

**SERAFIN MEDINA AND ROSALIA DEL CARMEN, ASSISTED BY
DOMINADOR DEL CARMEN, PETITIONERS, VS. THE HONORABLE
COURT OF APPEALS, THE HONORABLE COURT OF FIRST INSTANCE
OF ZAMBALES AND B...**

G.R. No. L-34760. September 28, 1973

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

In this review by certiorari of the appellate court's resolution dismissing the petition filed by petitioners challenging the lower court's orders appointing private respondent Beda Gonzales as special administrator of the intestate estate of the decedent Agustin Medina, the Court excludes the said special administrator from interfering in the possession and enjoyment of the harvests of the property known as "Bitukang Manok" by petitioner Rosalia M. del Carmen to whom the said property had been sold, and full payment therefor received, by the estate through Gonzales' predecessor with the approval of the lower court, which overruled Gonzales' opposition thereto as an assignee of some heirs of the estate, and as one personally interested in the purchase of the property for himself.

The Court's action is based on the established doctrine that a person with an adverse conflicting interest is unsuitable for the trust reposed in an administrator of an estate. Respondent Gonzales, whose appeal of the lower court's order of approval of the sale to the Court of Appeals is pending, cannot be at the same time an appellant in his personal capacity opposing the sale of the property and an appellee representing the estate and upholding the same sale as made by the estate through Gonzales' predecessor as special administrator with the due approval and confirmation of the lower court. Since the estate proceedings have been pending for over 13 years now without the lower court once having appointed a regular administrator, said court is directed to name a suitable person as regular administrator charged with the task of accomplishing the administration of the estate with the utmost reasonable dispatch.

From the papers submitted with the petition, it appears that as noted by respondent court of first instance of Zambales, presided by Judge Augusto M. Amores in an order dated March 6, 1970,[1] wherein it approved and confirmed the deed of sale executed on May 8, 1969 by then special administrator Demetrio Encarnacion of the intestate estate of the decedent Agustin Medina covering the sale of its property known as "Bitukang Manok" for P24,000.00 to petitioner Rosalia M. del Carmen, a daughter-heir of the decedent, the said intestate proceedings have "already lasted for over ten (10) years now contrary to the spirit of the law in the settlement of estates in the most expeditious way", and the said court expressed its "desire... to terminate the proceedings once and for all."

Respondent lower court, through its said order, overruled the opposition of therein oppositor-heir Uldarico S. Medina and of assignee Beda J. Gonzales, private respondent herein, who claimed therein "to have an interest over the estate on the ground that certain heirs have already sold their shares and/or interest over the same in his favor" as being "without merit." It found Uldarico's interest as "confined solely to his desire to partake of whatever share he has in the estate in the same way with that of the rest of the heirs." It further held that

respondent Beda J. Gonzales "could not ... claim a better right over that of the herein vendee Rosalia Medina del Carmen in the deed of sale because the said Beda J. Gonzales is merely subrogated, if at all, to the interests of the heirs concerned who according to the records, have received more benefits from the estate even before its distribution as against that of the vendee, who according to the records has never received anything yet from the estate." [2]

In the same order, upon "suggestion and agreement of the parties" which the lower court "considered to be well taken for the speedy termination of the instant proceedings," it designated its clerk of court, Atty. Pastor de Castro, Jr. as "special administrator and to qualify immediately as such in lieu of special administrator Demetrio Encarnacion." [3]

No regular administrator to settle the estate once and for all appears to have ever been appointed by respondent lower court during the period of over thirteen years that the estate has been pending settlement.

Respondent Gonzales appealed respondent court's order of approval and confirmation of the sale of the "Bitukang Manok" property as an interested party-assignee opposed to the sale executed by the estate of the deceased Agustin Medina through its then special administrator Demetrio Encarnacion, later replaced by the clerk of court, Atty. Pastor de Castro, Jr., as above stated, on his assertion that he had bought the rights of the other heirs of the estate - those of a majority of the heirs, according to his answer at bar. The appeal is now pending in the Court of Appeals. [4]

Almost a year later, in an order dated February 11, 1971, acting on the motion dated October 5, 1970 of respondent Gonzales for appointment as regular administrator of the estate, respondent lower court appointed him "not as a regular administrator but only as special administrator for the intestate estate of the deceased Agustin Medina" and he qualified as such upon posting of the bond fixed in the amount of P5,000.00 and replaced 'judicial administrator Pastor de Castro, Jr.'" [5]

An urgent motion dated March 22, 1971 to revoke Gonzales' appointment as special administrator on the ground that "by said order, Beda Gonzales is now assuming the inconsistent positions of administering the estate especially the Bitukang Manok property and at the same time appealing from the order approving the sale of that property only for the purpose of enabling himself to buy and acquire that property to the loss and prejudice of the estate contrary to law" [6] was denied by respondent lower court in its order dated July 21, 1971. [7]

In the same order of July 21, 1971, said court also rejected the petitioner Rosalia's petition dated May 5, 1971, for the appointment of a regular administrator as "very urgent and necessary" and proposing that co-petitioner Serafin Medina, as heir and son and next of kin of the decedent, who has no adverse interests in his favor and against the estate and is a qualified and competent resident of Olongapo City be named as such, holding that:

"x x x considering that whatever rights and interests the heirs may have over the estate now under administration by Beda J. Gonzales could be amply protected since the said special administrator has posted a bond in the amount of P5,000.00; considering further that there is no showing that said administrator has been remiss in the performance of his duties or violated the trust reposed on him as administrator; and in order not to delay any further the termination of this proceeding which has lagged long enough, the Court finds said petition of Serafin Medina to be without merit and the same is hereby denied and the appointment of said J. Gonzales as special administrator is hereby retained." [8]

Reconsideration having been denied by respondent lower court under its order of September 28, 1971, petitioners instituted in the Court of Appeals an action for certiorari with preliminary injunction under date of September 20, 1971, citing respondent Gonzales' conflicting interests as special administrator and as "interested buyer... persisting in objecting to the sale, in his desire to be the buyer (of the Bitukang Manok property) despite Court

approval, thereby causing the estate unnecessary delay and expense to the prejudice of the other heirs" and his interference with and collection of the harvests of the said property duly sold to petitioner Rosalia M. del Carmen, as well as pressing for the appointment instead of petitioner Serafin Medina, as disinterested heir and next of kin, as administrator of the estate.[9]

Respondent court of appeals, however, under its resolution of January 6, 1972, found the "petition insufficient in substance to merit due course" and ordered the dismissal thereof, on the ground "(1) that it is not disputed that the lower court has jurisdiction to appoint respondent Beda J. Gonzales as special administrator; (2) that petitioners merely allege that the lower court had gravely abused its discretion without any prima facie showing to this effect; (3) considering further that the lower court had considered and resolved herein petitioners' objections to respondent Gonzales' continuation as such administrator, to wit, [quoting the considerations stated in the lower court's order dated July 21, 1971, already quoted hereinabove]; considering, finally, that it is well-settled that the actuations of the trial court should not be disturbed except upon showing of lack of jurisdiction or grave abuse of discretion on the part of the tribunal, involving whimsical and/or capricious exercise of discretion."

Their motion for reconsideration of such dismissal having failed, petitioners instituted the present action for review on February 23, 1972. The Court issued on February 29, 1972 a temporary restraining order restraining respondent lower court and respondent Gonzales "from implementing (the lower court's) orders dated February 11, 1971, July 21, 1971 and September 28, 1971... and from otherwise interfering in the possession by the petitioner Rosalia M. del Carmen of a property known as 'Bitukang Manok' of the intestate estate of the deceased Agustin Medina... and private respondent... from interfering in the cultivation and harvests or otherwise disturbing the possession of aforementioned property by said petitioner." Upon the Court's giving due course to the petition per its resolution of March 24, 1972, it ordered the issuance of a writ of preliminary injunction to the same effect upon the posting of an injunction bond of P2,000.00, and such writ was issued on May 29, 1972.

Insofar as the petition assails the appointment of respondent Gonzales as special administrator giving rise to the anomalous situa-tion "where in an appealed intestate case to the Court of Appeals (CA-G. R. No. 49439-R, entitled 'Intestate Estate of the Deceased Agustin R. Medina; Pastor de Castro, Jr. (now Beda Gonzales) Special Administrator, versus Uldarico Medina and Beda J. Gonzales, Movants') the appellee and the appellant are one and the same person," the petition is manifestly meritorious and must be granted. The sale to Rosalia of the Bitukang Manok property having been approved and confirmed by respondent lower court over the personal opposition of said respondent on March 6, 1970 which approval he appealed to the Court of Appeals, his subsequent appointment as special administrator of the estate a year later under respondent lower court's order of February 11, 1971 created a clear conflict of interest that could cause grave damage and prejudice to the estate and subject it to unnecessary suits.

With specific reference to the Bitukang Manok property as sold by the estate through Gonzales' predecessor as special admin-istrator and confirmed by the lower court, the same has passed to petitioner Rosalia's ownership and possession since the court's confirmation of the sale on March 6, 1970 and the estate makes no further claim against the same but on the contrary has defended the sale and Rosalia's title thereto as the vendee thereof as against Gonzales' adverse opposition in the appeal brought by Gonzales in his personal capacity. Yet now, as complained of by Rosalia, Gonzales by virtue of his appointment, as special administrator a year later seeks in such other capacity to interfere with her in the harvests of the property purportedly on behalf of the estate when in fact he is going against the official stand of the estate which upholds the sale.

It is readily seen thereby that Gonzales has been placed in an unduly favored position where he may use his position as special administrator to favor his personal interests as one interested in the purchase of the property for himself, although he denies obliquely in his brief such personal interest with the statement that "there is no

evidence or pleading of record that (he) is interested in the acquisition for himself of the Bitukang Manok property ... and it is a matter of record that having acquired the rights and interests of the majority of the heirs, he had stepped into the shoes of such heirs, hence, his concern and interest to protect the estate, as special administrator"[10] - which is to say, to protect his claimed majority interest in the estate, hence his insistence on opposing the sale.

Grave prejudice may thus be inflicted by him on petitioner Rosalia's as an heir as well as the other heirs such as petitioner Serafin Medina because of the further delay (13 years now) in their receiving their distributive shares of their father's estate (as against their co-heirs who have sold and assigned their rights and shares in the estate to Gonzales) as well as to Rosalia as buyer because of Gonzales' interference with her enjoyment of the property paid for in full by her since 1970.

Hence, the established doctrine that an administrator is deemed unsuitable and should be removed where his personal interests conflict with his official duties, by virtue of the equally established principle that an administrator is a quasi trustee, disqualified from acquiring properties of the estate,[11] and who should be indifferent between the estate and claimants of the property except to preserve it for due administration, and who should be removed when his interest conflicts with such right and duty.[12]

As restated by the Court in *Lim vs. Diaz-Millares*,[13] "(I)n this jurisdiction, one is considered to be unsuitable for appointment as administrator when he has adverse interest of some kind or hostility to those immediately interested in the estate."

The Court noted from the questioned order of February 11, 1971 that respondent Gonzales was designated special administrator in replacement of the lower court's clerk of court, Atty. Pastor de Castro, Jr., who had been appointed as such in the earlier order of March 6, 1970. The Court does not look with favor on such practice of clerks of court or other court employees being appointed as administrators of estates of decedents pending settlement before the probate court. The objectivity and impartiality of such clerks of court or other employees so appointed as administrators in discharging their regular functions may be easily compromised by extraneous considerations. Furthermore, because of the administrator's fees and compensation payable to them, it is not inconceivable that self-interest intrudes and consciously or unconsciously, obstacles are placed against the prompt settlement and termination of the proceedings in derogation of the primordial purpose of the law to strive to have the estate settled expeditiously and promptly so that the benefits that may flow therefrom may be immediately enjoyed by the decedent's heirs and beneficiaries.[14] Probate courts are therefore enjoined to desist from such practice of appointing their clerks of court or other court employees as administrators or receivers of estates or the like.

On this consideration (the replacement of the clerk of court) and on the further consideration of the specific and limited powers of special administrators and that their appointment is merely temporary and subsists only until a regular administrator is duly appointed (since Rule 80, section 1 provides for the appointment of a special administrator as a caretaker only "when there is delay in granting letters testamentary or of administration by any cause")[15] the Court has resolved to allow the appointment of respondent Gonzales as special administrator to stand, insofar as taking care of the other properties of the estate are concerned, to the exclusion of the Bitukang Manok property already sold by the estate to petitioner Rosalia M. del Carmen. (The said property shall pertain to said petitioner's possession and enjoyment as the vendee thereof and in the event that the appellate courts find cause to set aside the lower court's confirmation of the sale in her favor in the pending appeal of Gonzales in his personal capacity, then shall be the time for the estate and/or the heirs to reclaim possession of the property upon return to her of the purchase price paid by her).

The Court has finally noted that while the estate involved is not large and there seem to be no complicated questions that have impeded its prompt settlement, and notwithstanding the lower court's avowed desire to terminate the proceedings once and for all, the said estate proceedings have been pending now for over thirteen years without the lower court once having appointed a regular administrator in accordance with the Rules of Court to take charge of the settlement thereof and the distribution and partition of the net estate to the heirs entitled thereto.

As time and again stated by the Court, while the provisions of the Rules of Court may be deemed directory in nature, "the speedy settlement of the estates of deceased persons for the benefit of creditors and those entitled to the residue by way of inheritance or legacy after the debts and expenses of administration have been paid, is the ruling spirit of our probate law,"[16] and "courts of first instance should exert themselves to close up estate within twelve months from the time they are presented, and they may refuse to allow any compensation to executors and administrators who do not actively labor to that end, and they may even adopt harsher measures."[17]

As in the cited jurisprudence, therefore, respondent lower court is directed to name a suitable person or entity, who is competent and qualified and does not suffer from any proscribed conflict of interest, (and preferably upon the common agreement of the heirs, to avoid any further bickerings) as regular administrator charged with the task of accomplishing and terminating the administration of the estate with the utmost reasonable dispatch, with a view to an early distribution of the net estate among the heirs and persons entitled thereto.

ACCORDINGLY, the dismissal resolution of the Court of Appeals is hereby modified and in lieu thereof, judgment is entered allowing the appointment of respondent Gonzales as special administrator to stand, insofar as taking care temporarily of the other properties of the estate are concerned, but to the exclusion of the Bitukang Manok property previously sold by the estate to petitioner Rosalia M. del Carmen, who is entitled to the enjoyment of said property as the vendee thereof.

The writ of preliminary injunction heretofore granted is hereby ordered lifted except as to the portion thereof enjoining private respondent from interfering in the cultivation and harvests or otherwise disturbing the possession of the Bitukang Manok property by petitioner Rosalia M. del Carmen which is hereby made permanent.

Respondent lower court is ordered to implement the above directive of this Court to name a suitable person as regular administrator charged with the task of accomplishing and terminating the administration of the estate with the utmost reasonable dispatch and to submit a report of his action thereon to the Court within thirty (30) days from notice of entry of this judgment.

Without pronouncement as to costs. SO ORDERED.

Makalintal, Acting C.J., Zaldivar, Ruiz Castro, Fernando, Barredo, Antonio, and Esguerra, JJ., concur.
Makasari, J., did not take part.

[1] Rollo, pp. 60-64.

[2] *Idem*, p. 62.

[3] *Idem*, p. 64.

[4] Docketed as CA-G. R. No. 49439-R, entitled "Intestate Estate of the deceased Agustin Medina; Beda J. Gonzales, special administrator."

[5] Rollo, pp. 55-56.

[6] *Idem*, pp. 57-59; emphasis furnished.

[7] *Idem*, pp. 65-66.

[8] As quoted by respondent appellate court in its resolution under review; Rollo, pp. 79-83.

[9] Rollo, p. 47.

[10] Respondents' brief, p. 3.

[11] Article 1491, Civil Code.

[12] See *Borromeo vs. Borromeo*, 97 Phil. 549 (1955).

[13] 18 SCRA 371; 374 (1966) citing *Sioca vs. Garcia*, 44 Phil. 711; *Arevalo vs. Bustamante*, 69 Phil. 656.

[14] *Del Castillo vs. Enriquez*, 109 Phil. 491 (1960).

[15] See *Rivera vs. Santos*, 18 SCRA 870 (November 29, 1966); *Fernandez vs. Maravilla*, 10 SCRA 589 (March 31, 1964).

[16] *Sikat vs. Villanueva*, 57 Phil. 486; *Magbanua vs. Akol*, 72 Phil. 567.

[17] *Lizarraga Hnos. vs. Abada*, 40 Phil. 124; cited in *Castillo vs. Enriquez*, *supra* fn. 14; see also *Layague vs. Ulgasan*, 109 Phil. 945.

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