

ANGELITA G. VDA. DE VALERA, AMANDA G. VALERA, OSCAR G. VALERA, DIONISIO G. VALERA, FELIXBERTO G. VALERA, BENITO G. VALERA, EVA G. VALERA, LITA G. VALERA, TONIETTE VALERA, ANGEL ...

G.R. No. L-27526. September 12, 1974

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

Had the Court of First Instance of Abra been more cognizant of the limitations on its prerogative as a probate court, it would not have committed the jurisdictional and procedural errors pointed out in this certiorari case by the petitioners, the heirs of the late Virgilio Valera.

The record discloses that the lower court exceeded its jurisdiction in issuing its orders of July 10, 1964, April 15, 1966 and January 4, 1967 as well as the writ of execution against the assets of the deceased Virgilio Valera. The jurisdictional and procedural errors committed by the lower court justify the writ of certiorari. Hence, We find the petition to be meritorious. We have to set aside the said orders and writ of execution insofar as the heirs or estate of Virgilio Valera are concerned.

Civil Case No. 64, R-1 of the Court of First Instance of Abra is a special proceeding for the settlement of the intestate estate of Francisco Valera. Virgilio Valera was the administrator of the estate. He died on March 21, 1961. He was survived by his widow, Angelita Garduque Vda. de Valera and their ten (10) children, named Amanda, Oscar, Dionisio, Benito, Felixberto, Eva, Lita, Toniette, Vicenta and Teresita, all petitioners herein, except Vicenta and Teresita, who were abroad.

Later (the exact date is not shown in the record), Adoracion Valera Bringas, who claims to be an acknowledged natural child of Francisco Valera, was appointed administratrix. She filed on April 16, 1964 in the intestate proceeding a petition to require "Celso Valera and family and Angelita de Valera and family to pay P100.00" as monthly rental for the one-third pro-indiviso portion of the Valera residence located in Bangued, Abra.[1]

That residence is item 3 of the original inventory dated April 10, 1964 submitted by Mrs. Bringas. It is described as follows:

"Residential land & Improvements. – Covered by Tax Declaration No. 16922, declared in 1948 in the names of Virgilio & Celso Valera; cancelled by Tax Declaration No. 21571 in the name of Virgilio Valera; cancelled by Tax Declaration No. 29338, in 1962, in the name of Virgilio Valera, located in Partelo Street, Bangued, Abra, bounded as follows: N. Alejandro Lizardo; E. Partelo Street (now Virgilio Valera Street); S. Taft Street; W' Consiliman Brook, with an area of 1,775 square meters, and assessed at P1,420.00 for the residential lot, and P9,500.00 for the improvement.

Appraised value – P45,600.00, 1/3 of which is P15,200.00." (p. 5 of Respondents' Memorandum)

The petition was not served on the widow and ten children of Virgilio Valera. Celso Valera interposed an

opposition to it on the ground that Francisco Valera had no interest in the Valera residence, that the property was never leased and that the remedy of Mrs. Bringas was "in a appropriate remedy and/or procedure" and not in the intestate proceeding.[2]

The lower court granted the petition in an order dated July 10, 1964 which reads:[3]

"O R D E R

"The administratrix, through counsel, has petitioned for an order to pay rental on the property (Item 1-B, 23 of the Inventory submitted by the administratrix, pp. 415-416, rec.) owned in common by the estate of the deceased Francisco Valera y Versoza and late Virgilio Valera and Celso Valera, corresponding to one-third (1/3) interest pertaining to the estate of the deceased Francisco Valera to be paid by the family of Virgilio Valera and Celso Valera and family who have been occupying the property since April, 1945 in the amount of P100.00 a month, plus legal interest, the same to be paid to the Administratrix.

WHEREFORE, finding the said motion to be well-founded and meritorious, the same is hereby granted. It is further ordered that the Clerk of Court shall furnish Angelita Garduque Vda. de Valera with a copy of this order by registered mail."

SO ORDERED.

Done at Bangued, Abra, this 10th day of July, 1964.

(Sgd.) ALFONSO P. DONESA

Judge"

The directive of Judge Donesa to the Clerk of Court to serve a copy of the order by registered mail on Mrs. Valera implies that the heirs of Virgilio Valera were not served with a copy of the petition. The said heirs, through Atty. Angel V. Colet, a son-in-law of Mrs. Valera, filed a motion for the reconsideration of that order. They contended that the Valera residence "should be excluded from the inventory," because that was their "absolute property of which they have been in complete possession and occupation".[4] Mrs. Bringas replied that Francisco Valera's estate had "already consolidated" its ownership over that one-third partition "through the submission of the inventory and its approval" by the probate court.[5]

It was only nearly two years later that respondent Judge Macario Ofilada in his order of April 15, 1966 denied the motion for reconsideration filed by the heirs of Virgilio Valera.[6]

On February 17, 1965 (before the motion for reconsideration was resolved) Mrs. Bringas filed in the intestate proceeding a pleading known as "Motion for Execution and for an Order Directing Delivery of the Fruits of the Properties or Value and Monies of the Estate to the Administratrix." [7]

She prayed in that motion that Judge Donesa's order for the payment of rentals be executed against the heirs of Virgilio Valera; that the heirs be ordered to deliver to her the fruits of the properties of the estate of Francisco Valera, which, according to her calculation, amounted to P100,000 for twenty years, plus legal interest supposedly amounting to P5,000; that the heirs be ordered to deliver the sum of P4,684.98 representing the insurance and war damage monies collected by Virgilio Valera; and that the Sheriff be ordered "to seize such properties of Virgilio Valera and his heirs" "to be sold according to law for the payment of double the value of the fruits and the amount of monies alienated and embezzled".

As already stated, in an order dated April 15, 1966, respondent Judge Macario M. Ofilada denied the motion for reconsideration filed by the heirs of Virgilio Valera and granted the motion of Mrs. Bringas for execution and for the delivery of certain funds and properties. (Note that the execution was granted although the order was not yet

final). That order, which is being assailed in this case, is quoted as follows (pp. 7-9 of the Petition):

"Pending resolution before the court are the following motions:

1. Unsigned 'Motion for Leave of Court to Intervene and Motion for Reconsideration of the Order dated July 10, 1964', filed by counsel for the heirs of Virgilio Valera;
2. 'Motion' without any notice of hearing filed by counsel for the heirs of Virgilio Valera;
3. 'Motion for Reconsideration of the Order dated July 10, 1965,' filed by counsel for petitioner Celso Valera; and
4. 'Motion for Execution and for an Order Directing Delivery of the Fruits of the Properties or Value thereof and Monies of the Estate to the Administratrix', filed by counsel for the administratrix.

"Also pending is the examination of persons regarding the properties of the estate as ordered by the court also on July 10, 1964.

"On January 27, 1966, the court directed the movants seeking a reconsideration of the order directing the payment of rentals to the estate to submit their respective memoranda within 15 days from receipt of the order and the administratrix 5 days from receipt of adverse parties memoranda to submit her reply if she so desires. Despite the fact that the parties had received copies of the order of January 27, 1966, none complied. Considering that this case is already more than 20 years old, the Court can not, in the interest of justice, further hold or suspend the resolutions on these incidents. They must as they should now, be resolved.

"The motion for reconsideration filed by counsel for the heirs of Virgilio Valera and his subsequent 'Motion' appearing to be unfounded, is hereby denied.

"The motion for reconsideration filed by counsel for Celso Valera is a mere repetition of the 'Opposition to Petition for an Order to Pay Rental' dated May 8, 1964. This motion is merely intended to delay the proceedings and it is hereby denied for lack of merit.

"Finding the 'Motion for Execution and for an Order Directing the Delivery of Fruits of the Properties or Value thereof and Monies of the Estate to the Administratrix' well-founded and meritorious, it is hereby directed:

1. That a writ of execution issue against the heirs of Virgilio Valera and Celso Valera insofar as the collectible rents pertaining to the estate are concerned;
2. That the heirs of Virgilio Valera and Celso Valera deliver to the administratrix properties still in their possession which are among those listed in the 'Incomplete Inventory and Appraisal of the Real and Personal Estate of the Deceased, Francisco Valera y Versoza' filed by the administratrix on September 17, 1965;
3. That the heirs of Virgilio Valera and Celso Valera and family account to the Administratrix the fruits of the properties of the estate listed in the said amended inventory;
4. That the heirs of Virgilio Valera deliver to the administratrix the sum of P4,784.98 representing the insurance and war damage monies collected by Virgilio Valera;
5. That Celso Valera account to the administratrix the war damage monies received by him for the destroyed Valera family residence and deliver 1/3 of the same to the administratrix; and
6. That failure to render a satisfactory accounting as hereby required within 15 days from receipt of this order shall, conformably with Sec. 8 of Rule 87 of the Rules of Court, make the heirs of Virgilio Valera and Celso Valera liable to double the value of the fruits and monies unaccounted for.

"It is further ordered that the Clerk of Court immediately set 2 days for the examination of the persons required

to appear in the order dated July 10, 1964.

SO ORDERED.

Bangued, Abra, this 15th day of April, 1966.

(Sgd.) MACARIO M. OFILADA

Judge"

On January 5, 1967 Judge Ofilada directed the execution of his aforequoted order of April 15, 1966. That directive reads as follows:[8]

"O R D E R

"Pending resolution before this Court are: (1) Omnibus Motion filed by the Administratrix dated September 15, 1966; and, (2) Omnibus Motion filed by the heirs of Virgilio Valera dated October 13, 1966.

"The parties, by the order of this Court dated December 12, 1966 after the hearing on said date at which counsel discussed their respective motions, were given three days time within which to submit their written memoranda. No such memoranda have been filed by any of the parties, and the Court took time and efforts in considering the said motions, oppositions, affidavit and counter-affidavits.

"The Omnibus Motion of the heirs of Virgilio Valera dated October 13, 1966 seeks to stay the writ of execution issued by this Court pursuant to the order dated April 15, 1966 and relies upon an alleged compromise agreement entered into between said heirs and the administratrix on May 21, 1966.

"The Court is aware of attempts to a compromise agreement between the aforementioned parties. There is nothing however in the record of any amicable settlement such as that required by the Court in its order dated June 26, 1965, which required the parties 'to inform the court as soon as possible what arrangement or settlement have been taken and arrived at by them' The Court has given the parties long time to agree and settle their differences, even taking time on Sundays to meet with them for this purpose and, until the present time, no such agreement by all the parties has been presented for the approval of the Court. Certainly the alleged compromise agreement is not such agreement especially when the administratrix takes vigorous exception citing facts of record and valid points of law which have not been sufficiently answered and explained. To allow the alleged oral compromise agreement in violation of fundamental principles of law such as the time limit within which to file a petition for relief and unsupported by the facts on record as cited by counsel for and administratrix would be to trifle with the administration of justice especially in this case which is the oldest in this court and which has been pending for more than twenty years now. For these basic reasons, the Omnibus Motion of the heirs of Virgilio Valera dated October 13, 1966 must be as it is hereby, DENIED.

"And considering the motion of the administratrix dated September 15, 1966 to be meritorious, the same, as prayed for, is hereby GRANTED.

"WHEREFORE, it is hereby directed that:

(1) The orders of November 14 and 25, 1966 staying the execution of the order of April 15, 1966 are hereby lifted and let another writ of execution immediately issue to effect the order of April 15, 1966.

(2) A writ of execution issue against said heirs of Virgilio Valera for the satisfaction of the amounts due the estate;

(3) A writ of execution issue against the properties of Celso Valera for the satisfaction of the amounts due the estate;

(4) The heirs of Virgilio Valera deliver to the administratrix the possession of the properties listed in paragraph

6 and 7 of her Omnibus Motion dated September 15, 1966 and the fruits or value thereof from April, 1945 until time of delivery, and, pursuant to Section 8, Rule 87, of the New Rules of Court, to pay double the value of said fruits upon failure to account and deliver same within thirty days from receipt of this order.

SO ORDERED.

Bangued, Abra, January 4, 1967.

(Sgd.) MACARIO M. OFILADA

Judge"

The heirs of Virgilio Valera filed a motion dated February 6, 1967 for the reconsideration of Judge Ofilada's order of January 4, 1967.[9] The motion was denied in the order dated February 13, 1967[10] Judge Ofilada in his order dated February 27, 1967 ordered another execution.[11]

The Deputy Provincial Sheriff levied upon the properties of the deceased Virgilio Valera and caused to be published a notice of auction sale also dated February 27, 1967 which reads in part as follows:[12]

"1. Of the goods and chattels of Celso Valera and the heirs of Virgilio Valera – the sum of Forty Thousand Three Hundred Twenty (P40,320.00) Pesos for rent due the estate together with interest thereon from April, 1945 (P25,200.00) for the principal at P1,200.00 per annum from April, 1945 to March, 1966, and P15,120.00 for interest due at six (6) per centum until date of payment and delivery of the interest, of the estate in the property to the administratrix;

"2. Of the goods and chattels of the heirs of Virgilio Valera – the sum of Sixty Thousand (P60,000.00) Pesos representing double the value of undelivered fruits of the properties of the estate for 20 years from April, 1945 to October, 1965 or One Thousand Five Hundred (P1,500.00) Pesos per year, and the sum of Nine Thousand Five Hundred Sixty Nine Pesos and Ninety Six Centavos (P9,569.96), representing double the value of the undelivered insurance and war damage monies collected by Virgilio Valera."

The petitioners filed a motion dated March 15, 1967 to quash the writ of execution and for the suspension of the auction sale.[13] Judge Ofilada denied it in his order of April 3, 1967.[14] The petitioners filed a motion dated March 31, 1967 to set aside the lower court's orders of April 15, 1966 and February 27, 1967 on the grounds of lack of jurisdiction and lack of due process.[15]

On April 3, 1967, the date when Judge Ofilada denied petitioners' motion to quash the writ of execution, respondent Deputy Sheriff proceeded with the auction sale and sold to the estate of Francisco Valera eighteen (18) parcels of land supposedly belonging to the deceased Virgilio Valera. The price was P92,337.00[16]

The petitioners filed a motion dated April 11, 1967 for the reconsideration of the order of April 3, 1967.[17] Judge Ofilada denied it in his order of April 21, 1967.[18]

On May 8, 1967 the petitioners, the heirs of Virgilio Valera (except two children who were abroad) filed the instant petition for certiorari with preliminary injunction against Judge Ofilada, Mrs. Bringas, the Provincial Sheriff and the Deputy Provincial Sheriff. Celso Valera was joined as a nominal party. The respondents were required to answer the petition. The Court directed that a writ of preliminary injunction should issue upon petitioners' posting a bond of P5,000.00.

The petitioners assail the brief, three-sentence order of July 10, 1964 on the following grounds: (a) that it decided the issue of ownership as to the one-third pro-indiviso share of Francisco Valera in the Valera residence, an issue, which according to them, is beyond the court's probate jurisdiction; (b) that it was issued without the benefit of a trial on the merits and without hearing all the parties involved; (c) that it does not contain findings of fact and law;

(d) that it is a judgment for a money claim which should have been filed in the proceedings for the settlement of the estate of the deceased debtor, Virgilio Valera, and (e) that the order has no basis in substantive law.

The petitioners attack Judge Ofilada's order of April 15, 1966 on the following grounds: (a) that, as a probate judge, he had no jurisdiction to require the heirs of Virgilio Valera to account for the fruits of the six parcels of land administered by him and that a separate action should be filed or the proper claim should be made against his estate; (b) that he had no jurisdiction to order the heirs of Virgilio Valera to deliver to Mrs. Bringas the sum of P4,784.98 as "insurance and war damage monies collected by Virgilio Valera"; (c) that Section 8, Rule 87 of the Rules of Court contemplates that "double the value of the fruits and monies" should be recovered in an "action" and not in an intestate proceeding, and (d) that the order was issued without any trial on the merits and it does not contain findings of fact and law.

The petitioners further contend that the orders of July 10, 1964 and April 15, 1966 are not enforceable by execution because they are incomplete and not precise as to the amounts supposedly due from the judgment debtors.

As to the execution sale, the petitioners contend: (a) that the orders sought to be executed are void; (b) that the probate court ordinarily has no jurisdiction to issue a writ of execution and that the instant case is not among the exceptional cases wherein the probate court can authorize an execution, and (c) that execution for a money claim cannot be had against a decedent's estate.

After a careful study of the arguments of the parties in their memoranda, reply, rejoinder and sur-rejoinder, We find that, for the resolution of the case, it is not necessary to pass upon all those issues. The crucial issue in the last analysis is whether the lower court, sitting as a probate court in the intestate proceeding for the estate of Francisco Valera, could hold the heirs of Virgilio Valera answerable for certain supposed monetary liabilities of the latter to the estate and enforce said liabilities against the properties of the deceased Virgilio Valera.

We hold that the trial court, as a probate court, erred in adjudging in the said intestate proceeding the monetary liabilities of the late Virgilio Valera to the estate of Francisco Valera and in issuing a writ of execution against his properties to enforce the supposed liabilities.

The controlling principle, which should govern this case, was announced by Justice Torres in 1907 in *Pavia vs. De la Rosa*, 8 Phil. 70, a case which is on all fours with the instant case. This Court ruled in that case:

"Administrators or executors; Code of Civil Procedure; Heirs. – The heir legally succeeds the deceased from whom he derives his right and title but only after the liquidation of the estate, the payment of the debts of same, and the adjudication of the residue of the estate of the deceased, and in the meantime the only person in charge by law to attend to all claims against the estate of the deceased debtor is the executor or administrator appointed by a competent court." (Syllabus based on page 77).

In the *Pavia* case, an action for damages was brought by Rafaela Pavia against Bibiana de la Rosa and Salud de la Rosa, as the only heirs of the deceased Jose de la Rosa. Rafaela Pavia claimed that she empowered Jose de la Rosa to administer the estate of Pablo Linart and that, as administrator, De la Rosa caused damages to the estate through his negligence. The De la Rosa sisters contended that they could not be held liable for the negligent acts of their brother, Jose de la Rosa.

This Court held that the action was not maintainable against the De la Rosa sisters and that it should be prosecuted against the executor or administrator of the estate of Jose de la Rosa. Hence, the action was dismissed, reserving to Rafaela Pavia "the right to institute proper action against the executor or administrator of the properties of the estate of the deceased Jose de la Rosa".

In the instant case, Mrs. Bringas sought to hold the heirs of the deceased Virgilio Valera liable for his obligations to pay rentals and to account for the fruits of the properties forming part of the estate of Francisco Valera and the war damage and insurance monies collected by Virgilio Valera. The heirs of Virgilio Valera were dragged into the intestate proceeding for the purpose of holding them liable for the amounts supposedly due from the deceased. As already noted, Bringas prayed for "an order directing the Sheriff to seize such properties of Virgilio Valera and his heirs ... as may be sufficient, to be sold according to law for the payment of double the value of the fruits and the amount of monies alienated and embezzled" (Annex "E" of Petition). Judge Ofilada specifically directed that the execution be issued "against the heirs of Virgilio Valera". The Deputy Sheriff literally followed that directive by levying upon "the goods and chattels of the heirs of Virgilio Valera".

The procedure followed by the Sheriff was erroneous. The decedent's heirs are not liable personally for the debts of his decedent. Thus, it was held:

"It happens, however, that the plaintiffs are not under obligation to pay the debts of their late father, such as items (a), (f), and (h) of the counterclaim. It does not appear that they personally bound themselves to pay them, and the mere fact that they are the deceased's heirs does not make them answerable for such credits against their predecessor in interest, inasmuch as article 1003 of the Civil Code is no longer in force, having been abrogated by certain provisions of the Code of Civil Procedure" (Pavia vs. De la Rosa, 8 Phil. 70, cited in Calma vs. Calma, 56 Phil. 102, 105).

The error becomes more glaring in the light of Section 7, Rule 39 of the Rules of Court which allows execution in case of the death of a party only "where a party dies after the entry of the judgment or order". The implication is that if a person, before his death, or the legal representative of his estate was never a party to a case, no execution can be issued against his properties after his death. In this case, the Sheriff seems to have proceeded on the assumption that the properties levied upon belonged to the deceased Virgilio Valera and that the said properties were in the possession of his heirs.

Furthermore, there is merit in the petitioners' contention that the probate court generally cannot issue a writ of execution. It is not supposed to issue a writ of execution because its orders usually refer to the adjudication of claims against the estate which the executor or administrator may satisfy without the necessity of resorting to a writ of execution. The probate court, as such, does not render any judgment enforceable by execution.

The circumstance that the Rules of Court expressly specifies that the probate court may issue execution (a) to satisfy the contributive shares of devisees, legatees and heirs in possession of the decedent's assets (Sec. 6, Rule 88), (b) to enforce payment of the expenses of partition (Sec. 3, Rule 90), and (c) to satisfy the costs when a person is cited for examination in probate proceedings (Sec. 13, Rule 142) may mean, under the rule of *inclusio unius est exclusio alterius*, that those are the only instances when it can issue a writ of execution.

With particular reference to the sum of P4,784.96, which represents the insurance and war damage monies allegedly embezzled by Virgilio Valera, the lower court, sitting as a probate court, had no jurisdiction to enforce, by execution, the payment of double the value of that amount. The alleged embezzler was dead. Execution was not warranted under Sections 7 and 8, Rule 87 of the Rules of Court, which both refer, to a living person, meaning a person entrusted with a part of the decedent's estate "by an executor or administrator", and to a person who committed "embezzlement before letters (were) issued". Section 8 explicitly provides that the embezzler's liability shall be determined in "an action", and not in the intestate proceeding.[19]

The record reveals that there is a dispute between Mrs. Bringas and the heirs of Virgilio Valera as to whether one-third of the Valera residence and the six parcels of land listed in the "Amended Incomplete Inventory, etc." dated August 31, 1965[20] belong to the estate of Francisco Valera. The tax declaration for those properties are in

the name of the deceased Virgilio Valera.

Their inclusion in the inventory is not conclusive as to the ownership. "Questions on title to real property cannot be determined in testate or intestate proceedings. It has, however, been held that for the purpose of determining whether a certain property should or should not be included in the inventory, the probate court may pass upon the title thereto, but such determination is not conclusive and is subject to the final decision in a separate action to be instituted between the parties." [21] As stressed by Mr. Justice Zaldivar in *Mangaliman vs. Gonzales*, L-21033, December 28, 1970, 36 SCRA 462, the probate court is a court of special and limited jurisdiction.

We have studied carefully respondents' memorandum and rejoinder. We have not found therein any citation of a rule or precedent which would justify the arbitrary and irregular procedure followed by the lower court in determining the liability of a dead person without hearing the legal representative of his estate and in holding his heirs answerable for his supposed liabilities and then enforcing those liabilities against his estate. Section 6(b), Rule 78 and Section 2, Rule 79 of the Rules of Court assume that a creditor, as an interested person, may cause a debtor's estate to be placed under administration.

The cases of *Cunanan vs. Amparo*, 80 Phil. 227 and *Bernardo vs. Court of Appeals*, 62 O.G. 2612 cited by the respondents in page 19 of their rejoinder, refer to a living party, not to a decedent.

Without going into a more extensive and detailed discussion of the other irregularities committed by the lower court, We believe that the jurisdictional errors already pointed out suffice to show that it acted in excess of jurisdiction and with grave abuse of discretion. Hence, the issuance of the writ of certiorari is warranted.

WHEREFORE, the writ of execution and the Sheriff's execution sale on April 3, 1967 and all proceedings relative thereto as well as the orders of July 10, 1964, April 15, 1966, January 4, April 3 and May 2, 1967 of the lower court, are declared void and are set aside, insofar as the heirs of Virgilio Valera or his estate are concerned, without prejudice to the right of Adoracion Valera Bringas to institute the proper action against the administrator of the estate of the late Virgilio Valera and to file the appropriate claims in the proceeding for the settlement of his estate. No pronouncement as to costs.

SO ORDERED.

Zaldivar, (Chairman), Fernando, Barredo, and Antonio, JJ., concur.
Aquino, Jr., took no part.

[1] See "Petition for an Order to Pay Rental", Annex "A" of the petition.

[2] Annex "B" of the Petition.

[3] See pages 4 and 5 of the Petition.

[4] Annexes "C" and "C-1" of the Petition.

[5] Par. 3 of Opposition, Annex "D" of the Petition.

[6] See pp. 7 to 9 of the Petition.

[7] Annex "E" of the Petition.

[8] Annex "F" of the Petition.

[9] Annex "G" of the Petition.

[10] Annex "H" of the petition.

[11] Annex "H-1" of the Petition.

[12] Page 12 of Petition.

[13] Annex "I" of the Petition.

[14] Pages 13-14 of the Petition.

[15] Annex "J" of the Petition.

[16] Annex "K" of the Petition.

[17] Annex "L" of the Petition.

[18] Annex "M" of the Petition.

[19] See *Modesto vs. Modesto*, 109 Phil. 1066; 3 *Moran's Comments on the Rules of Court*, 1970 Ed., pp. 497-500.

[20] Annex "I" of Respondents' Answer.

[21] 3 *Moran's Comments on the Rules of Court*, 1970 Ed., pp. 448-9, 472-3.

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