

**THE ESTATE OF HILARIO M. RUIZ, EDMOND RUIZ, EXECUTOR,
PETITIONER, VS. THE COURT OF APPEALS (FORMER SPECIAL SIXTH
DIVISION), MARIA PILAR RUIZ-MONTES, MARIA CATHRYN RUIZ,
CANDICE ...**

G.R. No. 118671. January 29, 1996

Ponente: PUNO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-118671/>

PUNO, J.:

This petition for review on certiorari seeks to annul and set aside the decision dated November 10, 1994 and the resolution dated January 5, 1995 of the Court of Appeals in CA-G.R. SP No. 33045.

The facts show that on June 27, 1987, Hilario M. Ruiz[1] executed a holographic will naming as his heirs his only son, Edmond Ruiz, his adopted daughter, private respondent Maria Pilar Ruiz Montes, and his three granddaughters, private respondents Maria Cathryn, Candice Albertine and Maria Angeline, all children of Edmond Ruiz. The testator bequeathed to his heirs substantial cash, personal and real properties and named Edmond Ruiz executor of his estate.[2]

On April 12, 1988, Hilario Ruiz died. Immediately thereafter, the cash component of his estate was distributed among Edmond Ruiz and private respondents in accordance with the decedent's will. For unbeknown reasons, Edmond, the named executor, did not take any action for the probate of his father's holographic will.

On June 29, 1992, four years after the testator's death, it was private respondent Maria Pilar Ruiz Montes who filed before the Regional Trial Court, Branch 156, Pasig, a petition for the probate and approval of Hilario Ruiz's will and for the issuance of letters testamentary to Edmond Ruiz.[3] Surprisingly, Edmond opposed the petition on the ground that the will was executed under undue influence.

On November 2, 1992, one of the properties of the estate - the house and lot at No. 2 Oliva Street, Valle Verde IV, Pasig which the testator bequeathed to Maria Cathryn, Candice Albertine and Maria Angeline[4]-- was leased out by Edmond Ruiz to third persons.

On January 19, 1993, the probate court ordered Edmond to deposit with the Branch Clerk of Court the rental deposit and payments totalling P540,000.00 representing the one-year lease of the Valle Verde property. In compliance, on January 25, 1993, Edmond turned over the amount of P348,583.56, representing the balance of the rent after deducting P191,416.14 for repair and maintenance expenses on the estate.[5]

In March 1993, Edmond moved for the release of P50,000.00 to pay the real estate taxes on the real properties of the estate. The probate court approved the release of P7,722.00.[6]

On May 14, 1993, Edmond withdrew his opposition to the probate of the will. Consequently, the probate court, on May 18, 1993, admitted the will to probate and ordered the issuance of letters testamentary to Edmond conditioned upon the filing of a bond in the amount of P50,000.00. The letters testamentary were issued on June

23, 1993.

On July 28, 1993, petitioner Testate Estate of Hilario Ruiz as executor, filed an "Ex-Parte Motion for Release of Funds." It prayed for the release of the rent payments deposited with the Branch Clerk of Court. Respondent Montes opposed the motion and concurrently filed a "Motion for Release of Funds to Certain Heirs" and Motion for Issuance of Certificate of Allowance of Probate Will." Montes prayed for the release of the said rent payments to Maria Cathryn, Candice Albertine and Maria Angeline and for the distribution of the testator's properties, specifically the Valle Verde property and the Blue Ridge apartments, in accordance with the provisions of the holographic will.

On August 26, 1993, the probate court denied petitioner's motion for release of funds but granted respondent Montes' motion in view of petitioner's lack of opposition. It thus ordered the release of the rent payments to the decedent's three granddaughters. It further ordered the delivery of the titles to and possession of the properties bequeathed to the three granddaughters and respondent Montes upon the filing of a bond of P50,000.00.

Petitioner moved for reconsideration alleging that he actually filed his opposition to respondent Montes' motion for release of rent payments which opposition the court failed to consider. Petitioner likewise reiterated his previous motion for release of funds.

On November 23, 1993, petitioner, through counsel, manifested that he was withdrawing his motion for release of funds in view of the fact that the lease contract over Valle Verde property had been renewed for another year.[7]

Despite petitioner's manifestation, the probate court, on December 22, 1993, ordered the release of the funds to Edmond but only "such amount as may be necessary to cover the espenses of administration and allowanceas for support" of the testator's three granddaughters subject to collation and deductible from their share in the inheritance. The court, however, held in abeyance the release of the titles to respondent Montes and the three granddaughters until the lapse of six months from the date of firast publication of the notice to creditors.[8] The Court stated thus:

"xxx xxx xxx

After consideration of the arguments set forth thereon by the parties, the court resolves to allow Administrator Edmond M. Ruiz to take possession of the rental payments deposited with the Clerk of Court, Pasig Regional Trial Court, but only such amount as may be necessary to cover the expenses of administration and allowances for support of Maria Cathryn Veronique, Candice Albertine and Maria Angeli, which are subject to collation and deductible from the share in the inheritance of said heirs and insofar as they exceed the fruits or rents pertaining to them.

As to the release of the titles bequeathed to petitioner Maria Pilar Ruiz-Montes and the above-named heirs, the same is hereby reconsidered and held in abeyance until the lapse of six (6) months from the date of first publication of Notice to Creditors.

WHEREFORE, Administrator Edmond M. Ruiz is hereby ordered to submit an accounting of the expenses necessary for administration including provisions for the support Of Maria Cathryn Veronique Ruiz, Candice Albertine Ruiz and Maria Angeli Ruiz before the amount required can be withdrawn and cause the publication of the notice to creditors with reasonable dispatch.[9]

Petitioner assailed this order before the Court of Appeals. Finding no grave abuse of discretion on the part of respondent judge, the appellate court dismissed the petition and sustained the probate court's order in a decision dated November 10, 1994[10] and a resolution dated January 5, 1995.[11]

Hence, this petition.

Petitioner claims that:

"THE PUBLIC RESPONDENT COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN AFFIRMING AND CONFIRMING THE ORDER OF RESPONDENT REGIONAL TRIAL COURT OF PASIG, BRANCH 156, DATED DECEMBER 22, 1993, WHICH WHEN GIVEN DUE COURSE AND IS EFFECTED WOULD: (1) DISALLOW THE EXECUTOR/ADMINISTRATOR OF THE ESTATE OF THE LATE HILARIO M. RUIZ TO TAKE POSSESSION OF ALL THE REAL AND PERSONAL PROPERTIES OF THE ESTATE; (2) GRANT SUPPORT, DURING THE PENDENCY OF THE SETTLEMENT OF AN ESTATE, TO CERTAIN PERSONS NOT ENTITLED THERETO; AND (3) PREMATURELY PARTITION AND DISTRIBUTE THE ESTATE PURSUANT TO THE PROVISIONS OF THE HOLOGRAPHIC WILL EVEN BEFORE ITS INTRINSIC VALIDITY HAS BEEN DETERMINED, AND DESPITE THE EXISTENCE OF UNPAID DEBTS AND OBLIGATIONS OF THE ESTATE." [12]

The issue for resolution is whether the probate court, after admitting the will to probate but before payment of the estate's debts and obligations, has the authority: (1) to grant an allowance from the funds of the estate for the support of the testator's grandchildren; (2) to order the release of the titles to certain heirs; and (3) to grant possession of all properties of the estate to the executor of the will.

On the matter of allowance, Section 3 of Rule 83 of the Revised Rules of Court provides:

"Sec. 3. Allowance to widow and family. - The widow and minor or incapacitated children of a deceased person, during the settlement of the estate, shall receive therefrom under the direction of the court, such allowance as are provided by law."

Petitioner alleges that this provision only gives the widow and the minor or incapacitated children of the deceased the right to receive allowances for support during the settlement of estate proceedings. He contends that the testator's three granddaughters do not qualify for an allowance because they are not incapacitated and are no longer minors but of legal age, married and gainfully employed. In addition, the provision expressly states "children" of the deceased which excludes the latter's grandchildren.

It is settled that allowances for support under Section 3 of Rule 83 should not be limited to the "minor or incapacitated" children of the deceased. Article 188[13] of the Civil Code of the Philippines, the substantive law in force at the time of the testator's death, provides that during the liquidation of the conjugal partnership, the deceased's legitimate spouse and children, regardless of their age, civil status or gainful employment, are entitled to provisional support from the funds of the estate.[14] The law is rooted on the fact that the right and duty to support, especially the right to education, subsist even beyond the age of majority.[15]

Be that as it may, grandchildren are not entitled to provisional support from the funds of the decedent's estate. The law clearly limits the allowance to "widow and children" and does not extend it to the deceased's grandchildren, regardless of their minority or incapacity.[16] It was error, therefore, for the appellate court to sustain the probate court's order granting an allowance to the grandchildren of the testator pending settlement of his estate.

Respondent courts also erred when they ordered the release of the titles of the bequeathed properties to private respondents six months after the date of first publication of notice to creditors. An order releasing titles to properties of the estate amounts to an advance distribution of the estate which is allowed only under the following conditions:

"Sec. 2. Advance distribution in special proceedings. - Notwithstanding a pending controversy or appeal in proceedings to settle the estate of a decedent, the court may, in its discretion and upon such terms as it may

deem proper and just, permit that such part of the estate as may not be affected by the controversy or appeal be distributed among the heirs or legatees, upon compliance with the conditions set forth in Rule 90 of these Rules." [17]

And Rule 90 provides that:

"Sec. 1. When order for distribution of residue made. - When the debts, funeral charges, and expenses of administration, the allowance to the widow, and inheritance tax, if any, chargeable to the estate in accordance with law, have been paid, the court, on the application of the executor or administrator, or of a person interested in the estate, and after hearing upon notice, shall assign the residue of the estate to the persons entitled to the same, naming them and the proportions, or parts, to which each is entitled, and such persons may demand and recover their respective shares from the executor or administrator, or any other person having the same in his possession. If there is a controversy before the court as to who are the lawful heirs of the deceased person or as to the distributive shares to which each person is entitled under the law, the controversy shall be heard and decided as in ordinary cases.

No distribution shall be allowed until the payment of the obligations above-mentioned has been made or provided for, unless the distributees, or any of them, give a bond, in a sum to be fixed by the court, conditioned for the payment of said obligations within such time as the court directs. [18]

In settlement of estate proceedings, the distribution of the estate properties can only be made: (1) after all the debts, funeral charges, expenses of administration, allowance to the widow, and estate tax have been paid; or (2) before payment of said obligations only if the distributees or any of them gives a bond in a sum fixed by the court conditioned upon the payment of said obligations within such time as the court directs, or when provision is made to meet those obligations. [19]

In the case at bar, the probate court ordered the release of the titles to the Valle Verde property and the Blue Ridge apartments to the private respondents after the lapse of six months from the date of first publication of the notice to creditors. The questioned order speaks of "notice" to creditors, not payment of debts and obligations. Hilario Ruiz allegedly left no debts when he died but the taxes on his estate had not hitherto been paid, much less ascertained. The estate tax is one of those obligations that must be paid before distribution of the estate. If not yet paid, the rule requires that the distributees post a bond or make such provisions as to meet the said tax obligation in proportion to their respective shares in the inheritance. [20] Notably, at the time the order was issued the properties of the estate had not yet been inventoried and appraised.

It was also too early in the day for the probate court to order the release of the titles six months after admitting the will to probate. The probate of a will is conclusive as to its due execution and extrinsic validity [21] and settles only the question of whether the testator, being of sound mind, freely executed it in accordance with the formalities prescribed by law. [22] Questions as to the intrinsic validity and efficacy of the provisions of the will, the legality of any devise or legacy may be raised even after the will has been authenticated. [23]

The intrinsic validity of Hilario's holographic will was controverted by petitioner before the probate court in his Reply to Montes' Opposition to his motion for release of funds [24] and his motion for reconsideration of the August 26, 1993 order of the said court. [25] Therein, petitioner assailed the distributive shares of the devisees and legatees inasmuch as his father's will included the estate of his mother and allegedly impaired his legitime as an intestate heir of his mother. The Rules provide that if there is a controversy as to who are the lawful heirs of the decedent and their distributive shares in his estate, the probate court shall proceed to hear and decide the same as in ordinary cases. [26]

Still and all, petitioner cannot correctly claim that the assailed order deprived him of his right to take possession

of all the real and personal properties of the estate. The right of an executor or administrator to the possession and management of the real and personal properties of the deceased is not absolute and can only be exercised "so long as it is necessary for the payment of the debts and expenses of administration,"[27] Section 3 of Rule 84 of the Revised Rules of Court explicitly provides:

"Sec. 3. Executor or administrator to retain whole estate to pay debts, and to administer estate not willed. - An executor or administrator shall have the right to the possession and management 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 expenses for administration."[28]

When petitioner moved for further release of the funds deposited with the clerk of court, he had been previously granted by the probate court certain amounts for repair and maintenance expenses on the properties of the estate, and payment of the real estate taxes thereon. But petitioner moved again for the release of additional funds for the same reasons he previously cited. It was correct for the probate court to require him to submit an accounting of the necessary expenses for administration before releasing any further money in his favor.

It was relevantly noted by the probate court that petitioner had deposited with it only a portion of the one-year rental income from the Valle Verde property. Petitioner did not deposit its succeeding rents after renewal of the lease.[29] Neither did he render an accounting of such funds.

Petitioner must be reminded that his right of ownership over the properties of his father is merely inchoate as long as the estate has not been fully settled and partitioned.[30] As executor, he is a mere trustee of his father's estate. The funds of the estate in his hands are trust funds and he is held to the duties and responsibilities of a trustee of the highest order.[31] He cannot unilaterally assign to himself and possess all his parents' properties and the fruits thereof without first submitting an inventory and appraisal of all real and personal properties of the deceased, rendering a true account of his administration, the expenses of administration, the amount of the obligations and estate tax, all of which are subject to a determination by the court as to their veracity, propriety and justness.[32]

IN VIEW WHEREOF, the decision and resolution of the Court of Appeals in CA-G.R. SP No. 33045 affirming the order dated December 22, 1993 of the Regional Trial Court, Branch 156, Pasig in SP Proc. No. 10259 are affirmed with the modification that those portions of the order granting an allowance to the testator's grandchildren and ordering the release of the titles to the private respondents upon notice to creditors are annulled and set aside.

Respondent judge is ordered to proceed with dispatch in the proceedings below.

SO ORDERED.

Regalado (Chairman), Romero, and Mendoza, JJ., concur.

[1] Predeceased by his wife who died on August 4, 1986

[2] Annex "D" to the Petition, Rollo, pp. 46-60.

[3] SP Proc. No. 10259.

[4] Holographic Will, p. 10; Rollo, p. 55.

[5] Comment to the Petition, pp. 8-9; rollo, pp. 97-98

[6] Reply to Comment, p.2; rollo, p. 114.

[7] Comment, Annex "1"; Rollo, p. 110.

[8] Petition, Annex "C"; Rollo, p. 45.

[9] Id.; Emphasis as copied.

[10] CA-G.R. SP No. 33045, Annex "A" to the Petition; Rollo, pp. 36-42.

[11] Id., Annex "B" to the Petition; Rollo, p. 44.

[12] Petition, p. 8; Rollo, p. 17.

[13] "Art. 188. From the common mass of property support shall be given to the surviving spouse and to the children during the liquidation of the inventoried property and until what belongs to them is delivered; but from this shall be deducted that amount received for support which exceeds fruits or rents pertaining to them."

Article 188 is now Article 133 of the Family Code.

[14] *Santero v. Court of First Instance of Cavite*, 153 SCRA 728 [1987].

[15] Id., pp. 733-734; Article 290, Civil Code of the Philippines.

[16] *Babao v. Villavicencio*, 44 Phil. 921 [1922].

[17] Revised Rules of Court, Rule 109, Section 2.

[18] Emphasis supplied.

[19] *Castillo v. Castillo*, 124 Phil. 485 [1966]; *Edmands v. Philippine Trust Co.*, 87 Phil. 405 [1952].

[20] *Prieto v. Valdez*, 95 Phil. 46 [1954].

[21] Rule 75, Section 1.

[22] *Acaín v. Intermediate Appellate Court*, 155 SCRA 100 [1987]; *Pastor v. Court of Appeals*, 122 SCRA 885 [1983]; *Maninang v. Court of Appeals*, 114 SCRA 478 [1982].

[23] *Maninang v. Court of Appeals*, supra; *Sumilang v. Ramagosa*, 21 SCRA 1369 [1967]; *Cacho v. Udan*, 13 SCRA 693 [1965]; *Montanano v. Suesa*, 14 Phil. 676, 679-680 [1909].

[24] Reply to Opposition of Funds and Opposition to Omnibus Motion, pp. 1-3; Rollo, pp. 69-71.

[25] Motion for Reconsideration, p. 14; Rollo, p. 66.

[26] Rule 90, Section 1, paragraph 1; *Pimentel v. Palanca*, 5 Phil. 436 [1905]; II Regalado, Remedial Law Compendium 88 [1989].

[27] *Mananquil v. Villegas*, 189 SCRA 335 [1990].

[28] Emphasis supplied.

[29] Comment to the Petition, p. 9; Rollo, p. 98.

[30] *Salvador v. Sta. Maria*, 20 SCRA 603 [1967].

[31] *Noel v. Court of Appeals*, 240 SCRA 78, 89 [1995]; 3 Martin, Rules of Court of the Philippines 545-546 [1986] citing 21 Am. Jur. 370-371.

[32] Rule 81, Section 1; Rule 85, Sections 1 to 9.

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.