

ROSARIO G. LASERNA, PETITIONER, VS. HON. JOSE G. PANEDA (IN HIS CAPACITY AS THE PRESIDING JUDGE OF RTC-QUEZON CITY, BRANCH 220) AND MARIETTA G. HOLMGREN, RESPONDENTS.

Ponente: SABIO, JR., J.

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SABIO, JR., J.:

An order of the trial court appointing a regular administrator of a deceased person's estate is a final determination of the rights of the parties thereunder and is thus appealable (Testate Estate of Maria Manuel Vda. De Biascan vs. Biascan, 347 SCRA 621).

Challenged in this petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure is the January 7, 2005 order of public respondent Regional Trial Court Judge of Branch 220, Quezon City, appointing private respondent as co-administratrix with one Mrs. Pilar Pena, and the July 15, 2005 order of said court denying petitioner's motion for reconsideration on the earlier order.

The material antecedents as instructively portrayed in petitioner's petition, thus:

“STATEMENTS OF FACTS AND OF THE CASE

- On October 31, 1990, the late Anita Guidote Vda. De Guanzon, petitioner's and private respondent's mother, died leaving a will (with amendment and addendum) in which a certain Ceferino S. Gaddi was named as the executor of the estate. A copy of the will, including the amendment and addendum thereto, is attached hereto as Annex “D”.

- The deceased was survived by the following compulsory heirs, her daughters: Rosalinda Antiporda, Teresita G. Velasco, Concepcion G. Garcia, Marietta Homgren (herein private respondent), and Rosario Laserna (herein petitioner).

- On February 21, 2005, after the compulsory heirs had failed to implement the wishes of their mother without the need for court proceedings, petitioner filed a petition to prove the will of the decedent and to settle her estate. The petition was docketed as SP Proc, Case No. Q-94-19178, entitled “In the Matter of the Probate of the Will of the Deceased Anita Guidote Vda. De Guanzon; Rosario G. Laserna”, and assigned to Branch 220 of the Regional Trial Court of Quezon City. Private respondent later appeared as an oppositor. A copy of the petition is attached hereto as Annex “E”.

- Since the named executor in the will refused to assume his post and in order to avoid protracted controversy in the appointment of the special administrator, the parties filed a joint motion to appoint Land Bank of the Philippines as the special administrator of the estate, which motion was approved by the probate court in its Order dated June 28, 1999. Copies of the joint motion and the order are attached hereto as Annexes “F” and “G”, respectively.

- Subsequently, petitioner proceeded with the proving of the will. After due proceedings, petitioner formally offered her evidence. A copy of the petitioner's formal offer of evidence is attached hereto as Annex “H”.

- In its Order dated August 26, 2002, the respondent trial judge admitted all the evidence for the purposes for

which they had been offered. A copy of the said order is attached hereto as Annex "I".

- Thereafter, petitioner filed a motion to appoint Lank Bank of the Philippines as the regular administrator of the estate, a copy of which is attached hereto as Annex "J".

- In its Manifestation and Omnibus Motion dated November 6, 2002, the Lank Bank of the Philippines declined the proposed appointment, a copy of which is attached hereto as Annex "K".

- In its Order dated December 10, 2002, the respondent trial judge noted the Manifestation and Motion of the Land Bank of the Philippines and ordered the parties to mutually nominate a regular administrator. A copy of said order is attached hereto as Annex "L".

- Petitioner nominated Pilar B. Pena as the regular administratrix, while private respondent, through a formal motion, nominated Cecilia Guidote-Alvarez or Filomena Guidote-Boclabos. Petitioner opposed private respondent's nominees. A copy of the private respondent's motion is attached hereto as Annex "M", while petitioner's Opposition is attached hereto as Annex "N".

- In his Order dated March 3, 2004, the respondent trial judge appointed Cecilia Guidote-Alvarez and Pilar Pena as co-administratrixes of the estate, subject to the posting of P1 Million bond. A copy of the order is attached hereto as Annex "O".

- Then private respondent filed a Manifestation and Motion with the probate court, alleging that the appointed administratrixes had not yet posted the required bond, and asking that she be appointed as the sole administratrix. A copy of the Manifestation and Motion is attached hereto as Annex "P".

- Petitioner filed a Comment/Opposition to the motion of private respondent, to which she replied. Copies of the petitioner's Opposition and private respondent's Reply are attached hereto as Annexes "Q" and "R", respectively.

- In his Order dated January 7, 2005, the respondent trial judge withdrew the appointment of Cecilia Guidote-Alvarez and appointed in her stead the private respondent (Annex "A" of this Petition)."

(Rollo, pp. 12-15)

Unconvinced, petitioner filed a motion for reconsideration with manifestation that private respondent is wanting of integrity to act as administratrix. Because of several pending cases before the SEC and the City Prosecutor's Office in Manila, private respondent's character and moral fitness have been seriously tarnished petitioner pointed out.

Petitioner's motion for reconsideration was denied by public respondent in an order which stated, thus:

"The Court, after considering the arguments raised in the Motion for reconsideration, filed by petitioner, through counsel, on February 22, 2005, as well as the Motion for Partial Reconsideration, filed by oppositor, through counsel, on February 24, 2005, finds no cogent reason to reverse or modify the Order of this Court, dated January 7, 2005, the Court finds that oppositor Marietta Guanzon Holmgren is not legally disqualified to be appointed as co-administratrix of the estate of the deceased.

On the other hand, Ms. Pilar Pena has already posted the necessary bond and have already taken her oath of office.

Considering that Marietta Guanzon Holmgren has already posted the necessary bond, the same is hereby APPROVED. Marietta Guanzon Holmgren is hereby directed to take her oath before the Branch Clerk of this Court.

SO ORDERED.

Quezon City, Philippines, July 15, 2005.”

(Rollo, p. 31)

Aggrieved petitioner now comes to Us via this instant petition arguing on the following:

“GROUND

THE RESPONDENT TRIAL JUDGE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN APPOINTING PRIVATE RESPONDENT AS CO-ADMINISTRATRIXES OF THE ESTATE DESPITE THE FACTS THAT:

A) SHE IS FACING A CRIMINAL CHARGE OF FALSIFICATION OF PUBLIC DOCUMENT FOR FORGING THE SIGNATURE OF THE DECEDENT,

B) SHE HAD BEEN FOUND BY THE REGIONAL TRIAL COURT OF MANILA TO HAVE FORGED THE SIGNATURE OF THE DECEDENT, WHICH FINDING OF THE TRIAL COURT WAS AFFIRMED BY THE HONORABLE COURT AND THE SUPREME COURT, AND

C) SHE HAS AN INTEREST ADVERSE TO THAT OF THE ESTATE OF THE DECEDENT AND HOSTILE RELATIONS WITH THE OTHER COMPULSORY HEIRS.”

(Rollo, pp. 15-16)

Petition denied.

As pointed out in the above-cited jurisprudence the appointment of a regular administrator of a deceased person's estate is a final determination of the rights of the parties thereunder is appealable and it is axiomatic that availability of the right to appeal precludes recourse to special civil action for certiorari (Oaminal vs. Castillo, 413 SCRA 189). On that basis alone the petition is dismissible.

As to the allegation that public respondent committed grave abuse of discretion in appointing private respondent as co-administrator, we find private respondent's argument thereon convincing and we adopt them as our own, thus:

“10. In the case at bar, there is NO SUCH GRAVE ABUSE OF DISCRETION as will be clearly discussed below.

11. In the current petition for certiorari, petitioner alleges that respondent judge committed grave abuse of discretion in appointing private respondent as co-administratrix in the aforesaid estate for the following reasons:

11.1 That she is facing a criminal charge of falsification of public document for forging the signature of the decedent;

11.2 That she had been found by the Regional Trial Court of Manila to have forged the signature of the decedent, which finding by the trial court was affirmed by the Honorable Court and the Supreme Court; and

11.3 That she has an interest adverse to that of the estate of the decedent and has hostile relations with the other compulsory heirs. Law and jurisprudence do not provide that these issues are grounds for disqualification of a person in being appointed as an administrator of the estate of a deceased person, and the Honorable court exercised sound discretion in issuing the assailed order.

CRIMINAL CHARGE OF
FALSIFICATION OF A
PUBLIC DOCUMENT

12. Under Rule 78 Sec. 1, a person may not be appointed as administrator if he/she is found by the court to be “unfit to execute the duties of the trust by reason of want of integrity or by reason of conviction of an offense involving moral turpitude.”

13. It should be noted that there is an opinion that, for purposes of special proceedings for the settlement of an estate, “[t]o sustain a judgment of want – the accusation should be certain and grave in its nature, and must be established by proof which would at least approach the certainty required for conviction in a criminal prosecution,” (V-b Special Proceedings Francisco, pp. 2-3, 1970 Ed. As cited in Remedial Law by Oscar M. Herrera 1996 ed. p. 65).

14. In this instance, the criminal case averred to by the petition is merely pending and the respondent has not yet been convicted of any crime involving moral turpitude. It has to be said that the pendency of Criminal Case No. 330474-CR entitled “People of the Philippines vs. Marietta G. Holmgren”, cannot be given conclusive effect by this Honorable Court. A charge of falsification filed against herein respondent only proves that such a case was filed and pending with the Metropolitan Trial Court of Manila. It does not prove the propensity of the accused, herein petitioners, to falsify.

15. To give due course to this petition based on this ground would necessarily preempt the proceedings in said criminal case. It should be noted that the guilt of herein respondent in said criminal case has not yet been proven beyond reasonable doubt. At this point, to give any effect whatsoever to such criminal charges would be an outright determination of her guilt therein.

16. Moreover, the pendency of the criminal case of falsification is not equivalent to evidence that the accused was guilty of the same. To disqualify herein Respondent as co-administratrix based on the charge of falsification would be tantamount to equating the pendency of said case to her guilt thereof. This should not be done, otherwise it would mean ignoring the constitutional presumption of innocence afforded to an accused in a criminal case.”

(Rollo pp. 233-235)

We hasten to add that an act of a court or tribunal maybe considered to have been done in grave abuse of discretion when the same was performed in a capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction (*Maglasang, Jr. vs. Dadole*, 343 SCRA 472). There is no such showing in the case at bench.

Finally, certiorari will issue only to correct errors of jurisdiction and not correct errors of procedure or mistake in the court's findings and conclusions. If the court has jurisdiction over the subject matter and of the person, its rulings upon all questions involved are within its jurisdiction, however irregular or erroneous these may be, they cannot be corrected by certiorari (*MMDA vs. Jancom Environmental Corp*, 375 SCRA 320). There is no dispute that public respondent court had jurisdiction over the subject matter and over the persons of the parties, and therefore pursuant to such Supreme Court ruling, this petition must fail.

WHEREFORE, foregoing premises considered, the petition having no merit in fact and in law, is hereby DENIED DUE COURSE and ordered DISMISSED. With costs to petitioner.

SO ORDERED.

Reyes, Jr., A.[*], (Chairman) and Villon, JJ., concur.

[*]Vice J. Asuncion-Vicente.

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