

TEODORO L. JARDELEZA, PETITIONER, VS. GILDA L. JARDELEZA, ERNESTO L. JARDELEZA, JR., MELECIO GIL L. JARDELEZA, AND GLENDA L. JARDELEZA, RESPONDENTS.

G.R. No. 112014. December 05, 2000

Ponente: PARDO, J.

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PARDO, J.:

The case is a petition for review on certiorari assailing the order[1] dismissing Special Proceedings No. 4689 of the Regional Trial Court, Iloilo City for appointment of judicial guardian over the person and estate of Dr. Ernesto Jardeleza, Sr. on the ground that such guardianship is superfluous and will only serve to duplicate the powers of the wife, Mrs. Gilda L. Jardeleza, under the explicit provisions of Article 124, second paragraph, of the Family Code.

Dr. Ernesto Jardeleza, Sr. and Gilda L. Jardeleza were married long before 03 August 1988, when the Family Code took effect. The union produced five children, namely: petitioner, Ernesto, Jr., Melecio, Glenda and Rolando, all surnamed L. Jardeleza.

On 25 March 1991, Dr. Ernesto Jardeleza, Sr. then 73 years old, suffered a stroke and lapsed into comatose condition. To date, his condition has not materially improved.

On 06 June 1991, petitioner commenced with the Regional Trial Court, Iloilo City Special Proceedings No. 45689, a petition for appointment of judicial guardian over the person and property of Dr. Jardeleza, Sr. and prayed for the issuance of letters of guardianship to his mother, Gilda L. Jardeleza.[2]

On 19 June 1991, the trial court issued an order setting the petition for hearing so that all persons concerned may appear and show cause if any why the petition should not be granted.[3]

On 3 July 1991, petitioner filed with the trial court a motion for the issuance of letters of guardianship to him, rather than to his mother, on the ground that she considered the property acquired by Dr. Jardeleza as her own and did not want to be appointed guardian.[4]

On 09 August 1991, respondents filed with the trial court an opposition to the petition for guardianship and the motion for issuance of letters of guardianship to petitioner.[5]

On 20 August 1993, the trial court issued an order dismissing the petition for guardianship.[6] The trial court concluded, without explanation, that the petition is superfluous and would only serve to duplicate the powers of the wife under the explicit provisions of Article 124, second paragraph, of the Family Code.

On 17 September 1993, petitioner filed a motion for reconsideration pointing out that the Court of Appeals held in a case under Article 124 of the Family Code where the incapacitated spouse is incapable of being notified or unable to answer the petition, the procedural recourse is guardianship of the incapacitated spouse.[7]

On 24 September 1993, the trial court denied the motion for reconsideration finding it unmeritorious.[8]

Hence, this petition.[9]

The petition raises a pure legal question, to wit: whether Article 124 of the Family Code renders "superfluous" the appointment of a judicial guardian over the person and estate of an incompetent married person.

Very recently, in a related case, we ruled that Article 124 of the Family Code was not applicable to the situation of Dr. Ernesto Jardeleza, Sr. and that the proper procedure was an application for appointment of judicial guardian under Rule 93 of the 1964 Revised Rules of Court.[10]

WHEREFORE, the Court grants the petition, reverses and sets aside the resolutions of the Regional Trial Court, Iloilo City, in Special Proceedings No. 4689.

The Court remands the case to the trial court for further proceedings consistent with this decision.

No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

[1] In Spl. Proc. No. 4689, Order dated 20 August 1993, Judge Bartolome M. Fanuñal, presiding.

[2] Petition, Annex "D", Rollo, pp. 26-28.

[3] Petition, Annex "E", Rollo, pp. 29-30.

[4] Petition, Annex "F", Rollo, pp. 31-35.

[5] Petition, Annex "H", Rollo, pp. 38-46.

[6] Petition, Annex "A", Rollo, p. 23.

[7] Petition, Annex "Q", Rollo, pp. 96-100.

[8] Petition, Annex "B", Rollo, p. 24.

[9] Petition filed on November 19, 1993, Rollo, pp. 9-22.

[10] Uy v. Jardeleza, G. R. No. 109557, November 29, 2000.

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