

MOISES SAN DIEGO, SR., PETITIONER, VS. ADELO NOMBRE AND PEDRO ESCANLAR, RESPONDENTS.*G.R. No. L-19265. May 29, 1964*

Ponente: PAREDES, J.

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The case at bar had its origin in Special Proceedings No. 7279 of the CFI of Negros Occidental, wherein respondent Adelo Nombre was the duly constituted judicial administrator. On May 1, 1960, Nombre, in his capacity as judicial administrator of the intestate estate subject of the Sp. Proc. stated above, leased one of the properties of the estate (a fishpond identified as Lot No. 1617 of the cadastral survey of Kabangkalan, Negros Occidental), to Pedro Escanlar, the other respondent. The terms of the lease was for three (3) years, with a yearly rental of P3,000.00 to expire on May 1, 1963, the transaction having been done, admittedly, without previous authority of approval of the Court where the proceedings was pending. On January 17, 1961, Nombre was removed as administrator by Order of the court and one Sofronio Campillanos was appointed in his stead. The appeal on the Order of Nombre's removal is supposedly pending with the Court of Appeals. Respondent Escanlar was cited for contempt, allegedly for his refusal to surrender the fishpond to the newly appointed administrator.

On March 20, 1961, Campillanos filed a motion asking for authority to execute a lease contract of the same fishpond, in favor of petitioner herein, Moises San Diego, Sr., for 5 years from 1961, at a yearly rental of P5,000.00. Escanlar was not notified of such motion. Nombre, the deposed administrator, presented a written opposition to the motion of Campillanos on April 11, 1961, pointing out that the fishpond had been leased by him to Escanlar for 3 years, the period of which was going to expire on May 1, 1963. In a supplemental opposition, he also invited the attention of the Court that to grant the motion of the new administrator would in effect nullify the contract in favor of Escanlar, a person on whom the Court has no jurisdiction. He also intimated that the validity of the lease contract entered into by a judicial administrator, must be recognized unless so declared void in a separate action. The opposition notwithstanding, the Court on April 8, 1961, in effect, declared that the contract in favor of Escanlar was null and void, for want of judicial authority and that unless he would offer the same as or better conditions than the prospective lessee, San Diego, there was no good reason why the motion for authority to lease the property to San Diego should not be granted. Nombre moved to reconsider the Order of April 8, stating that Escanlar was willing to increase the rental to P5,000.00, but only after the termination of his original contract. The motion for reconsideration was denied on April 24, 1961, the trial judge stating that the contract in favor of Escanlar was executed in bad faith and was fraudulent because of the imminence of Nombre's removal as administrator, one of the causes of which was his indiscriminate leasing of the property with inadequate rentals.

From this Order, a petition for Certiorari asking for the annulment of the Orders of April 8 and 24, 1961 was presented by Nombre and Escanlar with the Court of Appeals. A Writ of preliminary injunction was likewise prayed for to restrain the new administrator Campillanos from possessing the fishpond and from executing a new lease contract covering it; requiring him to return the possession thereof to Escanlar, plus damages and attorney's fees in the amount of P10,000.00 and costs. The Court of Appeals issued the injunctive writ and required

respondents therein to Answer. Campillanos insisted on the invalidity of the contract in favor of Escanlar; the lower court alleged that it did not exactly annul or invalidate the lease in his questioned orders but suggested merely that Escanlar "may file a separate ordinary action in the Court of general jurisdiction."

The Court of Appeals, in dismissing the petition for certiorari, among others said—

"The controlling issue in this case is the legality of the contract of lease entered into by the former administrator, Nombro, and Pedro Escanlar on May 1, 1960.

Respondents contend that this contract, not having been authorized or approved by the Court, is null and void and cannot be an obstacle to the execution of another contract of lease by the new administrator, Campillanos. This contention is without merit. * * *. It has been held that even in the absence of such special power, a contract of lease for more than 6 years is not entirely invalid; it is invalid only in so far as it exceeds the six-year limit (*Enrique vs. Watson Company, et al.*, 6 Phil. 84).[1]

No such limitation on the power of a judicial administrator to grant a lease of property placed under his custody is provided for in the present law. Under Article 1647 of the present Civil Code, it is only when the lease is to be recorded in the Registry of Property that it cannot be instituted without special authority. Thus, regardless of the period of lease, there is no need of special authority unless the contract is to be recorded in the Registry of Property. As to whether the contract in favor of Escanlar is to be so recorded is not material to our inquiry.

On the contrary, Rule 85, Section 3, of the Rules of Court authorizes a judicial administrator, among other things, to administer the estate of the deceased not disposed of by will. Commenting on this Section in the light of several Supreme Court decisions (*Jacson de Hilado vs. Nava*, 69 Phil., 1; *Gamboa vs. Gamboa*, 68 Phil. 304; *Ferraris vs. Rodas*, 65 Phil. 732; *Rodriguez vs. Borromeo*, 43 Phil., 479), Moran says: 'Under this provision, the executor or administrator has the power of administering the estate of the deceased for purposes of liquidation and distribution. He may, therefore, exercise all acts of administration without special authority of the Court. For instance, he may lease the property without securing previously any permission from the court. And where the lease has formally been entered into, the court cannot, in the same proceeding, annul the same, to the prejudice of the lessee, over whose person it has no jurisdiction. The proper remedy would be a separate action by the administrator or the heirs to annul the lease. * * *.

On September 13, 1961, petitioner herein Moises San Diego, Sr., who was not a party in the case, intervened and moved for a reconsideration of the above judgment. The original parties (the new administrator and respondent judge) also filed motions for reconsideration, but we do not find them in the record. On November 18, 1961, the Court of Appeals denied the motions for reconsideration. With the denial of the said motions, only San Diego, appealed therefrom, raising legal questions, which center on "whether a judicial administrator can validly lease property of the estate without prior judicial authority and approval", and "whether the provisions of the New Civil Code on agency should apply to judicial administrators."

The Rules of Court provide that—

"An executor or administrator shall have the right to the possession of the real as well as the personal estate of the deceased so long as it is necessary for the payment of the debts and the expenses of administration, and shall administer the estate of the deceased not disposed of by his will." (Sec. 3, Rule 85, old Rules.)

Lease has been considered an act of administration (*Jacson vs. Nava*; *Gamboa vs. Gamboa*, *Rodriguez vs. Borromeo*, *Ferraris vs. Rodas*, *supra*).

The Civil Code, on lease provides:

"If a lease is to be recorded in the Registry of Property, the following person cannot constitute the same

without proper authority, the husband with respect to the wife's paraphernal real estate, the father or guardian as to the property of the minor or ward, and the manager without special power." (Art. 1647).

The same code, or Agency, states:

"Special powers of attorneys are necessary in the following cases: (8) To lease any real property to another person for more than one year." (Art. 1878).

Petitioner contends, that No. 8, Art. 1878 is the limitation to the right of a judicial administrator to lease real property without prior court authority and approval, if it exceeds one year. The lease contract in favor of Escanlar being for 3 years and without such court approval and authority is, therefore, null and void. Upon the other hand, respondents maintain that there is no limitation of such right; and that Article 1878 does not apply in the instant case.

We believe that the Court of Appeals was correct in sustaining the validity of the contract of lease in favor of Escanlar, notwithstanding the lack of prior authority and approval. The law and prevailing jurisprudence on the matter militates in favor of this view. While it may be admitted that the duties of a judicial administrator and an agent (petitioner alleges that both act in representative capacity), are in some respects, identical, the provisions on agency (Art. 1878, C.C.), should not apply to a judicial administrator. A judicial administrator is appointed by the Court. He is not only the representative of said Court, but also the heirs and creditors of the estate (*Chua Tan vs. del Rosario*, 57 Phil., 411). A judicial administrator before entering into his duties, is required to file a bond. These circumstances are not true in case of agency. The agent is only answerable to his principal. The protection which the law gives the principal, in limiting the powers and rights of an agent, stems from the fact that control by the principal can only be thru agreements, whereas the acts of a judicial administrator are subject to specific provisions of law and orders of the appointing court. The observation of former Chief Justice Moran, as quoted in the decision of the Court of Appeals, is indeed sound, and we are not prone to alter the same, at the moment.

We, likewise, seriously doubt petitioner's legal standing to pursue this appeal. And, if we consider the fact that after the expiration of the original period of the lease contract executed by respondent Nombre in favor of Escanlar, a new contract in favor of said Escanlar, was executed on May 1, 1963, by the new administrator Campillanos, who, incidentally, did not take any active participation in the present appeal, the right of petitioner to the fishpond becomes a moot and academic issue, which We need not pass upon.

Wherefore, the decision appealed from should be, as it is hereby AFFIRMED, in all respects, with costs against petitioner Moises San Diego, Sr.

Bengzon, C.J., Bautista Angelo, Concepcion, Reyes, J.B.L., Barrera, Regala, and Makalintal, JJ., concur.

[1] Referring to Art. 1548 of the old Civil Code.

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