

LUCRECIA JEREZ, JULIA JALANDONI, JULIETA JALANDONI, EVA JALANDONI, CARMELO JALANDONI, JOSE JALANDONI AND ELISEO JALANDONI, PETITIONERS, VS. HON. EMIGDIO V. NIETES, JUDGE OF THE ...*G.R. No. L-26876. December 27, 1969*

Ponente: FERNANDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/f13d976823ad/>**FERNANDO, J.:**

This Court has not had previously the opportunity to pass squarely on the question raised in this petition for the review of a resolution of the Court of Appeals sustaining an order of respondent Judge Emigdio V. Nietes of the Court of First Instance of Iloilo, reopening the proceedings in the intestate estate of the late Nicolas Jalandoni, after having approved a project of partition and final accounting, and allowing a plea of intervention filed within the reglementary period by the other respondents, Lucilo Jalandoni and Victoria Jalandoni de Gorriceta, allegedly children of the deceased with an illegitimate status. The petitioners are the widow and the legitimate children of the late Nicolas Jalandoni.[1]

The Court of Appeals cannot be reversed for recognizing the existence of such a power possessed by the respondent Judge to thus act favorably on a motion to intervene even if submitted at such a stage. That is the answer we give to the main issue thus posed. Our approval of the action taken, how-ever, is not unqualified. For respondent Judge apparently was much too generous in his appraisal of the right of the private respondents to intervene, accepting as established what ought to have been proved. A modification of the appealed resolution is thus called for.

The facts are undisputed. Nicolas Jalandoni died on October 3, 1960. Before the end of that month, on October 27, a special proceeding[2] for the settlement of his estate was filed before the sala of respondent Judge, petitioner Lucrecia Jerez, his widow, being appointed as administratrix. A project of partition and final accounting was submitted on June 14, 1966, resulting in an order from respondent Judge dated June 15, 1966, approving the same. On June 29, 1966, respondent Lucilo Jalandoni, alleging that he is an acknowledged natural child of the late Nicolas Jalandoni, and respondent Victoria Jalandoni de Gorriceta, alleging that she is an illegitimate daughter, sought to be allowed to intervene on the ground that they were preterited in the project of partition which they would have respondent Judge reject for being contrary to law. Then came on July 30, 1966 an order of respondent Judge allowing intervention and reopening the proceedings to permit the movants, now private respondents, "to present whatever evidence they may have to show their right to participate in the estate of the deceased." After a motion for reconsideration, filed by petitioners, was denied, the matter was elevated to the Court of Appeals on a petition for certiorari and prohibition with preliminary injunction filed on September 3, 1966.

As set forth at the opening of this decision, the Court of Appeals in a resolution of September 21, 1966 denied such petition to annul and set aside the order of respondent Judge. The basis for such resolution, penned by Justice Martin with the concurrence of Justice Rodriguez, Justice Esguerra concurring in the result with a separate

opinion, was explained in this wise: "* * * that the determination of a prima facie interest in an estate to justify reopening proceedings for the settlement thereof is primarily addressed to the sound discretion and judgment of the probate court; that, while no supporting documents are appended to the motion to reopen tending to show the personality to intervene, the said motion is nevertheless verified upon oaths of the claimants of interest and the probate court has authority to require the submission of at least a prima facie showing of said interest; that the motion to reopen was filed on June 29, 1966 before the order closing the proceedings of June 15, 1966 had achieved finality and during the reglementary period within which the court still had jurisdiction over the case and retained full power to amend and control its process and orders so as to make them comfortable to law and justice; that, because the closure order aforesaid had not yet become final, the requirements of Rule 38 respecting relief from judgment do not apply and, hence, the failure of the motion to reopen to allege any of the grounds therein stated is not fatal; that the better practice in case of the appearance of alleged preterited heirs is to secure relief by reopening the proceedings by a proper motion within the reglementary period (Ramos, et al., vs. Ortuzar, et al., G.R. No. L-3299, August 20, 1951), it being desirable that all aspects of a controversy be ventilated in the same proceeding and thus avoid multiplicity of suits; * * *." [3]

Evidently, an ordinary division of three Justices did not suffice for a decision on such petition for certiorari and prohibition resulting in a creation of a division of five. Two Justices dissented from the aforesaid resolution, the dissenting opinion being penned by Justice Lucero with whom Justice Villamor concurred. The dissent is premised on the following considerations: "We should not let Lucilo Jalandoni (alleged acknowledged natural son) and Victoria Jalandoni de Gorrecita (alleged illegitimate daughter) to come in first and identify themselves later, because the better policy according to jurisprudence (Asinas vs. Court, 51 Phil. 665) is to require them first to produce prima facie evidence of such a civil status before opening the door and letting them in. Under Section 2, Rule 12, Revised, 'a person may, before or during a trial, be permitted by the court, in its discretion, to intervene in an action, if he has legal interest in the matter in litigation.' The possibility of interlopers getting in for a share in the estate cannot be totally discounted specially considering that the present intestate proceedings had been 'pending for the last six (6) years without a motion to intervene having been filed by the present claimants in spite of the notice of publication and the in rem character of the intestate proceedings. According to their residence certificate, the claimants are residents of Iloilo City (Rec. 20). The procedure adopted by the lower court is more conducive to prejudice and unnecessary loss of time, effort and expense than the method suggested by jurisprudence of requiring first a prima facie evidence of status before letting them come in to intervene. Hence, the order of July 30, 1966 sought to be nullified under the present petition insofar as it reconsidered the approval of the project of partition and the first accounting is unjustified, as practically putting the cart before the horse instead of the horse before the cart. Moreover, the claims can be asserted in a separate action against the legitimate children to whom the share of the deceased Nicolas Jalandoni was adjudicated.'" [4]

Stress is laid in this petition for review in respondent Judge allowing private respondents to intervene after the intestate proceedings were closed. We do not see it that way. We repeat what we said at the outset. The challenged resolution cannot be reversed insofar as it recognized the power of respondent Judge to reopen the proceedings and allow intervention. While it is undeniable that the question presented has not been definitely passed upon before, still an indication of how such an issue should be resolved is to be found in an opinion of Justice Tuason in *Ramos v. Ortuzar*, [5] referred to in the resolution of the Court of Appeals. Thus: "The only instance that we can think of in which a party interested in a probate proceeding may have a final liquidation set aside is when he is left out by reason of circumstances beyond his control or through mistake or inadvertence not imputable to negligence. Even then, the better practice to secure relief is reopening of the same case by proper motion within the reglementary period, instead of an independent action the effect of which, if successful, would be, as in the instant case, for another court or judge to throw out a decision or order already final and executed and

reshuffle properties long ago distributed and disposed of."

The above excerpt commends itself for approval. We do so now and definitely hold that rather than require any party who can allege a grievance that his interest was not recognized in a testate or intestate proceeding to file a separate and independent action, he may within the reglementary period secure the relief that is his due by a reopening of the case even after a project of partition and final accounting had been approved.

Such a view finds support in the doctrine of liberality as to pleas for intervention so consistently followed and adhered to by this Court.[6] As was emphatically expressed by Justice Makalintal, speaking for this Court, in *Balane v. De Guzman*:^[7] "Respondent Judge would have done well to brush aside narrow technicalities in this case, allow the intervention prayed for and thus avoid needless delay in the resolution of the conflicting interests of all the parties."

It is thus understandable why the resolution of the Court of Appeals upholding the power of respondent Judge to reopen the proceedings and allow intervention is not vulnerable to attack. It was within his competence to do so. The question remains, however, whether he did so in the appropriate manner. It is not the existence of the power but the mode of its exercise that is open to question. In that sense, the appealed resolution bears further scrutiny.

It is indisputable that after the project of partition and final accounting was submitted by the counsel for petitioner Lucrecia Jerez, as administratrix, on June 14, 1966, re-spondent Judge approved the same and declared closed and terminated the intestacy the next day, June 15, 1966. Subse-quently, on a verified petition by private respondents, filed on June 29, 1966, based on the assertion made that they should have had a share in the estate as illegitimate children but that they were omitted in the aforesaid project of partition, they sought to be allowed to intervene and "to have the project of partition rejected for being contrary to law." Such a plead-ing, without more, resulted in the questioned order of July 30, 1966, reopening the proceedings and reconsidering the approval of the project of partition and final accounting, to enable the private respondents "to present whatever evidence they may have to show their right to participate in the estate of the deceased." Although the recognition of their right to intervene appeared to be tentative and conditional, it cannot be denied that they were given a standing sufficient to set aside the project of partition.

Respondent Judge acted too soon. The verified motion on the part of private respondents did not suffice to call into play the power of respondent Judge to allow intervention. There must be proof beyond allegations in such motion to show the interest of the private movants. In the absence thereof, the action taken by respondent Judge could be considered premature. As was stated by us in an opinion penned by Justice Sanchez: "No one may quibble over the existence of the court's discretion on whether to admit or reject intervention. But such discretion is not unlimited."^[8]

WHEREFORE, the resolution of September 21, 1966 of the Court of Appeals is hereby modified in the sense that respondent Judge, Honorable Emigdio V. Nietes of the Court of First Instance of Iloilo Judicial District, Branch I, or whoever may be acting in his place, is directed to require private respondents Lucilo Jalandoni and Victoria Jalandoni de Gorriceta to present evidence to justify their right to intervene in Special Proceeding No. 1562 re Intestate Estate of Nicolas H. Jalandoni pending before such sala. In the event that they could so justify such a right, the lower court on the basis of such evidence is to proceed conformably to law. Without pronouncement as to costs.

Concepcion, C.J., Reyes, Dizon, Makalintal, Zaldivar, Sanchez, Castro, Teehankee, and Barredo, concur.

[1] Lucrecia Jerez, Julia Jalandoni, Julieta Jalandoni, Eva Jalandoni, Carmelo Jalandoni, Jose Jalandoni and Eliseo

Jalandoni.

[2] Special Proceeding No. 1562 of the Court of First Instance of Iloilo.

[3] Petition, Annex L, pp. 1-2.

[4] Ibid, pp. 6-7.

[5] 89 Phil. 730 (1951).

[6] Cf. Ahag v. Cabiling, 18 Phil. 415 (1911); Joaquin v. Herrera, 37 Phil. 705 (1918); National Bank v. Phil. Vegetable Oil Co., 49 Phil. 857 (1927); De la Riva v. Escobar, 51 Phil. 243 (1927); Otto Gmur v. Revilla, 55 Phil. 627 (1931); Barretto v. Tuason, 59 Phil. 845 (1934); Santarromana v. Barrios, 63 Phil. 456 (1936); Tavera-Luna, Inc. v. Nable, 67 Phil. 340 (1939); Pampanga Bus Co. v. Fernando, 70 Phil. 306 (1940); Seva v. Rivera, 73 Phil. 477 (1941); Gaw Sin Gee v. Peña, 79 Phil. 663 (1947); Peyer v. Martinez, 88 Phil. 72 (1951); Republic v. Ysip, 89 Phil. 535 (1951); Republic v. Phil. Resources Dev. Corp., 102 Phil. 960 (1958); Francisco v. Rodriguez, 6 SCRA 443 (1962); Toledo v. Court, 8 SCRA 499, (1963); Lacuna v. Board of Liquidators, 12 SCRA 469 (1964); Phil. Resources Dev. Corp. v. Republic, 13 SCRA 519 (1965); Zulueta v. Muñoz, 17 SCRA 972 (1966); Balane v. De Guzman, 20 SCRA 177 (1967); Cue v. Dolla, 23 SCRA 832 (1968); Dizon v. Romero, 26 SCRA 452 (1968); Roxas v. Dinglasan, 28 SCRA 431 (1969).

[7] 20 SCRA 177 (1967).

[8] Cue v. Dolla, 23 SCRA 832 (1968).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.