

**IN THE MATTER OF THE PETITION FOR THE SUMMARY
SETTLEMENT OF THE ESTATE LEFT BY THE DECEASED CARIDAD
PEREZ. BERNANDINO PEREZ, PETITIONER; AND APPELLEE,
VS. CONRADA PEREZ, ET AL.,...**

G.R. No. 12359. July 15, 1959

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This appeal does not belong here. Involving, as it does, the summary settlement of a testate estate worth P6,000.00 according to petitioner, or P10,000.00 according to oppositors, it should not have been brought directly to this Court from the Iloilo Court of First Instance, inasmuch as several questions of fact are raised in relation with testimonial evidence: for example, the soundness of the mind of the testatrix and her freedom from constraint in signing the will.

The printed brief makes no assignment expressly challenging the court's jurisdiction; but in discussing their second error, oppositors-appellants insist the lower court did not "acquire jurisdiction to receive the evidence for the allowance of the alleged will" because two heirs (Melanio Perez, Jr. and Milagros Perez) had not been notified in advance of the hearing for the allowance of such will.

In reply to this, the petitioner-appellee says the persons mentioned were not entitled to notice, since they were not forced heirs—grandnephew and niece—and had not been mentioned as legatees or devisees in the will of the deceased (Manahan vs. Manahan, 58 Phil., 448). And as to Milagros Perez, petitioner asserts that notice had been addressed to her last known residence in this country.

Thus it appears that such "no notice" argument has no legal foundation. At any rate the omission, if any, did not affect the jurisdiction of the court: it constituted a mere procedural-error that may or may not be the basis of, Reversal (Jocson vs. Nable, 48 Off. Gaz., 90). Indeed, this Tribunal has ruled that the court acquires jurisdiction over all persons interested in the estate through the publication of the petition in the newspapers (In re Estate of Johnson, 39 Phil., 159; Joson vs. Nable, *supra*)—which in this case admittedly took place.

Service of notice on individual heirs or legatees or devisees is a matter of procedural convenience, not jurisdictional requisite (Joson vs. Nable, *supra*) So much so that even if the names of some legatees or heirs had been omitted from the petition for allowance of the will and therefore were not advised—the decree allowing the will does not ipso facto become void for want of jurisdiction- (Nicholson vs. Leathan, 153 Pacific Reports, 965; Moran, Rules of Court, 1957 Ed., Vol. II, p. 355; see also In re Estate of Johnson, *supra*, and Manalo vs. Paredes, 47 Phil., 938.)

The result is that the matter of "jurisdiction" discussed by oppositors appears to be so unsubstantial as to furnish no reason to bypass the Court of Appeals authority to appraise the factual issues in the litigation. (Cf. People vs. Imas, 64 Phil., 419; Uy vs. Villafranca, 64 Phil., 561.) Needless, to add, in fine, the jurisdictional question directly

appealable to this Court refers to jurisdiction over the subject matter, not mere jurisdiction over the persons, (Reyes vs. Diaz, 73 Phil., 484; Bernabe vs. Vergara, 73 Phil., 676; Sy Oa vs. Co Ho, 74 Phil., 239.)

Wherefore, this record will be referred to the Court of Appeals for disposition in accordance with law.

Paras, C. J., Padilla, Montemayor, Bautista Angelo Labrador, Concepcion, Endencia, and Barrera JJ., concur.

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