

IN RE GUARDIAN OF JOSEFA PONCE ALIAS JOSEFINA UY PONCE.*G.R. No. L-8488. November 21, 1955*

Ponente: REYES, J.B.L., J.

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IN RE GUARDIAN OF JOSEFA PONCE ALIAS JOSEFINA UY PONCE body { font-family: Verdana, Geneva, Arial, helvetica, sans-serif; font-size:80%; background-color:#FFFFFF; margin:0 2% 0 2%; text-align: justify; } h1 { font-family:times; } h2 { background-color:#cccccc; padding:10px 0 10px 0; font-weight: bold; text-align:center; } h3 { font-weight: bold; text-transform: uppercase; text-align: center; } div#footer { font-size:9px; }

In the proceedings of guardianship of the minor Josefa Ponce (Sp. Proc. No. 11-R of Cebu), appellant Gregoria Daclan, second wife of the deceased Dionicio Uy Ching Siong (great grandfather of the said minor) and administratrix of his estate, had filed a motion asking for the annulment and revocation of previous orders authorizing the mortgage, and later the sale, of the minor's interest in lots Nos. 2668 and 8057 of the Cebu Cadastre, issued by the Court to the guardian Jose Ponce. The ground alleged was that said orders were secured without due notice to movant as representative of the heirs of Dionisio Uy Ching Siong; it being alleged by her that said lots 2668 and 8057 belonged exclusively to the estate of her deceased husband, because the latter had allegedly purchased all the interest of his first wife Catalina Taboada in said lots from the latter's heirs. The Court below denied the motion, finding that movant Gregoria Daclan, being only the minor's step-grandmother, "no es pariente de la citada menor de acuerdo con la ley" and hence was not entitled to notice of the guardianship proceedings (Rec. App. pp. 21-22). Daclan moved to reconsider said order but failed, hence this appeal.

Said appellant now urges that the petition for the guardianship of the minor Josefa Ponce, as well as the motions for the mortgage and sale of her properties filed by her guardian Jose Ponce, are void and did not confer jurisdiction upon the Court for lack of notice to her (appellant) as next of kin.

The argument is without merit. By her own admission, appellant is the second wife of Dionisio Uy Ching Siong, great-grandfather of the minor; i.e., she is only the step great-grandmother of the child. Under Rule 94, Rules of Court, only the "next of kin" of the ward are entitled to notice of the guardianship proceedings, and "next of kin" has been interpreted by this Court to mean those relatives whose relationship is such that they are entitled to share in the minor's estate as distributees. (Lopez vs. Judge Teodoro, 47 Off. Gaz. (Suppl. to No. 12) p. 141) As the second wife of the minor's great-grandfather, appellant has absolutely no interest in her estate, since she would not even be a remote heir in case of the minor's death, not being related by blood to the latter. In our system of law, intestate succession devolves only upon blood relatives of the decedent, with the sole exception of the surviving spouse. Consequently, notice of these proceedings need not be given to appellant.

Appellant also claims that the petition for the appointment of a guardian over the property of the minor did not confer jurisdiction upon the court because the same did not allege the names, ages and residence of the minor's relatives. Again the claim is untenable. Even assuming that the allegations as to the names, ages and residences of the minor's relatives is jurisdictional, the same was not necessary in this case, for the petition was filed by the minor's relatives themselves, to wit, her surviving great-grandmother Ignacia Zabate, grandaunt Dolores Taboada

and her granduncles Flaviano, Francisco and Pedro Taboada, with the written consent of her widowed father, Jose Ponce. As for the fact that appellant was not named therein, appellant is not, as we have already stated, such relative as is entitled to notice of the petition and other proceedings of the guardianship.

Appellant's intervention in these proceedings appears to be, not for the purpose of protecting the interest and rights of the minor Josefa Ponce, but to claim and prove the interest adverse to that of the minor's, for it is the contention of appellant that the parcels of land represented by the guardian to belong to his ward, and mortgaged and sold by him as such guardian with authority of the court, do not belong to the minor but are properties of appellant and her children as heirs of her deceased husband Dionisio Uy Ching Siong. It is clear that such intervention is not proper in guardianship proceedings, which are aimed at safeguarding the rights and interest of the incompetent person. If it be true, as appellant claims, that the alleged properties of the minor Josefa Ponce really belong to her and her children as heirs of the late Dionisio Uy Ching Siong, her remedy, as pointed out by the Court below, is to ventilate said question in a separate action in the court of proper jurisdiction. Specially so, because the transactions under attack have already been consummated, and third persons' interests have become vested.

Wherefore, the orders appealed from are affirmed, with costs against appellant Gegoria Daclan.

Paras, Bengzon, Padilla, Montemayor, Reyes, Jugo, Bautista Angelo, Labrador, and Concepcion, JJ., concur.

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