

INTESTATE ESTATE OF THE DECEASED AGUSTIN N. MEDINA.

G.R. No. L-36021. February 29, 1988

Ponente: GUTIERREZ, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/2baa39175712/>

GUTIERREZ, JR., J.:

In the intestate estate proceeding of the late Agustin N. Medina, an order was issued by the probate court approving the sale of the property known as "Bitucang Manok", to one of the heirs, herein petitioner on January 29, 1969.

On February 6, 1969, the private respondents received a copy of the said order. On February 15, 1969, the private respondents filed an Urgent Manifestation praying that -- (a) the implementation of the order be suspended, and (b) they be given the opportunity to check the accounting records of the Special Administrator. On March 27, 1969, respondent Medina filed an Amplification of the Motion of Movant-Heir, praying for the first time that the order granting the motion of the Special Administrator to sell the "Bitucang Manok" property be set aside.

On March 6, 1970, the probate court issued an order, confirming the sale of the disputed property to herein petitioner. In its order, the court passed upon the merits of the objections of the private respondents. It said:

"In connection with the grounds of opposition contained in letters (b) that the same would be violative of Rule 89, in relation to Section 3, 4 and 7 of the Rules of Court, and (d) that movant-heir Uldarico S. Medina and assignee Beda J. Gonzales are willing to file a bond in support of the opposition of the sale, the Court finds the same to be without merit, considering that oppositor Uldarico Medina's interest is con-fined solely to his desire to partake of whatever share he has in the estate in the same way with that of the rest of the heirs, as manifested in the accountings of the administrator where it has been established that he has already received advances from the estate either in cash or in kind with the total value of P400.00 which are patent indications of his financial straits.

"On the other hand, oppositor assignee Beda J. Gonzales, who claims to have an interest over the estate on the ground that certain heirs have already sold their shares and or interest over the same in his favor, granting that the same is true, could not, in the mind of the Court claim a better right over that of the herein vendee Rosalia Medina del Carmen in the Deed of Sale because the said Beda J. Gonzales is merely subrogated, if at all, to the interest of the heirs concerned who, according to the records have received more benefits from the estate even before its distri-bution as against that of the vendee, who, according to the record has never received anything yet from the estate as evidenced by the accounting of the administrator.

"The records further show that all the heirs have always been represented by their respective counsel and there is nothing to show that their representation have ever been withdrawn. Again, when the petition for the sale of the property in question was heard on January 29, 1969 wherein all the parties were duly notified thereof, the vendee Mrs. Rosalia Medina del Carmen offered to purchase the property in question for P24,000.00 and the Court, then presided by Judge Numeriano Estenzo, in his order of even date granted priority to the vendee Rosalia Medina del Carmen to the proposed sale, and even authorized the administrator to execute the necessary deed of sale in her favor upon deposit of the full amount of the purchase price, and to that effect the vendee complied with all the requirements of the Court towards the con-summation of the same by depositing

with this Court the offered purchase price of P24,000.00

"It is further observed that neither oppositor Uldarico S. Medina nor Beda Gonzales, have ever made any counter-offer for the purchase of the property in question neither has there been one from the rest of the heirs." (pp. 66-69, Record on Appeal)

The above order was received by the private respondents on April 8, 1970. On April 17, 1970, they filed a motion for reconsideration. The motion was denied and the respondents received the order of denial on June 18, 1970. On June 23, 1970, respondents filed a second motion for reconsideration captioned as "Petition For Reception of Evidence." This motion was likewise denied by the court on August 3, 1970 and the same was received by the respondents on August 7, 1970.

On August 13, 1970, the private respondents filed their Notices of Appeal and subsequently moved for an extension of time to file their Record on Appeal which was granted by the probate court.

Upon the elevation of the case to the respondent Court of Appeals, the petitioner filed her motion to dismiss appeal on the ground that since the appeal was filed out of time, the appellate court had no jurisdiction to entertain the same.

On November 22, 1972, the respondent Court of Appeals issued the questioned resolution, denying the petitioner's motion "considering that the appellants (private respondents) have already filed their printed record on appeal and brief". The appellate court likewise denied petitioner's motion for reconsideration on December 12, 1972.

In this petition for certiorari, the only issue raised by the petitioner is whether or not the appeal of the private respondents was filed out of time.

It is the contention of the petitioner that since the order approving the sale of the disputed property was received by the private respondent on February 6, 1969, the latter should have moved for the setting aside of such order within thirty (30) days from their receipt thereof; however, said respondents categorically moved to set aside the order only on March 27, 1969. The petitioner further contends that even if the period of the filing of the appeal is to be reckoned from the receipt of the order of the confirmation of the sale which was on April 8, 1970, still the notice of appeal was filed late as the second motion for reconsideration by the private respondents did not toll the running of the period since the motion was pro-forma. Therefore, as the notice of appeal should have been filed on or before August 9, 1970, the filing of the same on August 13, 1970 was clearly out of time.

The private respondents, on the other hand, argue that their second motion for reconsideration was not pro-forma and, therefore, tolled the running of the period of appeal because it contained a new ground which had not yet been passed upon by the court, and that is, that they have actually filed a bond to suspend the sale or prevent its confirmation.

We agree with the petitioner.

The private respondents' second motion for reconsideration was indeed pro-forma since the additional ground contained therein had no merit and had earlier been passed upon. The mere fact that the said respondents had actually filed a bond to prevent the confirmation of the sale does not constitute a ground in itself to justify the tolling of the period of appeal. Furthermore, the propriety of the respondents' filing of a bond was already passed upon by the probate court in its order dated March 6, 1970. In the case of *Garcia v. Echiverri* (132 SCRA 631, 638--639), we ruled:

"Well-rooted is the principle that perfection of an appeal within the statutory or reglementary period is not only

mandatory but also jurisdictional and failure to do so renders the questioned decision final and executory that deprives the appellate court of jurisdiction to alter the final judgment much less to entertain the appeal. (Acda v. Minister of Labor, 119 SCRA 309; Agricultural and Industrial Marketing, Inc. v. CA, 118 SCRA 49; Santos v. CA 125 SCRA 22.

xxx xxx xxx

"The motion for reconsideration which was correctly declared by the lower court to be pro-forma is of no moment. A pro-forma motion will not toll the running of the period of appeal. (Llantero v. CA SCRA 609; Luzon Brokerage Co., Inc. v. Maritime Bldg. Co., Inc., 86 SCRA 305; Jesena v. Hervas, 83 SCRA 799; Crisostomo v. CA, 32 SCRA 54; Dacanay v. Alvendia, 30 SCRA 31). And once a decision becomes final, the court can no longer amend or modify the same, much less set it aside, as was erroneously done by the respondent Judge in this case. For to allow courts to amend the final judgments will result in endless litigations." (Villanueva v. CFI of Oriental Mindoro, 119 SCRA 289).

The private respondents have somehow managed to prevent the order of sale from becoming final by filing a "manifestation" within the period of appeal. They now try to employ similar delaying tactics by filing a second motion for reconsideration to prevent the order of the confirmation of sale from becoming final and executory. Obviously, this is a dilatory tactic which should not be countenanced by the court especially considering that the disputed property had been paid for by the petitioner as early as 1969.

The Court of Appeals, therefore, erred in denying the petitioner's motion to dismiss the appeal.

IN VIEW OF THE FOREGOING, the petition is hereby GRANTED and the questioned resolutions of the Court of Appeals are ANNULLED and SET ASIDE. The private respondents' appeal is ordered DISMISSED. This decision is FINAL and IMMEDIATELY EXECUTORY and no motion for reconsideration will be entertained.

SO ORDERED.

Fernan, (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.