

GUARDIANSHIP OF RUFINO CRISOSTOMO AND HIS MINOR CHILDREN RUFINO CRISOSTOMO, JR.. JUAN CRISOSTOMO, ROBERTO CRISOSTOMO, AND GABRIEL CRISOSTOMO.

G.R. No. L-2693. December 27, 1951

Ponente: JUGO, J.

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JUGO, J.:

This is an appeal from several orders of the Court of First Instance of Bulacan in case No. 36 of said court, entitled "Guardianship of Rufino Crisostomo, Sr. and his minor children Rufino, Jr., Roberto, Juan, and Gabriel, all surnamed Crisostomo," which has been numbered by this Court G.R. No. L-2693, and case No. 318 of the same court, entitled "Intestate Estate of the Spouses Rufino Crisostomo and Petra Fernando," which has been numbered by this Court G.R. No. L-2694. These two cases have been combined in view of the intimate and necessary relations between them.

In case G. R. No. L-2693, Hermogenes C. Fernando was appointed on August 14, 1945, guardian of Rufino Crisostomo and his minor children Rufino, Jr., Juan, Roberto, and Gabriel, as to their persons and properties, later Rufino Crisostomo, Sr., died, leaving his said four minor children under the guardianship of said Hermogenes C. Fernando.

The value of the properties involved in the two proceedings exceeds P50,000.00 and the pertinent questions raised are only of law.

On June 12, 1943, the guardian filed a motion with the Court of First Instance of Bulacan praying for the approval of an extra judicial settlement of the estate of the deceased parents of the minors, the spouses Rufino Crisostomo, Sr. and Petra Fernando, who died intestate on August 15, 1945 and January 16, 1945, respectively. The guardian ad litem filed an opposition to said motion. The regular guardian filed an answer to the opposition. The court entered the following

"ORDER

"This is a motion for the approval of an extra-judicial settlement marked Exhibit 'A'.

"The Supreme Court in the certiorari case, G. R. No. L-2172, has ruled:

"The guardian of the minor children of the deceased is not, as such, administrator of the estate of the deceased until and after said estate has been acquired by or adjudicated to the minors by proper proceedings."

"In view hereof, the said motion is hereby denied and the deed of extra-judicial settlement executed by the legal guardian Hermogenes C. Fernando on May 23, 1948, a duplicate copy of which is marked A is declared null and void. Hermogenes C. Fernando is ordered to deliver to the Clerk of Court the original copy of Exhibit 'A' within 5 days from the receipt of a copy of this order.

"Let a copy of this order be attached to the Special Proceeding No. 316.

"IT IS SO ORDERED.

Malolos, Bulacan, Philippines, July 19, 1943.

"(Sgd) POTENCIANO PECSON

"Judge"

The guardian appealed from the above order.

On July 23, 1948, the guardian filed in the guardianship proceedings a petition praying the court to punish for contempt German Crisostomo (one of the administrators of the estate of the deceased spouses appointed in the intestate proceedings above mentioned) and one Victor Dimagiba, alleging that they had illegally taken possession of certain properties belonging to the minor wards, inherited by them from their parents. The court denied the petition on the ground that German Crisostomo had the right to possess those properties in his capacity as co-administrator of the estate of the deceased spouses and that Victor Dimagiba was only his overseer. The guardian filed a motion for reconsideration which the court denied on September 16, 1948. He appealed from said order.

In case G.R. No. L-2694, entitled "Intestate Estate. of the Spouses Rufino Crisostomo and Petra Fernando," German Crisostomo filed a petition, as next of kin, for the opening of the intestate proceedings of the estate of the above spouses and the appointment of himself and Pacita Fernando, another next of kin, as co-administrators of said estate. The guardian in case G.R. No. L-2693 filed on February 28, 1948, an opposition to the appointment of the administrators and moved for the dismissal of the intestate proceedings on the ground that the properties left by said spouses were already in his possession as such guardian. On April 1, 1948, the court issued an order denying the motion to dismiss the intestate proceedings. On April 2, 1943, the guardian filed another petition reiterating the motion of dismissal. On April 7, 1948, the court appointed German Crisostom and Pacita Fernando co-administrators of the estate of the above-mentioned spouses with the appropriate bonds, impliedly denying the reiteration of the motion for dismissal.

On June 21, 1948, the guardian filed a motion for the closing, termination, and filing in the archives of the record of the intestate proceedings on the ground that the properties involved therein had already been extrajudicially partitioned. On July 19, 1948, the court issued an order declaring null and void the extra judicial partition made by the guardian and denying said motion for closing the Intestate proceedings.

The guardian appealed from the above order as well as from the one dismissing the petition for contempt.

It may be gathered from the above statement of the pleadings, motions, petitions, and orders of the court below that the principal issue in this case is whether the court should have denied the petition for the opening of intestate

proceedings, or should have dismissed it, upon motion of the appellant, after they had commenced, and whether the project of partition submitted by the guardian in the guardianship proceedings should have been approved. The other question as to the contempt of court allegedly committed by the co-administrator German Crisostomo together with his overseer Victor Dimagiba, may be disposed of as a mere corollary of the principal issue as to the dismissal of the intestate proceedings.

On April 27, 1948, the guardian filed with this Court a petition entitled "Solicitud de Avocacion Con Peticion de Interdicto Prohibitorio Preliminar," G.R. No. L-2172, in which he prayed for a preliminary injunction to prohibit the Court of First Instance of Bulacan from proceeding with the intestate case and that this Court "dicte sentencia en este recurso declarando nulas, sin ningun valor, ni efecto, todas las ordenes dictadas por el Hon. Juzgado recurrido en el Expediente de Intestado No. 318 del Juzgado de Primera Instancia de Bulacan, por carecer de jurisdiccion dicho Juzgado sobre la materia del procedimiento, especialmente las ordenes de fechas l.o, 6 y 7 de Abril, 1948; y se condene en costas a los recurridos German Crisostomo y Pacita Fernando."

In the petition, substantially the same questions are raised as those discussed in the brief «ff the appellant herein. This Court, in a resolution dated May 5, 1948, which became final on July 2, 1948, passed the following resolution:

"Considering the petition for certiorari with preliminary Injunction filed by the petitioner in case No. L-2172 (Hermogenes Fernando, etc., vs. Court of First Instance of Bulacan et al), the same is DENIED, Inasmuch as the brothers of the deceased have interest, as next of kin, to petition for letters of administration, the heirs of the deceased being minors, and the respondent judge acted within his jurisdiction in appointing the petitioners as administrators under section 6, Rule 79. The guardian of the minor children of the deceased is not, as such, administrator of the estate of the deceased until and after said estate has been acquired by or adjudicated to the minors by proper proceedings."

The guardian filed an extensive motion for reconsideration of said resolution of the court, discussing with further details the matter involved in the present case, and setting forth further arguments in support of his contention.

This Court, after giving due consideration to all the facts and arguments appearing in the original petition and in the motion for reconsideration, passed the resolution of June 11, 1948, which reads as follows:

"In G.R. No. L-2172, Fernando vs. Judge of First Instance of Bulacan, et al., the motion for reconsideration is denied. Respondent judge had jurisdiction and did not exceed it in appointing the other respondents, who are the brother and sister or nearest of kin of the decedent, as administrators of the latter's estate. The jurisdictional facts referred to in section 2(a) Rule 80, are the death of the decedent, his residence at the time of his death in the province where probate court is sitting, or if he is an inhabitant of a foreign country, his having left his estate in such province. The name or competency of the person or persons for whom letters of administration are prayed is not a jurisdictional fact, it is another additional fact to be alleged in the petition (d); but 'no defect in the petition shall render void the issue of letters of administration' that is, shall divest the court of its jurisdiction to appoint the administrator. A petition for certiorari does not lie to correct errors; if the lower court has committed any error, the proper remedy would be appeal. The guardian of the minors has no right to administer the properties of the minors' father who died after the guardian had been appointed, until said properties have been adjudicated or awarded to them either by extrajudicial or judicial partition. No partition either judicial or extrajudicial having as yet been made adjudicating the said properties to the minors, the properties of the deceased have never been placed under the administration of the guardian of his minor children."

Mr. Justice Perfecto dissented.

It will be seen from the above that the principal issue in this case as to whether the intestate proceedings should be dismissed has already been decided by this Court in the certiorari proceedings as far back as July 2, 1948, with the exception that if there had been errors committed in the appointment of the guardians (not in the institution of the intestate proceedings, which had been declared within the jurisdiction of the court) those errors in the appointment may be corrected in an appeal. After examining the record, we do not see any error in the appointment of German Crisostomo and Pacita Fernando as co-administrators as they were the brother and sister, respectively, of the deceased, no evidence having been presented by the appellant why those persons should not be appointed, either on account of their incompetency or lack of moral qualifications. We, therefore, affirm the order of the court appointing them.

It should be borne in mind that the above resolutions of this Court constitute res judicata and "the law of the case" with regard to this appeal and they can no longer be questioned or put in issue in the present case. It results then, that the claim of the appellant that the intestate proceedings should be dismissed has to be denied and, as all the other questions are dependent on said issue, they should also be decided adversely to the appellant.

In view of the foregoing, the orders appealed from are hereby affirmed, with costs against the appellant.

IT IS SO ORDERED,

Pablo, Bengzon, Padilla, Tuason, Reyes, and Angelo Bautista, JJ., concur.

Paras, C.J., Feria, and Montemayor, JJ., took no part.

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