

IN THE MATTER OF THE INTESTATE OF THE DECEASED ANDRES EUSEBIO. EUGENIO EUSEBIO, PETITIONER AND APPELLEE, VS. AMANDA EUSEBIO, VIRGINIA EUSEBIO, JUAN EUSEBIO, DELPIN EUSEBIO, VICE...

G.R. No. L-8409. December 28, 1956

Ponente: CONCEPCION, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/65366a1d6f86/>

CONCEPCION, J.:

This case was instituted on November 16, 1953, when Eugenio Eusebio filed with the Court of First Instance of Rizal, a petition for his appointment as administrator of the estate of his father, Andres Eusebio, who died on November 28, 1952, residing, according to said petition, in the City of Quezon. On December 4, 1953, Amanda, Virginia, Juan, Delfin, Vicente and Carlos, all surnamed Eusebio, objected to said petition, stating that they, are illegitimate children of the deceased and that the latter was domiciled in San Fernando, Pampanga, and praying, therefore, that the case be dismissed upon the ground that venue had been improperly filed. By an order, dated March 10, 1954, said court overruled this objection and granted said petition. Hence, the case is before us on appeal taken, from said order, by Amanda Eusebio, and her aforementioned sister and brothers.

The appeal hinges on the situs of the residence of Andres Eusebio on November 28, 1952, for Rule 75, section 1, of the Rules of Court, provides:

"Where estate of deceased persons settled.—If the decedent is an inhabitant of the Philippines at the time of his death, whether a citizen or an alien, his will shall be proved, or letters of administration granted, and his estate settled, in the Court of First Instance in the province in which he resides at the time of his death, and if he is an inhabitant of a foreign country, the Court of First Instance of any province in which he had estate. The court first taking cognizance of the settlement of the estate of a decedent, shall exercise jurisdiction to the exclusion of all other courts. The jurisdiction assumed by a court, so far as it depends on the place of residence of the decedent, or 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 is not disputed that up to, at least, October 29, 1952, Andres Eusebio was, and had always been, domiciled in San Fernando, Pampanga, where he had his home, as well as some other properties. Inasmuch as his heart was in bad condition and his son, Dr. Jesus Eusebio, who treated him, resided at No. 41 P. Florentino' St., Quezon City, on October 29, 1952, Andres Eusebio bought a house and lot at 889-A Espana Extension; in said City (Exhibits 2). While transferring his belongings to this house, soon thereafter, the decedent suffered a stroke (probably heart failure), for which reason Dr. Eusebio took him to his (Dr. Eusebio's) aforementioned residence, where the decedent remained until he was brought to the UST Hospital, in the City of Manila, sometime before November 26, 1952. On this date, he contracted marriage in articulo mortis with his common law wife, Concepcion Villanueva, in said hospital. Two (2) days later, he died therein of "acute left ventricular failure secondary to hypertensive heart disease", at the age of seventy-four (74) years (Exhibit A). Consequently, he, never stayed or even slept in said house at Espana Extension.

It being apparent from the foregoing that the domicile of origin of the decedent was San Fernando, Pampanga, where he resided for over seventy (70) years, the presumption is that he retained such domicile, and, hence, residence, in the absence of satisfactory proof to the contrary, for it is well-settled that "a domicile once acquired is retained until a new domicile is gained" (Minor, Conflict of Laws, p. 70; Restatement of the Law on Conflict of Laws, p. 47; In re Estate of Johnson, 192 Iowa, 78). Under the circumstances surrounding the case at bar, if Andres Eusebio established another domicile, it must have been one of choice, for which the following conditions are essential, namely: (1) capacity to choose and freedom of choice; (2) physical presence at the place chosen; and (3) intention to stay therein permanently (Minor, Conflict of Laws, pp. 109-110; Goodrich, Conflict of Laws, p. 169; Velilla vs. Posadas, 62 Phil, 624; Zuellig vs. Republic of the Philippines, 46 Off. Gaz. Suppl. No. 11, p. 220). Admittedly, the decedent was juridically capable of choosing a domicile and had been in Quezon City several days prior to his demise. Thus, the issue narrows down to whether he intended to stay in that place permanently.

There is no direct evidence of such intent. Neither does the decedent appear to have manifested his wish to live indefinitely in said city. His son, petitioner-appellee, who took the witness stand, did not testify thereon, despite the allegation, in his answer to the aforementioned, opposition of appellants herein, that "the deceased (had) decided to reside * * * for the rest of his life, in Quezon City". Moreover, said appellee did not introduce the testimony of his legitimate full brother and son of the decedent, Dr. Jesus Eusebio, upon whose advice, presumably, the house and lot at No. 889-A Espaiia Extension was purchased, and who, therefore, might have cast some light on his (decedent's) purpose in buying said property. This notwithstanding, the lower court held that the decedent's intent to stay permanently in Quezon City is "manifest" from the acquisition of said property and the transfer of his belongings thereto. This conclusion is untenable.

The aforementioned house and lot were bought by the decedent because he had been advised to do so "due to his illness", in the very words of herein appellee. It is not improbable—in fact, its is very likely—that said advice was given and followed in order that the patient could be near his doctor and have a more effective treatment. It is well settled that "domicile is not commonly changed by presence in a place merely for one's own health", even if coupled with "knowledge that one will never again be able, on account of illness, to return home." (The Conflict of Laws, by Beale, Vol. I, pp. 172-173; see, also, Shenton vs. Abbott, Md., 15., A. 2d. 906; U.S. vs. Knight, D.C. Mont., 291 Fed. 129).

Again, the decedent did not part with, or alienate, his house in San Fernando, Pampanga. Moreover, some of his children, who used to live with him in San Fernando, Pampanga, remained in that municipality. Then, again, in the deed Exhibit 2, by virtue of which said property at No. 889-A Espana Extension, Quezon City, was conveyed to him, on October 29, 1952, or less than a month before his death, the decedent gave San Fernando, Pampanga, as his residence. Similarly, the "A" and "B" residence certificates used by the decedent in acknowledging said Exhibit 2, before a notary public, was issued in San Fernando, Pampanga. Lastly, the marriage contract Exhibit 1, signed by the deceased when he was married, in *artiado mortis*, to Concepcion Villanueva, at the UST Hospital, on November 26, 1952, or two (2) days prior to his demise, stated that his residence is San Fernando, Pampanga. It is worthy of notice that Alfonso Eusebio, one of the legitimate full brothers of the herein appellee, was a witness to said wedding, thus indicating that the children of the deceased by his first marriage, including said appellee, were represented on that occasion and would have objected to said statement about his residence, if it were false. Consequently, apart from appellee's failure to prove satisfactorily that the decedent had decided to establish his home in Quezon City, the acts of the latter, shortly and immediately before his death, prove the "contrary. At any rate, the presumption in favor of the retention of the old domicile[1]—which is particularly strong when the domicile is one of the origin [2] as San Fernando, Pampanga, evidently was, as regards said decedent—has not been offset by the evidence of record.

The lower court, however, rejected said Exhibits 1 and 2, upon being offered in evidence, and refused to entertain the same in the order appealed from. The reasons therefor are deducible from its resolution in rejecting said documents during the hearing of the incident at bar. The court then held:

"Exhibits 'V and '2' are rejected but the same may be attached to the records for whatever action oppositors may want to take later on because until now the personality of the oppositors has not been established whether or not they have a right to intervene in this case, and the Court cannot pass upon this question as the oppositors refuse to submit to the jurisdiction of this Court and they maintain that these proceedings should be dismissed. (P. 10, t. s. n.)

In short, the lower court believed that said documents should not be admitted in evidence before appellants had established their "personality" to intervene in the case, referring seemingly to their filiation. When appellants, however, sought, during said hearing, to establish their relation with the deceased, as his alleged illegitimate children, Has Honor, the trial Judge sustained appellee's objection thereto stating:

"Your stand until now is to question the jurisdiction of this Court, and it seems that you are now trying to prove the status of your client; you are leading to that. The main point here is your contention that the deceased was never a resident of Quezon City and that is why I allowed you to cross-examine. If you are trying to establish the status of the oppositors, I will sustain the objection, unless you want to submit to the jurisdiction of the Court. This is not yet the time to declare who are the persons who should inherit." p. 1, t. s. n.)

Thus, the lower court refused to consider appellant's evidence on the domicile of the decedent, because of their alleged lack of "personality", but, when they tried to establish such "personality", they were barred from doing so on account of the question of venue raised by them. We find ourselves unable to sanction either the foregoing procedure adopted by the lower court or the inferences it drew from the circumstances surrounding the case.

To begin with, His Honor, the trial Judge had taken inconsistent positions. While, on the one hand, he declared that appellants could not be permitted to introduce evidence on the residence of the decedent, for they contested the jurisdiction of court, on the other hand, he held, in the order appealed from, that, by cross-examining the appellee, said appellants had submitted themselves to the authority of the court.

What is more, this conclusion is refuted by the record. At the beginning of the hearing, in the lower court, appellants' counsel announced that he would take part there-in "only to question the jurisdiction, for the purpose of dismissing this proceeding," (p. 2, t. s. n.). During the cross-examination of petitioner herein, said counsel tried to elicit the relation between the decedent and the appellants. As, the appellee objected thereto, the court said, addressing appellants' counsel: "Your stand until now is to question the jurisdiction of the court * * *. If you are trying to establish the status of the oppositors, I will sustain the objection, unless you want to submit to the jurisdiction of the court" (p. 7, t. s. n.). There upon, appellants counsel refused to do so, stating: "I will insist on my stand." Then, too, at the conclusion of the hearing, the court rejected Exhibits 1 and 2, for the reason that appellants "refuse to submit to the jurisdiction of this court and they maintain that these proceedings should be dismissed" Thus, appellants specifically made of record that they were not submitting themselves to the jurisdiction of the court, except for the purpose only of assailing the same, and the court felt that appellants were not giving up their stand, which was, and is, a fact.

At any rate, appellants were entitled to establish facts tending to prove, not only their right to object to appellee's petition, but, also, that venue had been laid improperly. Such facts were: (a) their alleged relationship with the decedent,[3] which, if true, entitle them to proceed him under the Civil Code of the Philippines; and (b) his alleged residence is Pampanga, In other words, the lower court should have admitted Exhibits 1 and 2 in evidence and given thereto the proper effect, in connection with the issue under consideration.

Appellee, however, asks: "What will happen if this case be dismissed in the Court of First Instance of Quezon City on the ground of lack of jurisdiction or improper venue?" In this connection, it appears that on November 14, 1953, the Clerk of the Court of First Instance of Pampanga received a petition of appellants herein, dated November 4, 1953, for the settlement of the "Intestate Estate of the late Don Andres Eusebio". Attached to said petition was another petition for the docketing thereof free of charge, pursuant to Rule 3, section 22, of the Rules of Court. The latter petition was granted by an order dated November 16, 1953, which was received by the cashier of said court on November 17, 1953, on which date the case was docketed as Special Proceedings No. 957. On December 14, 1953, Jesus, Eugenio, Amando and Alfonso, all surnamed Eusebio (the children of the decedent by first marriage, including petitioner herein), moved for the dismissal of said proceedings, owing to the pendency of the present case, before the Court of First Instance of Rizal, since November 16, 1953. This motion was granted in an order dated December 21, 1953, relying upon the above Rule 75, section 1, of the Rules of Court, pursuant to which "the court first taking cognizance of the settlement of the estate of a decedent, shall exercise jurisdiction to the exclusion of all other courts."

Although said order is now final, it cannot affect the outcome of the case at bar. Said order did not pass upon the question of domicile or residence of the decedent. Moreover, in granting the court first taking cognizance of the case exclusive jurisdiction over the same, said provision of the Rules of Court evidently refers to cases triable before two or more courts with concurrent jurisdiction. It could not possibly have intended to deprive a competent court of the authority vested therein by law, merely because a similar case had been previously filed, before a court to which jurisdiction is denied by law, for the same would then be defeated by the will of one of the parties. More specifically, said provision refers mainly to non-resident decedents who have properties in several provinces in the Philippines, for the settlement of their respective estates may be undertaken before the court of first instance of either one of said provinces, not only because said courts then have concurrent jurisdiction—and, hence, the one first taking cognizance of the case shall exclude the other courts—but, also, because the statement to this effect in said section 1 of Rule 75 of the Rules of Court immediately follows the last part of the next preceding sentence, which deals with non-resident decedents, whose estate may be settled before the court of first instance of any province in which they have properties.

In view, however, of the last sentence of said section, providing that:

"* * * The jurisdiction assumed by a court, so far as it depends on the place of residence of the decedent, or of the location of his estate, shall not be contested in a suit or proceedings, except in an appeal from that court, in the original case, or when the want of jurisdiction appears on the record."

if proceedings for the settlement of the estate of a deceased resident are instituted in two or more courts, and the question of venue is raised before the same, the court in which the first case was filed shall have exclusive jurisdiction to decide said issue, and we so held in the case of Taciana Vda. de Borja vs. Tan, L-7792 (July 27, 1955). Should it be decided, in the proceedings before the said court, that venue had been improperly laid, the case pending therein should be dismissed and the corresponding proceedings may, thereafter, be initiated in the proper court.

In conclusion, we find that the decedent was, at the time of his death, domiciled in San Fernando, Pampanga; that the Court of First Instance of Rizal had no authority, therefore, to appoint an administrator of the estate of the deceased, the venue having been laid improperly; and that it should, accordingly, have sustained appellants' opposition and dismissed appellee's petition.

Wherefore, the order appealed from is hereby reversed and appellee's petition is dismissed, with costs against the appellee. It is so ordered.

Paras, C. J., Bengzon, Padilla, Bautista Angelo, Labrador, Reyes, J. B; L., Endencia, and Felix, JJ., concur.

[1] "There is a presumption in favour of the continuance of an existing domicile. Therefore, the burden of proving a change lies in all cases upon those who alleged that he change has occurred. This presumption may have a decisive effect, for if the evidence is so conflicting that it is impossible to elicit with certainty what the resident's intention is, the Court, being unable to reach a satisfactory conclusion one way or the other, will decide in favour of the existing domicile." (Private International Law by Cheshire, pp. 218-219.)

"In the absence of any circumstances from which the courts may infer the animus, they are accustomed to fall back on two legal presumptions, without which it would in some cases be impossible to arrive at any conclusions as to a party's domicile. "The first of these is the presumption that the party has retained the last domicile known to have been possessed by him. This follows from the principle that a domicile once acquired is retained until another is gained¹, and from the other principle growing out of it that the burden of proof is on him who alleges a change of domicile." (Conflict of Laws by Minor, p. 123.)

[2] It is often said, particularly in the English cases, that there is a stronger presumption against change from a domicile' of origin than there is against other changes of domicile. 'Domicile of origin . . . differs from domicile of choice mainly in this that its character is more enduring, it holds stronger, and is less easily shaken off.' The English view was forcibly expressed in a Pennsylvania case in which Lewis, J., said: 'The attachment which every one feels for his native land is the foundation of the rule that the domicile of origin is presumed to continue until it is actually changed by acquiring a domicile elsewhere. No temporary sojourn in a foreign country will work this change.' In a federal case in Pennsylvania the same point was emphasized." (The Conflict of Laws, by Beale, Vol. I, p. 129.)

[3] Which has not been categorically denied, appellee's counsel having limited themselves to alleging, in an unsworn pleading, that they have no knowledge sufficient to form a belief on said claim of the appellants.

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.