

ANGEL T. LIMJOCO PETITIONER, VS. INTESTATE STATE OF PEDRO O. FRAGANTE, DECEASED, RESPONDENT.*G.R. No. L-770. April 27, 1948*

Ponente: HILADO, J.

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Under date of May 21, 1946, the Public Service Commission, through Deputy Commissioner Fidel Ibañez, rendered its decision in case No. 4572 of Pedro O. Fragante, as applicant for a certificate of public convenience to install, maintain and operate an ice plant in San Juan, RizaJ, whereby said commission held that the evidence therein showed that the public interest and convenience will be promoted in a proper and suitable manner "by authorizing the operation and maintenance of another ice plant of two and one-half (2-1/2) tons in the municipality of San Juan; that the original applicant Pedro O. Fragante was a Filipino citizen at the time of his death; and that his intestate estate is financially capable of maintaining the proposed service". The commission, therefore, overruled the opposition filed in the case and ordered "that under the provisions of section 15 of Commonwealth Act No. 146, as amended, a certificate of public convenience be issued to the Intestate Estate of the deceased Pedro Fragante, authorizing said Intestate Estate through its Special or Judicial Administrator, appointed by the proper court of competent jurisdiction, to maintain and operate an ice plant with a daily productive capacity of two and one half tons (2-1/2) in the Municipality of San Juan and to sell the ice produced from said plant in the said Municipality of San Juan and in the Municipality of Mandaluyong, Rizal, and in Quezon City", subject to the conditions therein set forth in detail (petitioner's brief, pp. 33-34).

Petitioner makes four assignments of error in his brief as follows:

- "1. The decision of the Public Service Commission is not in accordance with law.
- "2. The decision of the Public Service Commission is not reasonably supported by evidence.
- "3. The Public Service Commission erred in not giving petitioner and the Ice and Cold Storage Industries of the Philippines, Inc., as existing operators, a reasonable opportunity to meet the increased demand.
- "4. The decision of the Public Service Commission is an unwarranted departure from its announced policy with respect to the establishment and operation of ice plant." (Pp. 1-2, petitioner's brief.)

In his argument petitioner contends that it was error on the part of the commission to allow the substitution of the legal representative of the estate of Pedro O. Fragante for the latter as party applicant in the case then pending before the commission, and in subsequently granting to said estate the certificate applied for, which is said to be in contravention of law.

If Pedro O. Fragante had not died, there can be no question that he would have had the right to prosecute his application before the commission to its final conclusion. No one would have denied him that right. As declared by the commission in its decision, he had invested in the ice plant in question P35,000, and from what the commission said regarding his other properties and business, he would certainly have been financially able to

maintain and operate said plant had he not died. His transportation business alone was netting him about P1,440 monthly. He was a Filipino citizen and continued to be such till his demise. The commission declared in its decision, in view of the evidence before it, that his estate was financially able to maintain and operate the ice plant. The aforesaid right of Pedro O. Fragante to prosecute said application to its final conclusion was one which by its nature did not lapse through his death. Hence, it constitutes a part of the assets of his estate, for such a right was property despite the possibility that in the end the commission might have denied the application, although under the facts of the case, the commission granted the application in view of the financial ability of the estate to maintain and operate the ice plant. Petitioner, in his memorandum of March 19, 1947, admits (page 3) that a certificate of public convenience once granted "as a rule, should descend to his estate as an asset". Such certificate would certainly be property, and the right to acquire such a certificate, by complying with the requisites of the law, belonged to the decedent in his lifetime, and survived to his estate and judicial administrator after his death.

If Pedro O. Fragante had in his lifetime secured an option to buy a piece of land and during the life of the option he died, if the option had been given him in the ordinary course of business and not out of special consideration for his person, there would be no doubt that said option and the right to exercise it would have survived to his estate and legal representatives. In such a case there would also be the possibility of failure to acquire the property should he or his estate or legal representative fail to comply with the conditions of the option. In the case at bar Pedro O. Fragante's undoubted right to apply for and acquire the desired certificate of public convenience—the evidence established that the public needed the ice plant—was under the law conditioned only upon the requisite citizenship and economic ability to maintain and operate the service. Of course, such right to acquire or obtain such certificate of public convenience was subject to failure to secure its objective through nonfulfillment of the legal conditions, but the situation here is no different from the legal standpoint from that of the option in the illustration just given.

Rule 88, section 2, provides that the executor or administrator may bring or defend actions, among other cases, for the protection of the property or rights of the deceased which survive, and it says that such actions may be brought or defended "in the right of the deceased".

Rule 82, section 1, paragraph (a), mentions among the duties of the executor or administrator, the making of an inventory of all goods, chattels, rights, credits, and estate of the deceased which shall come to his possession or knowledge, or to the possession of any other person for him.

In his commentaries on the Rules of Court (Volume II, 2nd ed., pages 366, 367), the present Chief Justice of this Court draws the following conclusion from the decisions cited by him:

"Therefore, unless otherwise expressly provided by law, any action affecting the property or rights (underscoring supplied) of a deceased person which may be brought by or against him if he were alive, may likewise be instituted and prosecuted by or against the administrator, unless the action is for recovery of money, debt or interest thereon, or unless, by its very nature, it cannot survive, because death extinguishes the right * * *".

It is true that a proceeding upon an application for a certificate of public convenience before the Public Service Commission is not an "action". But the foregoing provisions and citations go to prove that the decedent's rights which by their nature are not extinguished by death go to make up a part and parcel of the assets of his estate which, being placed under the control and management of the executor or administrator, can not be exercised but by him in representation of the estate for the benefit of the creditors, devisees, or legatees, if any, and the heirs of the decedent. And if the right involved happens to consist in the prosecution of an unfinished proceeding upon an application for a certificate of public convenience of the deceased before the Public Service Commission, it is but logical that the legal representative be empowered and entitled in behalf of the estate to make the right effective in

that proceeding.

Manresa (Vol. III, 6th ed., p. 11) says that No. 10 of article 334 and article 336 of the Civil Code, respectively, consider as immovable and movable things rights which are not material. The same eminent commentator says in the cited volume (p. 45) that article 336 of the Civil Code has been deficiently drafted in that it is not sufficiently expressive of all incorporeal rights which are also property for juridical purposes.

Corpus Juris (Vol. 50, p. 737) states that in the broad sense of the term, property includes, among other things, "an option", and "the certificate of the railroad commission permitting the operation of a bus line", and on page 748 of the same volume we read:

"However, these terms (real property, as estate or interest) have also been declared to include every species of title, inchoate or complete, and embrace rights which lie in contract, whether executory or executed." (Italics supplied.)

Another important question raised by petitioner is whether the estate of Pedro O. Fragante is a "person" within the meaning of the Public Service Act.

Words and Phrases, First Series, (Vol. 6, p. 5325), states the following doctrine in the jurisdiction of the State of Indiana:

"As the estate of a decedent is in law regarded as a person, a forgery committed after the death of the man whose name purports to be signed to the instrument may be prosecuted as with the intent to defraud the estate. *Billings vs. State*, 107 Ind., 54, 55, 6 N. E. 914, 7 N. E. 763, 57 Am. Rep. 77."

The Supreme Court of Indiana in the decision cited above had before it a case of forgery committed after the death of one Morgan for the purpose of defrauding his estate. The objection was urged that the information did not aver that the forgery was committed with the intent to defraud any person. The Court, per Elliott, J., disposed of this objection as follows:

"* * * The reason advanced in support of this proposition is that the law does not regard the estate of a decedent as a person.

This intention (contention) cannot prevail. The estate of a decedent is a person in legal contemplation. 'The word "person", says Mr. Abbot, 'in its legal signification, is a generic term, and includes artificial as well as natural persons,' 2 Abb. Dict. 271; *Douglas vs. Pacific, etc., Co.*, 4 Cal. 304; *Planters', etc., Bank vs. Andrews*, 8 Port. (Ala.) 404. It is said in another work that 'persons are of two kinds: natural and artificial. A natural person is a human being. Artificial persons include (1) a collection or succession of natural persons forming a corporation; (2) a collection of property to which the law attributes the capacity of having rights and duties. The latter class of artificial persons is recognized only to a limited extent in our law. Examples are the estate of a bankrupt or deceased person.' 2 *Rapalje & L. Law Dict.* 954. Our own cases inferentially recognize the correctness of the definition given by the authors from whom we have quoted, for they declare that it is sufficient, in pleading a claim against a decedent's estate, to designate the defendant as the estate of the deceased person, naming him. *Ginn vs. Collins*, 43 Ind. 271. Unless we accept this definition as correct, there would be a failure of justice in cases where, as here, the forgery is committed after the death of the person whose name is forged; and this is a result to be avoided if it can be done consistent with principle. We perceive no difficulty in avoiding such a result; for, to our minds, it seems reasonable that the estate of a decedent should be regarded as an artificial person. It is the creation of law for the purpose of enabling a disposition of the assets to be properly made, and, although natural persons as heirs, devisees, or creditors, have an interest in the property, the artificial creature is a distinct legal entity. The interest which natural persons have in it is not complete until there has been a due administration; and one who forges the name of the decedent to an instrument purporting to be a promissory note must be regarded as having intended to defraud the estate of the

decedent, and not the natural persons having diverse interests in it, since he cannot be presumed to have known who those persons were, or what was the nature of their respective interests. The fraudulent intent is against the artificial person,—the estate,—and not the natural persons who have direct or contingent interests in it." (107 Ind. 54, 55, 6 N. E. 914-915.)

In the instant case there would also be a failure of Justice unless the estate of Pedro O. Fragante is considered a "person", for the quashing of the proceedings for no other reason than his death would entail prejudicial results to his investment amounting to P35,000.00 as found by the commission, not counting the expenses and disbursements which the proceeding can be presumed to have occasioned him during his lifetime, let alone those defrayed by the estate thereafter. In this jurisdiction there are ample precedents to show that the estate of a deceased person is also considered as having legal personality independent of the heirs. Among the most recent cases may be mentioned that of "Estate of Mota vs. Conception, 56 Phil., 712, 717, wherein the principal plaintiff was the estate of the deceased Lazaro Mota, and this Court gave judgment in favor of said estate along with the other plaintiffs in these words:

"* * * the judgment appealed from must be affirmed so far as it holds that defendants Concepcion and Whitaker are indebted to the plaintiffs in the amount of P245,804.69 * * *."

Under the regime of the Civil Code and before the enactment of the Code of Civil Procedure, the heirs of a deceased person were considered in contemplation of law as the continuation of his personality by virtue of the provision of article 661 of the first Code that the heirs succeed to all the rights and obligations of the decedent by the mere fact of his death. It was so held by this Court in *Barrios vs. Dolor*, 2 Phil., 44, 46. However, after the enactment of the Code of Civil Procedure, article 661 of the Civil Code was abrogated, as held in *Suiliong & Co. vs. Chio-Taysan*, 12 Phil., 13 22. In that case, as well as in many others decided by this Court after the innovations introduced by the Code of Civil Procedure in the matter of estates of deceased persons, it has been the constant doctrine that it is the estate or the mass of property, rights and assets left by the decedent, instead of the heirs directly, that becomes vested and charged with his rights and obligations which survive after his demise.

The heirs were formerly considered as the continuation of the decedent's personality simply by legal fiction, for they might not be even of his flesh and blood—the reason was one in the nature of a legal exigency derived from the principle that the heirs succeeded to the rights and obligations of the decedent. Under the present legal system, such rights and obligations as survive after death have to be exercised and fulfilled only by the estate of the deceased. And if the same legal fiction were not indulged, there would be no juridical basis for the estate, represented by the executor or administrator, to exercise those rights and to fulfill those obligations of the deceased. The reason and purpose for indulging the fiction is identical and the same in both cases. This is why according to the Supreme Court of Indiana in *Billings vs. State*, supra, citing 2 *Rapalje & L. Dictionary*, 954, among the artificial persons recognized by law figures "a collection of property to which the law attributes the capacity of having rights and duties", as for instance, the estate of a bankrupt or deceased person.

Petitioner raises the decisive question of whether or not the estate of Pedro O. Fragante can be considered a "citizen of the Philippines" within the meaning of section 16 of the Public Service Act, as amended, particularly the proviso thereof expressly and categorically limiting the power of the commission to issue certificates of public convenience or certificates of public convenience and necessity "only to citizens of the Philippines or of the United States or to corporations, copartnerships, associations, or joint-stock companies constituted and organized under the laws of the Philippines", and the further proviso that sixty per centum of the stock or paid-up capital of such entities must belong entirely to citizens of the Philippines or of the United States.

Within the philosophy of the present legal system, the underlying reason for the legal fiction by which, for certain purposes, the estate of a deceased person is considered a "person" is the avoidance of injustice or prejudice

resulting from the impossibility of exercising such legal rights and fulfilling such legal obligations of the decedent as survived after his death unless the fiction is indulged. Substantially the same reason is assigned to support the same rule in the jurisdiction of the State of Indiana, as announced in *Billings vs. State*, supra, when the Supreme Court of said State said:

"* * * It seems reasonable that the estate of a decedent should be regarded as an artificial person. It is the creation of law for the purpose of enabling a disposition of the assets to be properly made * * *"

Within the framework and principles of the constitution itself, to cite just one example, under the bill of rights it seems clear that while the civil rights guaranteed therein in the majority of cases relate to natural persons, the term "person" used in section 1 (1) and (2) must be deemed to include artificial or juridical persons, for otherwise these latter would be without the constitutional guarantee against being deprived of property without due process of law, or the immunity from unreasonable searches and seizures. We take it that it was the intendment of the framers to include artificial or juridical, no less than natural, persons in these constitutional immunities and in others of similar nature. Among these artificial or juridical persons figure estates of deceased persons. Hence, we hold that within the framework of the constitution, the estate of Pedro O. Fragante should be considered an artificial or juridical person for the purposes of the settlement and distribution of his estate which, of course, include the exercise during the judicial administration thereof of those rights and the fulfillment of those obligations of his which survived after his death. One of those rights was the one involved in his pending application before the Public Service Commission in the instant case, consisting in the prosecution of said application to its final conclusion. As stated above, an injustice would ensue from the opposite course.

How about the point of citizenship? If by legal fiction his personality is considered extended so that any debts or obligations left by, and surviving, him, may be paid, and any surviving rights may be exercised for the benefit of his creditors and heirs, respectively, we find no sound and cogent reason for denying the application of the same fiction to his citizenship, and for not considering it as likewise extended for the purposes of the aforesaid unfinished proceeding before the Public Service Commission. The outcome of said proceeding, if successful, would in the end inure to the benefit of the same creditors and the heirs. Even in that event petitioner could not allege any prejudice in the legal sense, any more than he could have done if Fragante had lived longer and obtained the desired certificate. The fiction of such extension of his citizenship is grounded upon the same principle, and motivated by the same reason, as the fiction of the extension of his personality. The fiction is made necessary to avoid the injustice of subjecting his estate, creditors and heirs, solely by reason of his death, to the loss of the investment amounting to P35,000, which he had already made in the ice plant, not counting the other expenses occasioned by the instant proceeding, from the Public Service Commission to this Court.

We can perceive no valid reason for holding that within the intent of the Constitution (Article IV), its provisions on Philippine citizenship exclude the legal principle of extension above adverted to. If for reasons already stated our law indulges the fiction of extension of personality, if for such reasons the estate of Pedro O. Fragante should be considered an artificial or juridical person herein, we can find no justification for refusing to declare a like fiction as to the extension of his citizenship for the purposes of this proceeding.

Pedro O. Fragante was a Filipino citizen, and as such, if he had lived, in view of the evidence of record, he would have obtained from the commission the certificate for which he was applying. The situation has suffered but one change, and that is, his death. His estate was that of a Filipino citizen. And its economic ability to appropriately and adequately operate and maintain the service of an ice plant was the same that it received from the decedent himself. In the absence of a contrary showing, which does not exist here, his heirs may be assumed to be also Filipino citizens; and if they are not, there is the simple expedient of revoking the certificate or enjoining them from inheriting it.

Upon the whole, we are of opinion that for the purposes of the prosecution of said case No. 4572 of the Public Service Commission to its final conclusion, both the personality and citizenship of Pedro O. Fragante must be deemed extended, within the meaning and intent of the Public Service Act, as amended, in harmony with the constitution: it is so adjudged and decreed.

Decision affirmed, without costs. So ordered.

Moran, C. J., Paras, Pablo, Bengzon, Briones, Padilla, and Tuason, JJ., concur.

PARÁS, J.;

I hereby certify that Mr. Justice Feria voted with the majority.

DISSENTING

PERFECTO, J.:

Commonwealth Act No. 146 reserves to Filipino citizens the right to obtain a certificate of public convenience to operate an ice plant in San Juan, Rizal. The limitation is in accordance with section 8 of Article XIV of the Constitution which provides

"No franchise, certificate, or any other form of authorization for the operation of a public utility shall be granted except to citizens of the Philippines or to corporations or other entities organized under the laws of the Philippines, sixty per centum of the capital of which is owned by citizens of the Philippines, nor shall such franchise, certificate, or authorization be exclusive in character or for a longer period than fifty years. No franchise or right shall be granted to any individual, firm, or corporation, except under the condition that it shall be subject to amendment, alteration, or repeal by the Congress when the public interest so requires."

The main question in this case is whether the estate of Pedro O. Fragante fulfills the citizenship requirement. To our mind, the question can be restated by asking whether the heirs of Pedro O. Fragante fulfill the citizenship requirement of the law.

The estate is an abstract entity. As such, its legal value depends on what it represents. It is a device by which the law gives a kind of personality and unity to undetermined tangible persons, the heirs. They inherit and replace the deceased at the very moment of his death. As there are procedural requisites for their identification and determination that need time for their compliance a legal fiction has been devised to represent them. That legal fiction is the estate, a liquid condition in process of solidification.

The estate, therefore, has only a representative value. What the law calls estate is, as a matter of fact, intended to designate the heirs of the deceased. The question, therefore, in this case, boils down to the citizenship of the heirs of Fragante.

There is nothing in the record to show conclusively the citizenship of the heirs of Fragante. If they are Filipino citizens, the action taken by the Public Service Commission should be affirmed. If they are not, it should be reversed.

Petitioner alleges that the estate is just a front or dummy for aliens to go around the citizenship constitutional provision. It is alleged that Gaw Suy, the special administrator of the estate, is an alien.

We are of opinion that the citizenship of the heirs of Fragante should be determined by the Commission upon evidence that the party should present. It should also determine the dummy question raised by petitioner.

We are of opinion and so vote that the decision of the Public Service Commission of May 21, 1946, be set aside and that the Commission be instructed to receive evidence on the above factual questions and render a new decision accordingly.

Decision affirmed.

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