

**HON. JOSE F. FERNANDEZ, JUDGE OF COURT OF FIRST INSTANCE,
NEGROS OCCIDENTAL, ASUNCION MARAVILLA, ET AL.,
PETITIONERS, VS. HERMINIO MARAVILLA, RESPONDENT.**

G.R. No. L-18799. March 31, 1964

Ponente: BARRERA, J.

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BARRERA, J.:

Petitioners herein appeal by certiorari from the decision of the Court of Appeals (in CA-G.R. No. 27200-R) wherein, over their objection, raising the question of jurisdiction, the appellate court took cognizance of the petition for certiorari and prohibition filed by Herminio Maravilla and, in consequence thereof, set aside the appointment of petitioner Eliezar Lopez as a special co-administrator of the estate of the deceased Digna Maravilla. The pertinent antecedent facts are as follows:

On August 25, 1958, respondent Herminio Maravilla filed with the Court of First Instance of Negros Occidental a petition for probate of the will (Spec. Proc. No. 4977) of his deceased wife Digna Maravilla who died on August 12 of that same year. In the will the surviving spouse was named as the universal heir and executor.

On September 30, 1958, Pedro, Asuncion, and Regina Maravilla (brother and sisters of the deceased Digna Maravilla) filed an opposition to the probate of the will, on the ground, inter alia, that the will was not signed on each page by the testatrix in the presence of the at testing witnesses and of one another.

On March 16, 1959, on motion of respondent Herminio, which was opposed by Pedro, Asuncion, and Regina Maravilla, the court issued an order appointing him special administrator of the estate of the deceased, for the reason that:

"x x x all the properties subject of the will are conjugal properties of the petitioner and his late wife, Digna Maravilla, and before any partition of the conjugal property is done, the Court cannot pinpoint which of the property subject of the Will belongs to Digna Maravilla, exclusively, that shall be administered by the special administrator. Hence, although it is true that the petitioner Herminio Maravilla has an adverse interest in the property subject to the Will, the Court finds it impossible for the present time to appoint any person other than the petitioner as special administrator of the property until after the partition is ordered, for the reason that the properties mentioned in the Will are in the name of the petitioner who is the surviving spouse of the deceased."

On February 8, 1960, the court rendered a decision denying probate of the will, as it was not duly signed on each page by the testatrix in the presence of the at testing witnesses and of one another.

On February 17, 1960, Pedro, Asuncion, and Regina Maravilla, filed with the court a petition for appointment of Eliezar Lopez (son of Asuncion Maravilla) as special co-administrator to protect their interests, on the ground that the will, having been denied probate, they are the legal heirs of the decedent. Said petition was heard on February 20, at which hearing, respondent's counsel orally moved for postponement, because respondent's principal counsel (Salonga) had not been notified and was not present. The Court ordered presentation of oral evidence, consisting of the testimonies of Eliezar Lopez, and Regina and Francisco Maravilla.

On February 26, 1960, respondent filed with the court his notice of appeal, appeal bond, and record on appeal, from the decision denying probate of the will. Some devisees under the will, likewise, appealed from said decision.

On February 25, 1960, Pedro, Asuncion, and Regina, Maravilla, filed with the court a petition for the removal of respondent as special administrator, as he failed to file an inventory within 3 months from his appointment and qualification as special administrator, as provided for in Section 1, Rule 84, of the Rules of Court. To this petition, respondent filed an opposition, on the ground that provision of the Rules of Court does not apply to a special administrator, and an inventory had already been submitted by him, before said petition for his removal was filed.

On February 27, 1960, the devisees Conchita and Rose Marie Kohlhaas filed with the court a petition for the appointment of Conchita as special co-administratrix. Devisee Adelina Sajo, likewise, filed a similar petition on February 29.

On March 5, 1960, the court held a joint hearing on the (1) petition to appoint Eliezar Lopez as special co-administrator, (2) approval of respondent's record on appeal and appeal bond, (3) petition to remove respondent as special administrator, (4) petition to appoint Conchita Kohlhaas as special co-administratrix, and (5) petition to appoint Adelina Sajo as special co-administratrix. At said hearing, respondent objected to the appointment of Eliezar Lopez as special co-administrator, on the grounds that (a) the law allows only one special administrator, (b) the order of March 16, 1959 estops the court from appointing Eliezar Lopez as special co-administrator, (c) such appointment is unfair to respondent, because he owns at least 3/4 of the whole property, conjugal in nature, which would be subjected to the administration of a stranger, and (d) a deadlock between two special administrators would ruin the management of the property, including those of respondent. On cross-examination of Eliezar Lopez, respondent's counsel elicited the facts that (1) Lopez was employed full time in the PCAPE, with office in Manila, and could not discharge the functions of a co-administrator, and (2) there was merely intention on Lopez part to resign from office.

After said joint hearing, the court appointed Eliezar Lopez as special co-administrator in an order dictated in open court, to protect the interests of Pedro, Asuncion, and Regina Maravilla.

From this order, respondent, on March 7, 1960, filed with the Court of Appeals a petition for certiorari and prohibition, (with prayer for preliminary injunction) to annul the order appointing Eliezar Lopez as special co-administrator, and to prohibit the probate court from further proceeding with the petition for the removal of respondent as special administrator. The Court of Appeals issued a writ of preliminary injunction on March 9, 1960 which was amended on March 11, 1960 to make it more specific.

On October 6, 1960, petitioners Regina Maravilla, et al. filed with the Court of Appeals a petition to certify the case to the Supreme Court, on the grounds that the principal amount in controversy in this case exceeds P200,000.00, and the writs (of certiorari and prohibition) prayed for are not in aid of appellate jurisdiction of the Court of Appeals, since the probate case is not on appeal before it. To this petition, respondent filed an opposition, on the grounds that said the amount in controversy is less than P200,000.00 and the decision of the probate court (of February 8, 1960) is now on appeal before the Court Of Appeals (CA-G.R. No. 27478-R); hence, the writ prayed for is in aid of its appellate jurisdiction, and the present case does not involve title to or possession of real estate exceeding in value P200,000.00.[1]

On May 16, 1961, the Court of Appeals rendered a decision granting the writs (certiorari and prohibition) prayed for by respondent, and declaring null and void the appointment of Eliezar Lopez as special co-administrator.

Petitioners Regina Maravilla, et al. filed a motion for reconsideration of said decision, but it was denied by the

Court of Appeals. Hence, this appeal.

Petitioners claim that the Court of Appeals had no jurisdiction to issue the writs of certiorari and prohibition prayed for by respondent, the same not being in aid of its appellate jurisdiction.

We agree with petitioners. The Court of Appeals, in the decision appealed from, assumed jurisdiction over the present case on the theory that "the amount in controversy relative to the appointment of Eliezar Lopez as special co-administrator to protect the interests of respondents (herein petitioners) is only P90,000.00 more or less, i.e., one fourth of the conjugal property" (of respondent and the deceased Digna Maravilla) which, as per inventory submitted by respondent as special administrator, is valued at P362,424.90. This theory is untenable. Note that the proceedings had on the appointment of Eliezar Lopez as special co-administrator are merely incidental to the probate or testate proceedings of the deceased Digna Maravilla presently on appeal before the Court of Appeals (CA-G.R. No. 27478-R) where petitioners' motion to elevate the same to the Supreme Court, on the ground that the amount therein involved is within the latter's exclusive jurisdiction, is still pending resolution. That the Court of Appeals has no appellate jurisdiction over said a said testate proceeding cannot be doubted, considering that the properties therein involved are valued at P362,424.90, as per inventory of the special administrator.

Under Section 2, Rule 75, of the Rules of Court, the property to be administered and liquidated in testate or intestate proceedings of the deceased spouse is, not only that part of the conjugal estate pertaining to the deceased spouse, but the entire conjugal estate. This Court has already held that even if the deceased had left no debts, upon the dissolution of the marriage by the death of the husband or wife, the community property shall be inventoried, administered, and liquidated in the testate or intestate proceedings of the deceased spouse (*Vda. de Roxas vs. Pecson, et al.*, L-2211, December 20, 1948; 82 Phil. 407; see also *Vda. de Chantengco vs. Chantengco, et al.*, L-10663, October 31, 1958). In a number of cases where appeal was taken from an order of a probate court disallowing a will, this Court, in effect, recognized that the amount or value involved or in controversy therein is that of the entire estate (*Suntay v. Suntay*, L-3087, July 31, 1954, 50 O.G. 5321; *Vaño v. Vda. de Garces, et al.*, L-6303, June 30, 1954, 50 O.G. 3045). Not having appellate jurisdiction over the proceedings in probate (CA-G.R. No. 27478-R), considering that the amount involved therein is more than P200,000.00, the Court of Appeals cannot also have original jurisdiction to grant the writs of certiorari and prohibition prayed for by respondent in the instant case, which are merely incidental thereto.

In the United States, the rule is that "proceedings in probate are appealable where the amount or value involved is reducible to a pecuniary standard, the amount involved being either the appellant's interest or the value of the entire estate according as the issues on appeal involve only the appellant's rights or the entire administration of the estate. x x x In a contest for administration of an estate the amount or value of the assets of the estate is the amount in controversy for purposes of appeal." (4 C.T.S. 204). In line with this ruling, it is to be observed that respondent's interest as appellant in the probate proceedings (CA-G.R. No. 27478-R) is, according to his theory, the whole estate amounting to P362,424.90, or, at least more than 3/4 thereof, or approximately P270,000.00. Such interest, reduced to a pecuniary standard on the basis of the inventory, is the amount or value of the matter in controversy, and such amount being more than P200,000.00, it follows that the appeal taken in said proceedings falls within the exclusive jurisdiction of the Supreme Court and should, therefore, be certified to it pursuant to Section 17 of the Judiciary Act of 1948, as amended.

Note also that the present proceedings under review were for the annulment of the appointment of Eliczar Lopez as special co-administrator and to restrain the probate court from removing respondent as a special administrator. It is therefore, a contest for the administration of the estate and, consequently, the amount or value of the assets of the whole estate is the value in controversy (4 C.J.S. 204). It appearing that the value of the estate in dispute is much more than P200,000.00, the Court of Appeals clearly had no original jurisdiction to issue the writs in

question.

The Court of Appeals, in the decision appealed from, arrived at the amount of "P90,000.00 more or less", as the amount involved in the case, upon authority of the case of *Vistan vs. Archbishop* (73 Phil. 20). But this case is inapplicable, as it does not refer to the question of administration of the estate, nor to an order denying probate of a will, but only to the recovery of a particular legacy consisting of the rentals of a fishpond belonging to the estate. In an analogous case involving the administration of a trust fund, the United States Supreme Court held:

"Where the trust fund administered and ordered to be distributed by the circuit court, in a suit to compel the stockholders of a corporation to pay their subscriptions to stock to realize the fund, amounts to more than \$5,000.00, this court has jurisdiction of the appeal, which is not affected by the fact that the amounts decreed to some of the creditors are less than that sum" (*Handly, et al. vs. Stutz, et al.*, 34 Law Ed. 706).

Respondent also contends that appeals in special proceedings, as distinguished from ordinary civil cases, are within the exclusive appellate jurisdiction of the Court of Appeals, since they are not enumerated in Section 17 of the Judiciary Act, as amended. Granting, *arguendo*, that a special proceeding is not a civil action, it has never been decided that a special proceeding is not a "civil case" (*Carpenter v. Jones* 121 Cal. 362; 58 P. 842). On the other hand, it has been held that the term "civil case" includes special proceedings (*Herkimer v. Keeler*, 100 Iowa 680, 81 N.W. 178). Moreover, Section 2, Rule 73, of the Rules of Court provides that the rules on ordinary civil actions are applicable in special proceedings where they are not inconsistent with, or when they may serve to supplement the provisions relating to special proceedings. Consequently, the procedure of appeal is the same in civil actions as in special proceedings. (See *Moran's Comments on the Rules of Court*, Vol. II, 1957 Ed., p. 326.)

The cases cited by respondent where this Court ruled that the separate total claims of the parties and not the combined claims against each other determine the appellate jurisdictional amount, are not applicable to the instant case, because Section 2, Rule 75 of the Rules of the Court is explicit that the amount or value involved or in controversy in probate proceedings is that of the entire estate. Assuming, *arguendo*, that the rule in the cases cited by respondent is here applicable, it should be noted that respondent claims the whole estate, or at least more than 3/4 thereof. Said claim, reduced to a pecuniary standard, on the basis of the inventory, would amount to more than P200,000 and, consequently, within the exclusive jurisdiction of the Supreme Court.

The case of *Ledesma v. Natividad* (L-6115, May 10, 1954) cited by respondent in his brief, is also inapplicable, because, unlike the instant case, it did not involve a contest in the administration of the estate.

While it is true that questions of fact have been raised in the probate proceedings (Spec. Proc. No. 4977, CFI of Negros Occidental) which was appealed by respondent to the Court of Appeals, it becomes immaterial, in view of Sections 17 and 31 of the Judiciary Act of 1948, as amended, providing that the Supreme Court shall have exclusive appellate jurisdiction over "all cases in which the value in controversy exceeds two hundred thousand pesos, exclusive of interests and costs", and that "all cases which may be erroneously brought to the Supreme Court or to the Court of Appeals shall be sent to the proper court, which shall hear the same as if it had originally been brought before it".

On the question of the appointment of petitioner Eliezar Lopez as special administrator, we agree with respondent that there was no need for it. Note that the Rules of Court contain no provision on special co-administrator, the reason being, that the appointment of such special administrator is merely temporary and subsists only until a regular executor or administrator is duly appointed. Thus, it would not only be unnecessary but also impractical, if for the temporary duration of the need for special administrator, another one is appointed aside from the husband, in this case, upon whom the duty to liquidate the community property devolves, merely to protect the interests of petitioners who, in the event that the disputed will is allowed to probate, would even have no right to participate in

the proceedings at all. (Roxas v. Pecson, 82 Phil. 407).

In view of the conclusion herein reached, in connection with the amount involved in the controversy, it is suggested that appropriate steps be taken on the appeal pending in the Court of Appeals involving the probate of the will (CA-G.E. No. 27478-R) to comply with the provisions of the Judiciary Act on the matter.

WHEREFORE, the decision of the Court of Appeal of May 16, 1961 is set aside and another one entered also setting aside the order of the trial court of March 5, 1960, appointing Eliezar Lopes a special co-administrator. Without costs.

SO ORDERED.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes J.B.L., Paredes, Dizon, and Regala, JJ., concur.

Makalintal, J., took no part.

[1]Said petition to certify is still pending resolution by the Court of Appeals.

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