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Special Proceedings MIS Office Normal JOJO 2 13 2002-01-15T08:50:00Z 2002-01-15T08:50:00Z 1 481 2746
Supreme Court of the Philippines 22 5 3372 9.2720 110

15. APPEALS IN SPECIAL PROCEEDINGS

1. Appealability

An order or judgment which is appealable in special proceedings is an order or judgment which

1. Allows or disallows a will;
2. Determines who are the lawful heirs of a deceased person, or the distributive share of the estate to which such person is entitled;
3. Allows or disallows, in whole or in part, any claim against the estate of a deceased person, or any claim presented on behalf of the estate in offset to a claim against it;
4. Settles the account of an executor, administrator, trustee, or guardian;
5. Constitutes, in proceedings relating to the settlement of the estate of a deceased person, or the administration of a trustee or guardian, a final determination in the lower court of the rights of the party appealing, except that no appeal shall be allowed from the appointment of a special administrator; and
6. Is the final order or judgment rendered in the case, and affects the substantial rights of the person appealing, unless it be an order granting or denying a motion for new trial or for reconsideration.[270]

2. Who May Appeal

Any interested person may appeal. A stranger having neither material nor direct interest in a testate or intestate estate has no right to appeal from any order issued therein.[271] Those who have been allowed to appeal are:

1. A surety of an executor or administrator, made a party to an accounting made by such executor or administrator, from an order approving or disapproving such accounting.
2. An heir, legatee or devisee who has been served with notice as to a money claim against the estate admitted by the executor or administrator, from an order of the court approving such claim;
3. A creditor who is allowed by the court to bring an action for recovery of property;
4. A special administrator, from an order disallowing a will.[272]

3. Perfection of Appeal

1. Rules 41 (Appeal from the Regional Trial Courts), 42 (Petition for Review from the Regional Trial Courts to the Court of Appeals) and Rule 45 (Appeal by Certiorari to the Supreme Court), all of the 1997 Rules of Civil Procedure) apply in conformity with Rule 72, section 2, which refers to the applicability of the rules of civil

actions to special proceedings and which provides that in the absence of special provisions, the rules provided for in ordinary actions shall be, as far as practicable, applicable in special proceedings.

2. Appeals in special proceedings are termed "multiple appeals" under the Interim Rules of Court and under the 1997 Rules of Civil Procedure. For multiple appeals, a record on appeal is required, while the period of appeal is thirty (30) days, instead of fifteen (15) days.

4. Advance Distribution

1. A part of the estate as may not be affected by the controversy or appeal, may be distributed among the heirs or legatees, upon compliance with the conditions set forth in Rule 90.[273]

2. A partial distribution should as much as possible be discouraged by the courts, and unless in extreme cases, such form of advances should not be countenanced.[274]

3. The reason for this strict rule is obvious -- courts should guard with utmost zeal and jealousy the estate of the decedent to the end that the creditors thereof be adequately protected and all the rightful heirs assured of their shares in the inheritance. 275

270 Rules of Court, Rule 109, Sec. 1.

271 *Espinosa v. Barrios*, 70 Phil. 311 [1940].

272 *Fluemer v. Hix*, 54 Phil. 610 [1930].

273 Rules of Court, Rule 109, Sec. 2.

274 *Gatmaitan v. Medina*, 109 Phil. 109 [1960]; reiterated in *Dael v. Intermediate Appellate Court*, G.R. No. 68873, March 31, 1989, 171 SCRA 524.

275 *Ibid.*

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