should he (Augusto Salas, Jr.) die without legitimate descendants said properties together with their fruits, rents and interests would belong to petitioner, Adela C. Salas-Gatlin; that by virtue thereof, the certificates of title of the properties adjudicated to Augusto Salas, Jr. were annotated accordingly; that on June 21, 1962, the petitioner filed a petition with the Juvenile and Domestic Relations Court in Special Proceedings No. 7556 for authority to purchase a parcel of land for her ward, Augusto Salas, Jr., using for said purchase fruits of agricultural land inherited by said ward from the late Macaria Catigbak Vda. de Salas, and prayed among other things that the certificate of title to the land to be purchased be annotated with the condition that said property should belong to Adela C. Salas-Gatlin in the event of the death of Augusto Salas, Jr. without legitimate descendants; that the guardian of the person, Rosario L. Salas, did not file any opposition to such petition; that on September 26, 1962, the respondent Judge issued an Order authorizing such purchase on condition that the property so acquired "shall not be subject to the condition that should he die before having a legitimate descendant the same will pass to Mrs. Gatlin"; that on October 9, 1962, the petitioner filed a motion for reconsideration denied on October 24, 1962; and that on November 19, 1962, the petitioner filed a second motion for reconsideration on jurisdictional grounds, alleging that the condition in question being annotated on the certificate of title of the real properties of the ward, the Juvenile and Domestic Relations Court had no jurisdiction to set aside or disregard the same, which motion was denied on January 8, 1963.

It was further alleged in the petition that there was no question of fact raised in the petition, it being admitted (a) that the real properties inherited by Augusto Salas Jr. from Macaria Catigbak Vda. de Salas were subject to the

condition that should Augusto Salas, Jr. die without legitimate descendants, such properties including their fruits, rents and interests, would belong to Adela C. Salas-Gatlin; (b) that the money to be used for the purchase of a parcel of land for the minor constituted income from real properties inherited by Augusto Salas, Jr. from Macaria Catigbak Vda. de Salas; (c) that respondent Judge refused to allow the annotation of the aforesaid condition on the property to be purchased for the minor due to her belief that the income from the said properties should belong to the ward in fee simple, a view which according to petitioner was tantamount to an amendment of the Project of Partition in Special Proceedings No. 6782 and therefore beyond the jurisdiction of respondent Judge, who, at the very least, committed a grave abuse of discretion.

The prayer was for respondent Judge to order that the title to any property to be purchased annotated with the condition that "should Augusto Salas, Jr. die without legitimate descendants, the property and its fruits, rents and interests shall belong to Adela C. Salas-Gatlin."

Pursuant to an order of respondent Judge dated February 14 1963, a guardian ad litem of the minor Augusto Salas, Jr., Atty. Raul Almacen, was appointed "for the sole purpose of representing the ward in connection with the question of ownership of the income derived from his real properties over which the guardian of the property has claimed an interest." Thereafter on February 16, 1963, the guardian ad litem filed a motion to intervene in this case as party respondent, which motion was granted by this Court in its order dated February 25, 1963.

Then on March 26, 1963, came the answer in intervention by the minor Augusto Salas, Jr. filed by his guardian ad litem, It was therein contended that for the writ of certiorari to be available, the petitioner "must have suffered some manifest injustice or substantial injury from the proceedings sought to be corrected." In other words, the party entitled to file the action must be, in the language of the Rules of Court, "a person aggrieved." Petitioner, the guardian Adela C Salas-Gatlin, according to the answer was not "such an aggrieved or injured party." She could not be considered such as her own petition before the Juvenile and Domestic Relations Court in Special Proceedings No, 7556 was filed in her capacity, as guardian. This was evident from her original petition of June 21, 1962, before respondent Judge,[1] her motion for reconsideration of October 8, 1962,[2] and her second motion for reconsideration of November 19, 1962.[3] Moreover, her very petition for certiorari before this Court alleged her being "the guardian of the property of Augusto Salas, Jr., minor, . . . "[4] The order of respondent court complained of, specifically makes reference to her being "the guardian of the property" who sought to "purchase the property mentioned in her motion of June 21, 1962, . . . "[5]

The answer therefore pointed out that no guardian could complain against an order that would protect and benefit the minor whose welfare is presumed to be paramount. It was likewise argued that the modification petitioner sought in the above order of respondent court would be prejudicial to her ward and as such forbidden by the very nature of her position as such guardian. On the assumption that such order being favorable to the ward would run counter to her interest as an individual, it was alleged in the answer that this petition "would partake of the nature of an ordinary civil action, and this [Court] would be taking original cognizance of a claim over which the original jurisdiction is assigned by law to a court of first instance." [6] After alleging that the minor was not properly represented in this particular incident, that the alleged project of partition being valid did not impose a charge upon the income of the estate under guardianship, that the project of partition relied upon by the petitioner was without legal force or effect, and that the respondent Judge acted within her jurisdiction and in the proper exercise of her authority, the guardian ad litem prayed for the dismissal of the petition.

The dismissal of this petition is called for. As was clearly set forth in the answer in intervention, petitioner could not be considered "a person aggrieved" even on the assumption that respondent Judge did act with grave abuse of discretion, a point we need not decide in disposing of this petition.

In seeking the issuance of a writ of certiorari, petitioner made clear that she was "the guardian of the property of Augusto Salas, Jr., minor" and that in her capacity as such she did seek from respondent Judge "authority to purchase a parcel of land for her ward, Augusto Salas, Jr., using for said purchase fruits of agricultural land inherited by said ward . . ."[7] In the annexes attached to her petition, all her pleadings made manifest that all the while she was acting as such guardian.[8] The dispositive portion of the order complained of authorized petitioner as "the guardian of the property" if she should still so desire to "purchase the property mentioned in her motion of June 21, 1962, but the property to be purchased shall belong exclusively to the ward and shall not be subject to the condition that should he die before having a legitimate descendant, the same will pass to Mrs. Gatlin." [9] The opening sentence of the order denying the motion for reconsideration expressly referred to its being "filed by the guardian" and concluded that the same was without merit.[10] The last paragraph before the dispositive portion of the order denying the second motion for reconsideration reads thus: "If the guardian's contention is correct, and in the light of the statements she has made in her first Motion for Reconsideration, it would be more beneficial to the ward to have income remain intact as such income, subject to his unconditional expenditure upon reaching majority rather than invest it in real property subject to the terms of the project of partition, as construed by the guardian of the property." [11]

It is undisputed that a guardian lives up to the trust committed to her if through her efforts the interest of her ward is afforded the fullest protection. Thereby she shows fealty to the exacting responsibility that the law places on her shoulders. Where, as in this case, the order sought to be set aside cannot be looked upon as other than beneficial to her ward, petitioner as guardian cannot complain. Nor can she be fitly considered as "a person aggrieved." How then can she be entitled to file this special civil action?

That a guardian cannot as such plead for a cause antagonistic to that of a ward is settled law. As far back as 1911, in *Salunga v. Evangelista*, [12] Chief Justice Arellano declared that where the mother "had an interest opposed to that of her children" they "should have been legally represented in the partition by a next friend judicially appointed" Then in 1942, in *Garchitorena v. Sotelo* 13 this Court reaffirmed the above view in language even more emphatic. Thus: "Perfecto Gabriel's position in relation to the minors and the property in question is indefensible. He held a mortgage on said property since July 1, 1922. Yet when he prepared the will of the mortgagor devising said property to the minors, he allowed himself to be named guardian of their persons and property and, what is worse, he subsequently applied to the court for his appointment as such guardian without informing the court that he held a mortgage on the only property of said minors. As a lawyer of long experience, he knew or should have known that he could not serve antagonistic interests, and that if the court had been apprised that he was creditor and mortgagee of the estate of said minors, it would not have appointed him guardian. He not only failed to disclose to the court that he was mortgagee but deliberately misinformed the court in the guardianship proceeding that first mortgagee was not he but the Santa Clara Monastery. Neither did he inform the court that he was the attorney-in-fact and the administrator of the funds of that institution."

It would be to set aside a principle so deeply embedded not only in the legal tradition but in the moral consciousness of our people if a petition tainted by a guardian promoting her own interest at the expense of the ward would receive judicial approval. If petitioner felt that her personal interest suffered an injury by the order complained of, the proper thing for her to do was to ask that she be relieved of her trust as guardian so she could litigate in her own personal capacity. Then there would be no bar to her challenging what for her was a prejudicial actuation. This she did not do. Instead she relied on her status as guardian to file this petition. This the law does not sanction. The petition cannot prosper.

Wherefore, this petition for certiorari is dismissed. Costs against petitioner.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldi-var, Sanchez, Ruiz Castro and Angeles, JJ., concur.

Petition dismissed.

[1] Annex B, Petition.

[2] Annex D, Petition.

[3] Annex F, Petition.

[4] Par. 3, Petition.

[5] Annex C, Petition.

[6] Answer in Intervention.

[7] Par. 6, Petition.

[8] Annex B, Petition in Sp. Proc. No. 7556, Juvenile and Domestic Relations Court; Annex D, Motion for Reconsideration; and Annex F, Second Motion for Reconsideration.

[9] Annex C, Petition.

[10] Annex E, Petition.

[11] Annex G, Petition.

[12] 20 Phil. 273 294.

[13] 74 Phil. 25, 29-30.

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