

LUIS R. YANGCO, PETITIONER, VS. THE DIVISION OF THE COURT OF FIRST INSTANCE OF THE CITY OF MANILA PRESIDED OVER BY THE HONORABLE A. S. CROSSFIELD AS JUDGE, AND TEODORO R. YANGCO...

G.R. No. 10058. January 06, 1915

Ponente: MORELAND, J.

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MORELAND, J.:

This is a proceeding to obtain a writ of certiorari directed to the Court of First Instance of the city of Manila requiring it to send to this court the record made in a proceeding to declare the petitioner for the writ in this case a spendthrift and to appoint a guardian for his property and for a complete review of said record to the end that the judgment decreeing the petitioner a spendthrift and appointing a guardian of his property be declared null and void and of no effect upon the ground that the proceedings were had and the decree entered without notice to the petitioner, the alleged spendthrift, and were and are, therefore, void, the court having acted without jurisdiction in the premises.

The questions presented for determination arise out of the issue framed by the answer to the order to show cause issued on the petition in this case. The record of the court below having been sent to this court and the petition and answer presenting an issue of law, and the parties having been fully heard thereon and having finally submitted the case, we proceed to its determination.

The material facts are undisputed. The petitioner herein was a young man, 21 years of age, the owner of property valued at nearly P1,000,000, and temporarily traveling abroad at the time the proceedings were had which terminated in the declaration that he was a spendthrift and the appointment of a guardian of his property.

The proceedings were begun by the respondent Teodoro R. Yangeo in the Court of First Instance of the city of Manila, he himself making the petition as a relative and friend. It is conceded that no notice was given to the petitioner herein personally, the only notice of any kind in the proceedings being that set forth in the answer of respondent to the order to show cause issued upon the filing of the petition in this proceeding. The answer says in that regard:

"That upon the filing of said petition hereinabove referred to (meaning the petition to have the petitioner declared a spendthrift and a guardian appointed for his property), the said Court of First Instance, in the continued absence from the jurisdiction of said court of the said plaintiff, and acting under and in pursuance of the judicial discretion upon said court conferred by law, required that notice of said guardianship proceedings be given unto Julia Stanton de Regidor and Cristobal Regidor, the mother-in-law and brother-in-law, respectively, of the plaintiff, the latter being the acting manager of the business of the plaintiff."

It is undisputed that, in the ordinary acceptance of the term, the petitioner for the writ is a resident of the Philippine Islands and that he was temporarily absent therefrom traveling abroad at the time the proceedings complained of were instituted and the decree obtained.

We are of the opinion that the decree declaring the petitioner a spendthrift and appointing a guardian for his property was and is void for lack of jurisdiction. In proceedings of this class notice as required by the statute is jurisdictional and the lack of it deprives the court of power to make a valid decree in the premises. Section 559 of the Code of Civil Procedure requires personal notice to the alleged spendthrift when he is a resident of the Philippine Islands. It provides:

"When it is represented to a Court of First Instance, or a judge thereof, by petition verified by oath of any relative or friend, that any person who is an inhabitant or resident of the province, is insane or is a spendthrift, incompetent to manage his estate, praying that a guardian may be appointed for such person, such court or judge must cause a notice to be given to the supposed insane or incompetent person of the time and place of hearing the petition, not less than five days before the time so appointed; and such person, if able to attend, must be produced on the hearing."

The statute does not authorize a substituted service except in cases where, as provided in section 572, the person for whose property the guardian is sought to be appointed is a resident of a foreign country. Personal notice being essential under the statute, the notice to the mother-in-law and brother-in-law of the alleged spendthrift was of no legal value. (Matter of Lambert, 134 CaL, 626; North vs. Joslin, 59 Mich., 624; Ex parte Dozier, 4 Baxt, Term., 81; Coolidge vs. Allen, 82 Me., 23; Hathaway vs. Clark, 5 Pick., Mass., 490; Chase vs. Hathaway, 14 Mass., 222; Shumway vs. Shumway, 2 Vt., 339.)

To declare a person of full age to be incompetent to manage his affairs and thereby deprive him of the possession of and right to hold and manage his property is a serious thing. It takes from him one of the greatest privileges of life in contravention of those fundamental rights which all men naturally have to possess, control, manage and enjoy their own property. It is for this reason that the courts generally hold that the statute permitting a declaration of incompetency and the appointment of guardians for the property of incompetents must be strictly followed, and any material departure therefrom, especially with respect to notice, results in a loss of jurisdiction. (See cases already cited.) So careful was the Legislature to see to it that no one should be declared an incompetent and deprived of his property without full opportunity to be heard that, in framing section 559 of the Code of Civil Procedure, it not only required personal notice to the alleged incompetent but also provided that he shall be present in court during the proceedings, if he be able to attend; and the ability to attend does not, in our judgment, relate to absence but to physical condition.

It has been urged that section 572 of the Code of Civil Procedure permits the practice adopted in this case. We do not think so. That section provides: "When a person liable to be put under guardianship, according to the provisions of this chapter, resides without the Philippine Islands, and has estate therein, any friend of such person, or anyone interested in his estate, in expectancy or otherwise, may apply to the judge of Court of First Instance in any province in which there is any estate of such absent person, for the appointment of a guardian, and if, after notice given to all interested, in such manner as such court orders, by publication or otherwise, and a full hearing and examination, it appears proper, a guardian for such absent person may be appointed; and every guardian appointed under this section shall have the same powers, and perform the same duties with respect to the estate of the ward found within the Philippine Islands, and with respect to the person of the ward, if he shall come to reside therein, as are prescribed with respect to any other guardians appointed under this chapter."

The word "resides" as used in that section has, as a matter of language, a meaning perfectly clear and definite and requires no interpretation or construction to give it full significance. That the petitioner in this case did not reside "without the Philippine Islands" is unchallenged by the facts in this case. He resided here and his absence was for travel and not for residence.

While it is contended and courts have perhaps held that the word "resident" may mean this, that or the other thing,

dependent upon the circumstances of the case, we know of no decision which holds that, under the admitted facts of this case, the word "resident" could be juggled into meaning that the petitioner was a nonresident within the purview of section 572. There is no need for interpretation or construction of the word in the case before us. Its meaning is so clear that interpretation and construction are unnecessary. Our simple duty is to leave untouched the meaning with which the English language has endowed the word; and that is the meaning which the ordinary reader would accord to it on reading a sentence in which it was found. Where language is plain, subtle refinements which tinge words so as to give them the color of a particular judicial theory are not only unnecessary but decidedly harmful. That which has caused so much confusion in the law, which has made it so difficult for the public to understand and know what the law is with respect to a given matter, is in considerable measure the unwarranted interference by judicial tribunals with the English language as found in statutes and contracts, cutting out words here and inserting them there, making them fit personal ideas of what the legislature ought to have done or what parties should have agreed upon, giving them meanings which they do not ordinarily have, cutting, trimming, fitting, changing and coloring until lawyers themselves are unable to advise their clients as to the meaning of a given statute or contract until it has been submitted to some court for its "interpretation and construction." As we said in the case of *Lizarraga Hermanos vs. Yap Tico* (24 Phil. Rep., 504, 513) :

"Construction and interpretation come only after it has been demonstrated that application is impossible or inadequate without them. They are the very last functions which a court should exercise. The majority of the laws need no interpretation or construction. They require only application, and if there were more application and less construction, there would be more stability in the law, and more people would know what the law is."

See also *Lambert vs. Fox* (26 Phil. Rep., 588).

These considerations are especially forcible when it appears that subtle refinement and metaphysical interpretation and construction are invoked for the purpose of declaring a resident of the country an incompetent and of depriving him of the control and management of his estate without notice or opportunity to be heard. If construction and interpretation are ever to be left unused, it should be in such a case.

But even if it be conceded that section 572 is applicable, still the notice required by the section has not been given. That section requires notice "to all interested, in such manner as such court orders, by publication or otherwise." No notice whatever was given to the alleged incompetent, either by publication or otherwise, and he certainly is one of the parties "interested."

Another matter of grave importance in this case should be noted. Although no personal notice was given to the alleged spendthrift, the only notice given at all being, as we have seen, solely to his mother-in-law and brother-in-law, the court, nevertheless, made a decree declaring him a spendthrift and appointing a guardian of his property without taking any evidence and with absolutely nothing before it to justify such a decree except the petition and the answer thereto of Julia Stanton de Regidor and Cristobal Regidor. The latter consists of the following statement:

"That we have read the petition signed by Teodoro R. Yangco in which he prays the appointment of a guardian for the said Luis R. Yangco; that according to our information and belief the facts stated in said petition are true, fend we do not oppose the petition made by the said Teodoro R. Yangco.

"Wherefore, we pray the court to decide the matter presented by the petition as justice requires."

No evidence of any kind was taken in the case so far as appears of record, and the court, in making the order of prodigality and decreeing the appointment of a guardian, had no more knowledge of the alleged spendthrift's incompetency to manage his affairs than he had before the petition was presented.

It would be a strange condition of affairs indeed if a citizen and resident of the Philippine Islands could be declared to be an incompetent and his property taken from his management and control by the naked allegation of one stranger admitted by the naked concession of another stranger. If Teodoro R. Yangco can allege the incompetency of Luis R. Yangco and that incompetency be admitted by Julia Stanton de Regidor and Cristobal Regidor, and such allegation and admission be sufficient of themselves to declare the person concerned incompetent and deprive him of his right to manage and control his property, then surely property in the Philippine Islands is held by very precarious tenure.

Section 560 provides that the court shall appoint a guardian of his person and estate only "after a full hearing and examination upon such petition" and where "it appears to the court or judge" from such full hearing and examination "that the person in question is incapable of taking care of himself and managing his property."

It is not a full hearing and examination to have A allege that B is an incompetent and to have C come in and admit the allegation. The court, before it can make the decree as provided for in the law, must have before it competent evidence demonstrating the facts necessary to sustain the decree, and that evidence must be clear and definite. The law is not satisfied unless the court has before it facts which will justify the decree. In proper cases, of course, the admissions made by way of answer or otherwise by the party alleged to be a spendthrift may be taken into consideration by the court in the determination of the question involved and, under certain circumstances, will doubtless be sufficient to sustain a decree of incompetency; but even such admissions should be received with caution, for in cases of this character the foundation of the petition is, in a way, the incompetency of the person against whom the petition is directed and the court should accept his admissions with considerable hesitation. If there is doubt the court should, in spite of his admissions, proceed with the hearing of the case and require the production of evidence to substantiate the allegation of incompetency. Except by his own consent, it is legally impossible to declare a man incompetent and deprive him of his property without clear and positive evidence upon which the declaration and the deprivation are based.

We should not be understood as holding, even in this class of cases, that a decision of a court which has not sufficient evidence to sustain it is void. A judgment with any evidence to sustain it is a valid judgment and not subject to attack as void. It may be appealed from and, if founded on insufficient evidence, reversed, but it is not void. Our remarks relative to the lack of evidence to sustain the decree in this case are founded upon the fact that there is a lack of any evidence whatsoever to sustain the decree; and we have said in the case of *Edwards vs. McCoy* (22 Phil. Rep., 598), "a verdict or decision with absolutely nothing to support it is a nullity, at least when directly attacked."

It is the judgment of the court that the proceeding to declare that the petitioner for the writ is an incompetent and all orders, judgments, and decrees made and entered in said proceeding are null and void, as having been done, had, made and entered by the Court of First Instance without jurisdiction, and the same are hereby so declared.

Arellano, C. J., Torres and Araullo, JJ., concur.

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