

RODOLFO V. JAO, PETITIONER, VS. COURT OF APPEALS AND PERICO V. JAO, RESPONDENTS.*G.R. No. 128314. May 29, 2002*

Ponente: YNARES-SANTIAGO, J.

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Rodolfo and Perico Jao were the only sons of the spouses Ignacio Jao Tayag and Andrea V. Jao, who died intestate in 1988 and 1989, respectively. The decedents left real estate, cash, shares of stock and other personal properties.

On April 17, 1991, Perico instituted a petition for issuance of letters of administration before the Regional Trial Court of Quezon City, Branch 99, over the estate of his parents, docketed as Special Proceedings No. Q-91-8507.[1] Pending the appointment of a regular administrator, Perico moved that he be appointed as special administrator. He alleged that his brother, Rodolfo, was gradually dissipating the assets of the estate. More particularly, Rodolfo was receiving rentals from real properties without rendering any accounting, and forcibly opening vaults belonging to their deceased parents and disposing of the cash and valuables therein.

Rodolfo moved for the dismissal of the petition on the ground of improper venue.[2] He argued that the deceased spouses did not reside in Quezon City either during their lifetime or at the time of their deaths. The decedent's actual residence was in Angeles City, Pampanga, where his late mother used to run and operate a bakery. As the health of his parents deteriorated due to old age, they stayed in Rodolfo's residence at 61 Scout Gandia Street, Quezon City, solely for the purpose of obtaining medical treatment and hospitalization. Rodolfo submitted documentary evidence previously executed by the decedents, consisting of income tax returns, voter's affidavits, statements of assets and liabilities, real estate tax payments, motor vehicle registration and passports, all indicating that their permanent residence was in Angeles City, Pampanga.

In his opposition,[3] Perico countered that their deceased parents actually resided in Rodolfo's house in Quezon City at the time of their deaths. As a matter of fact, it was conclusively declared in their death certificates that their last residence before they died was at 61 Scout Gandia Street, Quezon City.[4] Rodolfo himself even supplied the entry appearing on the death certificate of their mother, Andrea, and affixed his own signature on the said document.

Rodolfo filed a rejoinder, stating that he gave the information regarding the decedents' residence on the death certificates in good faith and through honest mistake. He gave his residence only as reference, considering that their parents were treated in their late years at the Medical City General Hospital in Mandaluyong, Metro Manila. Their stay in his house was merely transitory, in the same way that they were taken at different times for the same purpose to Perico's residence at Legaspi Towers in Roxas Boulevard. The death certificates could not, therefore, be deemed conclusive evidence of the decedents' residence in light of the other documents showing otherwise.[5]

The court required the parties to submit their respective nominees for the position.[6] Both failed to comply, whereupon the trial court ordered that the petition be archived.[7]

Subsequently, Perico moved that the intestate proceedings be revived.[8] After the parties submitted the names of their respective nominees, the trial court designated Justice Carlos L. Sundiam as special administrator of the estate of Ignacio Jao Tayag and Andrea Jao.[9]

On April 6, 1994, the motion to dismiss filed by petitioner Rodolfo was denied, to wit:

A mere perusal of the death certificates of the spouses issued separately in 1988 and 1989, respectively, confirm the fact that Quezon City was the last place of residence of the decedents. Surprisingly, the entries appearing on the death certificate of Andrea V. Jao were supplied by movant, Rodolfo V. Jao, whose signature appears in said document. Movant, therefore, cannot disown his own representation by taking an inconsistent position other than his own admission. xxx xxx xxx.

WHEREFORE, in view of the foregoing consideration, this court DENIES for lack of merit movant's motion to dismiss.

SO ORDERED.[10]

Rodolfo filed a petition for certiorari with the Court of Appeals, which was docketed as CA-G.R. SP No. 35908. On December 11, 1996, the Court of Appeals rendered the assailed decision, the dispositive portion of which reads:

WHEREFORE, no error, much less any grave abuse of discretion of the court a quo having been shown, the petition for certiorari is hereby DISMISSED. The questioned order of the respondent Judge is affirmed in toto.

SO ORDERED.[11]

Rodolfo's motion for reconsideration was denied by the Court of Appeals in the assailed resolution dated February 17, 1997.[12] Hence, this petition for review, anchored on the following grounds:

I

RESPONDENT COURT HAD DECIDED A QUESTION OF SUBSTANCE IN A WAY NOT IN ACCORD WITH THE LAW AND IS DIRECTLY CONTRADICTORY TO THE APPLICABLE DECISION ALREADY RENDERED BY THIS HONORABLE COURT.

II

RESPONDENT COURT ERRED IN DISREGARDING THE RULING OF THIS HONORABLE COURT IN THE CASE OF EUSEBIO VS. EUSEBIO, 100 PHILS. 593, WHICH CLEARLY INTERPRETED WHAT IS MEANT BY RESIDENCE IN SEC. 1 OF RULE 73 OF THE RULES OF COURT.

III

RESPONDENT COURT ERRED IN HOLDING THAT PHYSICAL PRESENCE IN A PLACE AT THE TIME OF DEATH IS DETERMINATIVE OF DECEDENT'S RESIDENCE RATHER THAN THE INTENTION OF THE DECEDENTS TO ESTABLISH THEIR PERMANENT RESIDENCE IN ANOTHER PLACE.

IV

RESPONDENT COURT ERRED IN APPLYING BY ANALOGY THE RESIDENCE CONTEMPLATED IN SEC. 2 OF RULE 4 FOR THE PURPOSE OF SERVING SUMMONS TO A DEFENDANT IN A PERSONAL ACTION TO THE RESIDENCE CONTEMPLATED IN SEC. 1 OF RULE 73 FOR THE PURPOSE OF DETERMINING VENUE IN THE SETTLEMENT OF THE ESTATE OF A DECEASED.

V

RESPONDENT COURT ERRED IN GIVING MORE WEIGHT TO THE ENTRY OF PETITIONER AND PRIVATE RESPONDENT IN THE RESPECTIVE DEATH CERTIFICATES OF THE DECEDENTS RATHER THAN THE OVERWHELMING EVIDENCE SHOWING THE CLEAR INTENTION OF THE DECEDENTS TO ESTABLISH THEIR PERMANENT RESIDENCE IN ANGELES CITY.

VI

RESPONDENT COURT ERRED IN APPLYING THE PRINCIPLE OF ESTOPPEL AS AGAINST PETITIONER WHICH CAN NOT BE MORE PERSUASIVE THAN THE CLEAR INTENTION OF THE DECEDENTS THEMSELVES TO ESTABLISH PERMANENT RESIDENCE IN ANGELES CITY.

VII

RESPONDENT COURT ERRED IN DISMISSING THE PETITION FOR CERTIORARI DESPITE THE CLEAR ABUSE OF DISCRETION ON THE PART OF THE TRIAL COURT IN INSISTING TO TAKE COGNIZANCE OF SP. PROCEEDING NO. Q-91-8507.[13]

The main issue before us is: where should the settlement proceedings be had --- in Pampanga, where the decedents had their permanent residence, or in Quezon City, where they actually stayed before their demise?

Rule 73, Section 1 of the Rules of Court states:

Where estate of deceased persons be settled. – If the decedent is an inhabitant of the Philippines at the time of his death, whether a citizen or an alien, his will shall be proved, or letters of administration granted, and his estate settled, in the Court of First Instance in the province in which he resides at the time of his death, and if he is an inhabitant of a foreign country, the Court of First Instance of any province in which he had estate. The court first taking cognizance of the settlement of the estate of a decedent shall exercise jurisdiction to the exclusion of all other courts. The jurisdiction assumed by a court, so far as it depends on the place of residence of the decedent, or of the location of his estate, shall not be contested in a suit or proceeding, except in an appeal from that court, in the original case, or when the want of jurisdiction appears on the record. (underscoring ours)

Clearly, the estate of an inhabitant of the Philippines shall be settled or letters of administration granted in the proper court located in the province where the decedent resides at the time of his death.

Petitioner Rodolfo invokes our ruling in the case of *Eusebio v. Eusebio, et al.*, [14] where we held that the situs of settlement proceedings shall be the place where the decedent had his permanent residence or domicile at the time of death. In determining residence at the time of death, the following factors must be considered, namely, the decedent had: (a) capacity to choose and freedom of choice; (b) physical presence at the place chosen; and (c) intention to stay therein permanently.[15] While it appears that the decedents in this case chose to be physically present in Quezon City for medical convenience, petitioner avers that they never adopted Quezon City as their permanent residence.

The contention lacks merit.

The facts in *Eusebio* were different from those in the case at bar. The decedent therein, Andres Eusebio, passed away while in the process of transferring his personal belongings to a house in Quezon City. He was then suffering from a heart ailment and was advised by his doctor/son to purchase a Quezon City residence, which was nearer to his doctor. While he was able to acquire a house in Quezon City, Eusebio died even before he could move therein. In said case, we ruled that Eusebio retained his domicile --- and hence, residence --- in San Fernando, Pampanga. It cannot be said that Eusebio changed his residence because, strictly speaking, his physical presence in Quezon City was just temporary.

In the case at bar, there is substantial proof that the decedents have transferred to petitioner's Quezon City residence. Petitioner failed to sufficiently refute respondent's assertion that their elderly parents stayed in his house for some three to four years before they died in the late 1980s.

Furthermore, the decedents' respective death certificates state that they were both residents of Quezon City at the time of their demise. Significantly, it was petitioner himself who filled up his late mother's death certificate. To our mind, this unqualifiedly shows that at that time, at least, petitioner recognized his deceased mother's residence to be Quezon City. Moreover, petitioner failed to contest the entry in Ignacio's death certificate, accomplished a year earlier by respondent.

The recitals in the death certificates, which are admissible in evidence, were thus properly considered and presumed to be correct by the court a quo. We agree with the appellate court's observation that since the death certificates were accomplished even before petitioner and respondent quarreled over their inheritance, they may be relied upon to reflect the true situation at the time of their parents' death.

The death certificates thus prevailed as proofs of the decedents' residence at the time of death, over the numerous documentary evidence presented by petitioner. To be sure, the documents presented by petitioner pertained not to residence at the time of death, as required by the Rules of Court, but to permanent residence or domicile. In *Garcia-Fule v. Court of Appeals*,^[16] we held:

xxx xxx xxx the term "resides" connotes *ex vi termini* "actual residence" as distinguished from "legal residence or domicile." This term "resides", like the terms "residing" and "residence", is elastic and should be interpreted in the light of the object or purpose of the statute or rule in which it is employed. In the application of venue statutes and rules – Section 1, Rule 73 of the Revised Rules of Court is of such nature – residence rather than domicile is the significant factor. Even where the statute uses the word "domicile" still it is construed as meaning residence and not domicile in the technical sense. Some cases make a distinction between the terms "residence" and "domicile" but as generally used in statutes fixing venue, the terms are synonymous, and convey the same meaning as the term "inhabitant." In other words, "resides" should be viewed or understood in its popular sense, meaning, the personal, actual or physical habitation of a person, actual residence or place of abode. It signifies physical presence in a place and actual stay thereat. In this popular sense, the term means merely residence, that is, personal residence, not legal residence or domicile. Residence simply requires bodily presence as an inhabitant in a given place, while domicile requires bodily presence in that place and also an intention to make it one's domicile. No particular length of time of residence is required though; however, the residence must be more than temporary.^[17]

Both the settlement court and the Court of Appeals found that the decedents have been living with petitioner at the time of their deaths and for some time prior thereto. We find this conclusion to be substantiated by the evidence on record. A close perusal of the challenged decision shows that, contrary to petitioner's assertion, the court below considered not only the decedents' physical presence in Quezon City, but also other factors indicating that the decedents' stay therein was more than temporary. In the absence of any substantial showing that the lower courts' factual findings stemmed from an erroneous apprehension of the evidence presented, the same must be held to be conclusive and binding upon this Court.

Petitioner strains to differentiate between the venue provisions found in Rule 4, Section 2,^[18] on ordinary civil actions, and Rule 73, Section 1, which applies specifically to settlement proceedings. He argues that while venue in the former understandably refers to actual physical residence for the purpose of serving summons, it is the permanent residence of the decedent which is significant in Rule 73, Section 1. Petitioner insists that venue for the settlement of estates can only refer to permanent residence or domicile because it is the place where the records of the properties are kept and where most of the decedents' properties are located.

Petitioner's argument fails to persuade.

It does not necessarily follow that the records of a person's properties are kept in the place where he permanently resides. Neither can it be presumed that a person's properties can be found mostly in the place where he establishes his domicile. It may be that he has his domicile in a place different from that where he keeps his records, or where he maintains extensive personal and business interests. No generalizations can thus be formulated on the matter, as the question of where to keep records or retain properties is entirely dependent upon an individual's choice and peculiarities.

At any rate, petitioner is obviously splitting straws when he differentiates between venue in ordinary civil actions and venue in special proceedings. In *Raymond v. Court of Appeals*[19] and *Bejer v. Court of Appeals*,[20] we ruled that venue for ordinary civil actions and that for special proceedings have one and the same meaning. As thus defined, "residence", in the context of venue provisions, means nothing more than a person's actual residence or place of abode, provided he resides therein with continuity and consistency.[21] All told, the lower court and the Court of Appeals correctly held that venue for the settlement of the decedents' intestate estate was properly laid in the Quezon City court.

WHEREFORE, in view of the foregoing, the petition is DENIED, and the decision of the Court of Appeals in CA-G.R. SP No. 35908 is AFFIRMED.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Austria-Martinez, JJ., concur.

[1] Rollo, p. 87.

[2] *Ibid.*, p. 91.

[3] *Id.*, p. 95.

[4] CA Rollo, pp. 34 & 35.

[5] Rollo, p. 101.

[6] Record, p. 50.

[7] *Ibid.*, p. 51.

[8] *Id.*, p. 55.

[9] *Id.*, p. 108.

[10] Rollo, p. 110; penned by Presiding Judge Felix M. de Guzman.

[11] *Ibid.*, p. 71; penned by Associate Justice Corona Ibay-Somera; concurred in by Associate Justices Jaime M. Lantin and Salvador J. Valdez, Jr.

[12] *Id.*, p. 73.

[13] *Id.*, pp. 23-24.

[14] 100 Phil., 593 (1956).

[15] *Ibid.*, at 596, citing *Minor, Conflict of Laws*, pp. 109-110; *Goodrich, Conflict of Laws*, p. 169; *Velilla v.*

Posadas, 62 Phil., 624; and Zuellig v. Republic of the Philippines, 46 O.G. Supp. No. 11, p. 220.

[16] 74 SCRA 189 (1976).

[17] Ibid., at 199-200.

[18] SEC. 2. Venue of personal actions. – All other actions may be commenced and tried where the plaintiff or any of the principal plaintiffs resides, or where the defendant or any of the principal defendants resides, or in the case of a non-resident defendant, where he may be found, at the election of the plaintiff.

[19] 166 SCRA 50 (1988).

[20] 169 SCRA 566 (1989).

[21] Ibid., at 571, citing Garcia-Fule v. Court of Appeals, supra, and Dangwa Transportation Co., Inc. v. Sarmiento et al., 75 SCRA 124 (1977).

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