

IN THE MATTER OF THE TESTATE ESTATE OF BASIL GORDON BUTLER, MERCEDES LEON, PETITIONER AND APPELLANT, AND ADA LOGGEY GHEZZI, ADMINISTRATRIX AND APPELLANT, VS. MANUFACTURERS LIFE ...

G.R. No. L-3677. November 29, 1951

Ponente: TUASON, J.

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TUASON, J.:

This is an appeal from the Court of First Instance of Manila which denied a motion of the administratrix in the matter of the testate estate of Basil Gordon Butler (Special Proceedings No. 6218). The motion prayed for the citation of the Manager of the Manila Branch of the Manufacturers Life Insurance Co. of Toronto, Canada, to appear and render a complete accounting of certain funds the said Branch allegedly has in its possession and claimed to belong to the estate. His Honor, Judge Rafael Amparo of the court below, held that these funds "came into the possession of the Manufacturers Life Insurance Co., Inc., regularly and in due course and, therefore, sees no justifiable ground to require said company to render an accounting thereon."

The essential facts are that Basil Gordon Butler, formerly a resident of the Philippines, died in Brooklyn, New York City, in 1945 leaving a will which was duly probated in the Surrogate's Court of New York County on August 3 of the same year, and of which James Ross, Sr., James Madison Ross, Jr. and Ewald E. Selph were named executors. The estate having been settled, the proceedings were closed on July 17, 1947.

The will contained this residuary clause:

"After payment of these legacies and my just debts, including funeral expenses, I devise, give and bequeath all of my remaining estate and personal effects of which I may die possessed to Mercedes de Leon, of Maypajo, Caloocan, Rizal, to wit: the personal effects to be delivered to her for her use and profit; the moneys, securities and other valuable property, not personal effects, to be held in trust for her benefit by my executors, at their absolute discretion, to be administered for her permanent benefit in whatever way they may consider most advantageous in the circumstances existing. Since the said Mercedes de Leon is not of sound judgment, and discretion in the handling of money, it is not my wish that she be given any sums of money other than for her current needs, except as my executors in their judgment deem advantageous to her. In case the amount available for this bequest be sufficient to purchase an adequate annuity, the executors in their discretion may do so. And I attest and direct that I do not wish to intend that the action of my executors upon their discretion in this matter be questioned by anyone whatsoever."

For the purpose of carrying out that testamentary provision, James Madison Ross was appointed trustee by the New York County Surrogate's Court of February 4, 1948. Once appointed, and with the beneficiary signing the application with him, Ross bought an annuity from the Manufacturers Life Insurance Co., at its head office in Toronto, Canada, paying in advance \$17,091.03 as the combined premiums. The contract stipulates for a monthly payment of \$57.60 to Mercedes de Leon during her lifetime, with the proviso that in the event of her death, the residue, if any, of the capital sum shall be paid in one sum to James Madison Ross or his successor as trustee. And

beginning May 27, 1948, Mercedes de Leon has been receiving the stipulated monthly allowance through the Insurance Company's Manila Office.

With the object, so it would seem, of getting hold at once of the entire amount invested in the annuity, Mercedes de Leon on September 4, 1948, presented Butler's will for probate in the court of First Instance of Manila, and secured the appointment of Ada Loggey Ghezzi as administratrix with the will annexed early in 1949. (James Madison Ross and Ewald E. Selph had expressly declined appointment as executors "on the ground that the probate proceedings of the above estate were terminated by the Surrogate's Court of the Country of New York, New York City, U. S. A., and that there are no properties of the estate left to be administered." After having qualified, the administratrix filed the motion which Judge Amparo has denied; and as the party most if not solely interested in that motion, Mercedes de Leon has joined Ghezzi in this appeal.

The administration of Butler's estate granted in New York was the principal or domiciliary administration (Johannes vs. Harvey, 43 Phil. 175), while the administration taken out in the Philippines is ancillary. However, the distinction serves only to distinguish one administration from the other, for the two proceedings are separate and independent. (34 C. J. S. 1232, 1233)

The important thing to inquire into is the Manila court's authority with respect to the assets herein involved. The general rule universally recognized is that administration extends only to the assets of a decedent found within the state or country where it was granted, so that an administrator appointed in one state or country has no power over property in another state or country. (Keenan vs. Toury, 132 A.L.R. 1362; Nash vs. Benari, 3 A.L.R. 61; Michigan Trust Co. vs. Chaffee, 1st 9 A.L.R. 1078). This principle is specifically embodied in Section h of Rule 78 of the Rules of Court.

"Estate, how administered.—When a will is thus allowed, the court shall grant letters testamentary, or letters of administration with the will annexed, and such letters testamentary or of administration, shall extend to all the estate of the testator in the Philippines. Such estate, after the payment of Just debts and expenses of administration, shall be disposed of according to such will, so far as such will may operate upon it; and the residue, if any, shall be disposed of as is provided bylaw in cases of estates in the Philippines belonging to persons who are inhabitants of another state or country.¹¹

It is manifest from the facts before set out that the funds in question are outside the jurisdiction of the probate court of Manila. Having been invested in an annuity in Canada under a contract executed in that country, Canada is the situs of the money. The party whose appearance the appellant seeks is only a branch or agency of the company which holds the funds in its possession, the agency's intervention being limited to delivering to the annuitant the checks made out and issued from the home office. There is no showing or allegation that the funds have been transferred or removed to the Manila Branch.

Even if the money were in the hands of the Manila Branch, yet it no longer forms part of Butler's estate and is beyond the control of the court. It has passed completely into the hands of the company in virtue of a contract duly authorized and validly executed. Whether considered as a trust or as simple consideration for the company's assumed obligation, which it has been religiously performing, of paying periodical allowances to the annuitant, the proceeds of the sale can not be withdrawn without the consent of the company, except, upon the death of the annuitant, the residuary legatee may claim the remainder, if there be any. Neither the domiciliary or ancillary executor of Butler's will, nor the trustee, nor the annuitant has disposition of any of these funds beyond the amounts and except upon the conditions agreed upon in the contract for annuity.

In the third place, the power of the court to cite a person for the purpose stated in the administratrix motion is defined in Section 7 of Rule 88, which provides a

"Person entrusted with estate render account.—The court, on complaint of an executor or administrator, may cite a person entrusted by an executor or administrator with any part of the estate of the deceased to appear before it, and may require such person to render a full account, on oath, of the money, goods, chattels, bonds, accounts, or other papers belonging to such estate as came to his possession in trust for such executor or administrator, and of his proceedings thereon; and if the person so cited refuses to appear to render such account, the court may punish him for contempt as having disobeyed a lawful order of the court."

The appellant administratrix did not entrust to the appellee the money she wants the latter to account for, nor did the said money come to the appellee's possession in trust for the administratrix. In other words, the administratrix is a complete stranger to the subject of the motion and to the appellee. There being no creditors, the only object of the motion, we incline to believe, is to enable Mercedes de Leon to get the legacy in a lump sum in complete disregard of the wishes of the testator, who showed deep concern for her welfare, and of the annuity contract which the annuitant herself applied for in conjunction with the trustee.

All in all, from every standpoint, including that of the annuitant's financial well-being, the motion and the appeal are utterly groundless and ill-advised.

The appealed order therefore is affirmed, with costs against the appellants.

Paras, C. J., Feria, Pablo, Bengzon, Padilla, Reyes, Jugo and Bautista Angelo JJ., concur.

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