

SY HONG ENG, PETITIONER AND APPELLEE, VS. SY LIOC SUY, RESPONDENT AND APPELLANT.

G.R. No. L-4138. September 24, 1907

Ponente: WILLARD, J.

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WILLARD, J.:

On the 4th day of May, 1907, the Court of First Instance of Manila appointed an administrator of the estates of Sy Lay, Sy Chun Tek, and Sy Bang Co, deceased. On the 16th day of May, 1907, Sy Lioc Suy appealed to this court from such order. The case is now before us upon a motion of the appellee to dismiss the appeal on the ground that an order appointing an administrator is not appealable.

Section 783 of the Code of Civil Procedure is as follows:

"Appeals allowed in other causes affecting settlement of estates.—Any person legally interested in any other order, decree, or judgment of a Court of First Instance in the exercise of its jurisdiction in special proceedings in the settlement of the estates of deceased persons, or the administration of guardians and trustees, may appeal to the Supreme Court from such order, decree, or judgment, when such order, decree, or judgment constitutes a final determination of the rights of the parties so appealing, and the appeal shall be effected in the manner provided in "the two preceding sections: Provided, That no appeal shall be allowed from the appointment of a special administrator."

It is claimed by the appellee that an order appointing an administrator is not a final order and that therefore it does not come within the terms of that section. If such order is a final determination of any question, then it comes within the provisions of the article. above quoted and is appealable. That it does finally settle some questions, we think is clear. In this particular case the persons whose estates are now to be administered died prior to the adoption of the Code of Civil Procedure. The appellant claimed in the court below that that court had no jurisdiction to appoint an administrator in a case where the person whose estate was to be administered died prior to the enactment of such code. The order appealed from was a final determination against the appellant of that question. If he is not allowed to appeal from that order, he can not, either in this court or in any other court, afterwards litigate it.

It is not necessary to point out all of the questions which such an order determines finally, but we may refer to section 603 of the same code, which is as follows:

"Jurisdiction, when may be contested.—The jurisdiction assumed by a Court of First Instance, for the settlement of an estate, so far as it depends on the place of residence of a person, jr of the location of his estate, shall not be contested in a suit or proceeding, except in an. appeal from that court, in the original case, or when the want of jurisdiction appears on the record."

It appears from a reading of this section that this order appealed from decided conclusively that these estates must be administered in the city of Manila and could not be administered in any other province in the Islands.

In the case of *Caujolle vs. Ferrié* (13 Wall., 465) it was held that a grant of letters of administration by a court having sole and exclusive power of granting them "to the relatives of the deceased, who would be entitled to succeed to his personal estate," is conclusive in other courts on a question of legitimacy; the grant having been made on an issue raised on the question of legitimacy alone, and there having been no question of "minority, bad habits, alienage, or other disqualification simply personal."

We think that it is clearly to be inferred from the language used in articles 603 and 783 that it was the intention of the legislator to allow an appeal from an order appointing a general administrator. The proviso in article 783 indicates this. The words, "except in an appeal from that court," found in section 603 also indicate it.

We hold that an order appointing a general administrator is appealable.

The appellee also moved to dismiss the appeal on the ground that he was given no notice thereof. We find nothing in the statutes relating to such appeals which requires such notice to be given.

The appellee has also moved that the bond upon appeal be increased in amount. It is a sufficient answer to this claim to state that while the appeal bond was fixed in the sum of 21,000 pesos, the bond of the general administrator, whose appointment the appellee secured, was fixed only at 20,000 pesos.

The motions to dismiss the appeal and to increase the amount of the bond are denied.

Arellano, C. J., Torres, Johnson, and Tracey, JJ., concur.

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