

**JOSE C. LEE AND ALMA AGGABAO, IN THEIR CAPACITIES AS
PRESIDENT AND CORPORATE SECRETARY, RESPECTIVELY, OF
PHILIPPINES INTERNATIONAL LIFE INSURANCE COMPANY, AND
FILIPINO LOAN ASSIS...**

G.R. No. 146006. February 23, 2004

Ponente: CARPIO, J.

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CARPIO, J.:

This is a petition for review under Rule 45 of the Rules of Court seeking to reverse and set aside the decision^[1] of the Court of Appeals, First Division, dated July 26, 2000, in CA G.R. 59736, which dismissed the petition for certiorari filed by petitioners Jose C. Lee and Alma Aggabao (in their capacities as president and secretary, respectively, of Philippine International Life Insurance Company) and Filipino Loan Assistance Group.

The antecedent facts follow.

Dr. Juvencio P. Ortáñez incorporated the Philippine International Life Insurance Company, Inc. on July 6, 1956. At the time of the company's incorporation, Dr. Ortáñez owned ninety percent (90%) of the subscribed capital stock.

On July 21, 1980, Dr. Ortáñez died. He left behind a wife (Juliana Salgado Ortáñez), three legitimate children (Rafael, Jose and Antonio Ortáñez) and five illegitimate children by Ligaya Novicio (herein private respondent Ma. Divina Ortáñez-Enderes and her siblings Jose, Romeo, Enrico Manuel and Cesar, all surnamed Ortáñez).^[2]

On September 24, 1980, Rafael Ortáñez filed before the Court of First Instance of Rizal, Quezon City Branch (now Regional Trial Court of Quezon City) a petition for letters of administration of the intestate estate of Dr. Ortáñez, docketed as SP Proc. Q-30884 (which petition to date remains pending at Branch 85 thereof).

Private respondent Ma. Divina Ortáñez-Enderes and her siblings filed an opposition to the petition for letters of administration and, in a subsequent urgent motion, prayed that the intestate court appoint a special administrator.

On March 10, 1982, Judge Ernani Cruz Paño, then presiding judge of Branch 85, appointed Rafael and Jose Ortáñez joint special administrators of their father's estate. Hearings continued for the appointment of a regular administrator (up to now no regular administrator has been appointed).

As ordered by the intestate court, special administrators Rafael and Jose Ortáñez submitted an inventory of the estate of their father which included, among other properties, 2,029^[3] shares of stock in Philippine International Life Insurance Company (hereafter Philinterlife), representing 50.725% of the company's outstanding capital stock.

On April 15, 1989, the decedent's wife, Juliana S. Ortáñez, claiming that she owned 1,014^[4] Philinterlife shares of stock as her conjugal share in the estate, sold said shares with right to repurchase in favor of herein petitioner Filipino Loan Assistance Group (FLAG), represented by its president, herein petitioner Jose C. Lee. Juliana

Ortañez failed to repurchase the shares of stock within the stipulated period, thus ownership thereof was consolidated by petitioner FLAG in its name.

On October 30, 1991, Special Administrator Jose Ortañez, acting in his personal capacity and claiming that he owned the remaining 1,011[5] Philinterlife shares of stocks as his inheritance share in the estate, sold said shares with right to repurchase also in favor of herein petitioner FLAG, represented by its president, herein petitioner Jose C. Lee. After one year, petitioner FLAG consolidated in its name the ownership of the Philinterlife shares of stock when Jose Ortañez failed to repurchase the same.

It appears that several years before (but already during the pendency of the intestate proceedings at the Regional Trial Court of Quezon City, Branch 85), Juliana Ortañez and her two children, Special Administrators Rafael and Jose Ortañez, entered into a memorandum of agreement dated March 4, 1982 for the extrajudicial settlement of the estate of Dr. Juvencio Ortañez, partitioning the estate (including the Philinterlife shares of stock) among themselves. This was the basis of the number of shares separately sold by Juliana Ortañez on April 15, 1989 (1,014 shares) and by Jose Ortañez on October 30, 1991 (1,011 shares) in favor of herein petitioner FLAG.

On July 12, 1995, herein private respondent Ma. Divina Ortañez–Enderes and her siblings (hereafter referred to as private respondents Enderes et al.) filed a motion for appointment of special administrator of Philinterlife shares of stock. This move was opposed by Special Administrator Jose Ortañez.

On November 8, 1995, the intestate court granted the motion of private respondents Enderes et al. and appointed private respondent Enderes special administratrix of the Philinterlife shares of stock.

On December 20, 1995, Special Administratrix Enderes filed an urgent motion to declare void ab initio the memorandum of agreement dated March 4, 1982. On January 9, 1996, she filed a motion to declare the partial nullity of the extrajudicial settlement of the decedent's estate. These motions were opposed by Special Administrator Jose Ortañez.

On March 22, 1996, Special Administratrix Enderes filed an urgent motion to declare void ab initio the deeds of sale of Philinterlife shares of stock, which move was again opposed by Special Administrator Jose Ortañez.

On February 4, 1997, Jose Ortañez filed an omnibus motion for (1) the approval of the deeds of sale of the Philinterlife shares of stock and (2) the release of Ma. Divina Ortañez-Enderes as special administratrix of the Philinterlife shares of stock on the ground that there were no longer any shares of stock for her to administer.

On August 11, 1997, the intestate court denied the omnibus motion of Special Administrator Jose Ortañez for the approval of the deeds of sale for the reason that:

Under the Godoy case, supra, it was held in substance that a sale of a property of the estate without an Order of the probate court is void and passes no title to the purchaser. Since the sales in question were entered into by Juliana S. Ortañez and Jose S. Ortañez in their personal capacity without prior approval of the Court, the same is not binding upon the Estate.

WHEREFORE, the OMNIBUS MOTION for the approval of the sale of Philinterlife shares of stock and release of Ma. Divina Ortañez-Enderes as Special Administratrix is hereby denied.[6]

On August 29, 1997, the intestate court issued another order granting the motion of Special Administratrix Enderes for the annulment of the March 4, 1982 memorandum of agreement or extrajudicial partition of estate. The court reasoned that:

In consonance with the Order of this Court dated August 11, 1997 DENYING the approval of the sale of Philinterlife shares of stocks and release of Ma. Divina Ortañez-Enderes as Special Administratrix, the "Urgent

Motion to Declare Void Ab Initio Memorandum of Agreement” dated December 19, 1995. . . is hereby impliedly partially resolved insofar as the transfer/waiver/renunciation of the Philinterlife shares of stock are concerned, in particular, No. 5, 9(c), 10(b) and 11(d)(ii) of the Memorandum of Agreement.

WHEREFORE, this Court hereby declares the Memorandum of Agreement dated March 4, 1982 executed by Juliana S. Ortañez, Rafael S. Ortañez and Jose S. Ortañez as partially void ab initio insofar as the transfer/waiver/renunciation of the Philinterlife shares of stocks are concerned.[7]

Aggrieved by the above-stated orders of the intestate court, Jose Ortañez filed, on December 22, 1997, a petition for certiorari in the Court of Appeals. The appellate court denied his petition, however, ruling that there was no legal justification whatsoever for the extrajudicial partition of the estate by Jose Ortañez, his brother Rafael Ortañez and mother Juliana Ortañez during the pendency of the settlement of the estate of Dr. Ortañez, without the requisite approval of the intestate court, when it was clear that there were other heirs to the estate who stood to be prejudiced thereby. Consequently, the sale made by Jose Ortañez and his mother Juliana Ortañez to FLAG of the shares of stock they invalidly appropriated for themselves, without approval of the intestate court, was void.[8]

Special Administrator Jose Ortañez filed a motion for reconsideration of the Court of Appeals decision but it was denied. He elevated the case to the Supreme Court via petition for review under Rule 45 which the Supreme Court dismissed on October 5, 1998, on a technicality. His motion for reconsideration was denied with finality on January 13, 1999. On February 23, 1999, the resolution of the Supreme Court dismissing the petition of Special Administrator Jose Ortañez became final and was subsequently recorded in the book of entries of judgments.

Meanwhile, herein petitioners Jose Lee and Alma Aggabao, with the rest of the FLAG-controlled board of directors, increased the authorized capital stock of Philinterlife, diluting in the process the 50.725% controlling interest of the decedent, Dr. Juvencio Ortañez, in the insurance company.[9] This became the subject of a separate action at the Securities and Exchange Commission filed by private respondent-Special Administratrix Enderes against petitioner Jose Lee and other members of the FLAG-controlled board of Philinterlife on November 7, 1994. Thereafter, various cases were filed by Jose Lee as president of Philinterlife and Juliana Ortañez and her sons against private respondent-Special Administratrix Enderes in the SEC and civil courts.[10] Somehow, all these cases were connected to the core dispute on the legality of the sale of decedent Dr. Ortañez’s Philinterlife shares of stock to petitioner FLAG, represented by its president, herein petitioner Jose Lee who later became the president of Philinterlife after the controversial sale.

On May 2, 2000, private respondent-Special Administratrix Enderes and her siblings filed a motion for execution of the Orders of the intestate court dated August 11 and August 29, 1997 because the orders of the intestate court nullifying the sale (upheld by the Court of Appeals and the Supreme Court) had long become final. Respondent-Special Administratrix Enderes served a copy of the motion to petitioners Jose Lee and Alma Aggabao as president and secretary, respectively, of Philinterlife,[11] but petitioners ignored the same.

On July 6, 2000, the intestate court granted the motion for execution, the dispositive portion of which read:

WHEREFORE, premises considered, let a writ of execution issue as follows:

1. Confirming the nullity of the sale of the 2,029 Philinterlife shares in the name of the Estate of Dr. Juvencio Ortañez to Filipino Loan Assistance Group (FLAG);
2. Commanding the President and the Corporate Secretary of Philinterlife to reinstate in the stock and transfer book of Philinterlife the 2,029 Philinterlife shares of stock in the name of the Estate of Dr. Juvencio P. Ortañez as the owner thereof without prejudice to other claims for violation of pre-emptive rights pertaining to the said 2,029 Philinterlife shares;

3. Directing the President and the Corporate Secretary of Philinterlife to issue stock certificates of Philinterlife for 2,029 shares in the name of the Estate of Dr. Juvencio P. Ort  ez as the owner thereof without prejudice to other claims for violations of pre-emptive rights pertaining to the said 2,029 Philinterlife shares and,
4. Confirming that only the Special Administratrix, Ma. Divina Ort  ez-Enderes, has the power to exercise all the rights appurtenant to the said shares, including the right to vote and to receive dividends.
5. Directing Philinterlife and/or any other person or persons claiming to represent it or otherwise, to acknowledge and allow the said Special Administratrix to exercise all the aforesaid rights on the said shares and to refrain from resorting to any action which may tend directly or indirectly to impede, obstruct or bar the free exercise thereof under pain of contempt.
6. The President, Corporate Secretary, any responsible officer/s of Philinterlife, or any other person or persons claiming to represent it or otherwise, are hereby directed to comply with this order within three (3) days from receipt hereof under pain of contempt.
7. The Deputy Sheriffs Adenauer Rivera and Pedro Borja are hereby directed to implement the writ of execution with dispatch to forestall any and/or further damage to the Estate.

SO ORDERED.[12]

In the several occasions that the sheriff went to the office of petitioners to execute the writ of execution, he was barred by the security guard upon petitioners' instructions. Thus, private respondent-Special Administratrix Enderes filed a motion to cite herein petitioners Jose Lee and Alma Aggabao (president and secretary, respectively, of Philinterlife) in contempt.[13]

Petitioners Lee and Aggabao subsequently filed before the Court of Appeals a petition for certiorari, docketed as CA G.R. SP No. 59736. Petitioners alleged that the intestate court gravely abused its discretion in (1) declaring that the ownership of FLAG over the Philinterlife shares of stock was null and void; (2) ordering the execution of its order declaring such nullity and (3) depriving the petitioners of their right to due process.

On July 26, 2000, the Court of Appeals dismissed the petition outright:

We are constrained to DISMISS OUTRIGHT the present petition for certiorari and prohibition with prayer for a temporary restraining order and/or writ of preliminary injunction in the light of the following considerations:

1. The assailed Order dated August 11, 1997 of the respondent judge had long become final and executory;
2. The certification on non-forum shopping is signed by only one (1) of the three (3) petitioners in violation of the Rules; and
3. Except for the assailed orders and writ of execution, deed of sale with right to repurchase, deed of sale of shares of stocks and omnibus motion, the petition is not accompanied by such pleadings, documents and other material portions of the record as would support the allegations therein in violation of the second paragraph, Rule 65 of the 1997 Rules of Civil Procedure, as amended.

Petition is DISMISSED.

SO ORDERED.[14]

The motion for reconsideration filed by petitioners Lee and Aggabao of the above decision was denied by the Court of Appeals on October 30, 2000:

This resolves the "urgent motion for reconsideration" filed by the petitioners of our resolution of July 26, 2000 dismissing outrightly the above-entitled petition for the reason, among others, that the assailed Order dated August 11, 1997 of the respondent Judge had long become final and executory.

Dura lex, sed lex.

WHEREFORE, the urgent motion for reconsideration is hereby DENIED, for lack of merit.

SO ORDERED.[15]

On December 4, 2000, petitioners elevated the case to the Supreme Court through a petition for review under Rule 45 but on December 13, 2000, we denied the petition because there was no showing that the Court of Appeals in CA G.R. SP No. 59736 committed any reversible error to warrant the exercise by the Supreme Court of its discretionary appellate jurisdiction.[16]

However, upon motion for reconsideration filed by petitioners Lee and Aggabao, the Supreme Court granted the motion and reinstated their petition on September 5, 2001. The parties were then required to submit their respective memoranda.

Meanwhile, private respondent-Special Administratrix Enderes, on July 19, 2000, filed a motion to direct the branch clerk of court in lieu of herein petitioners Lee and Aggabao to reinstate the name of Dr. Ortañez in the stock and transfer book of Philinterlife and issue the corresponding stock certificate pursuant to Section 10, Rule 39 of the Rules of Court which provides that “the court may direct the act to be done at the cost of the disobedient party by some other person appointed by the court and the act when so done shall have the effect as if done by the party.” Petitioners Lee and Aggabao opposed the motion on the ground that the intestate court should refrain from acting on the motion because the issues raised therein were directly related to the issues raised by them in their petition for certiorari at the Court of Appeals docketed as CA-G.R. SP No. 59736. On October 30, 2000, the intestate court granted the motion, ruling that there was no prohibition for the intestate court to execute its orders inasmuch as the appellate court did not issue any TRO or writ of preliminary injunction.

On December 3, 2000, petitioners Lee and Aggabao filed a petition for certiorari in the Court of Appeals, docketed as CA-G.R. SP No. 62461, questioning this time the October 30, 2000 order of the intestate court directing the branch clerk of court to issue the stock certificates. They also questioned in the Court of Appeals the order of the intestate court nullifying the sale made in their favor by Juliana Ortañez and Jose Ortañez. On November 20, 2002, the Court of Appeals denied their petition and upheld the power of the intestate court to execute its order. Petitioners Lee and Aggabao then filed motion for reconsideration which at present is still pending resolution by the Court of Appeals.

Petitioners Jose Lee and Alma Aggabao (president and secretary, respectively, of Philinterlife) and FLAG now raise the following errors for our consideration:

The Court of Appeals committed grave reversible ERROR:

- A. In failing to reconsider its previous resolution denying the petition despite the fact that the appellate court’s mistake in apprehending the facts had become patent and evident from the motion for reconsideration and the comment of respondent Enderes which had admitted the factual allegations of petitioners in the petition as well as in the motion for reconsideration. Moreover, the resolution of the appellate court denying the motion for reconsideration was contained in only one page without even touching on the substantive merits of the exhaustive discussion of facts and supporting law in the motion for reconsideration in violation of the Rule on administrative due process;
- B. in failing to set aside the void orders of the intestate court on the erroneous ground that the orders were final and executory with regard to petitioners even as the latter were never notified of the proceedings or order canceling its ownership;
- C. in not finding that the intestate court committed grave abuse of discretion amounting to excess of

jurisdiction (1) when it issued the Omnibus Order nullifying the ownership of petitioner FLAG over shares of stock which were alleged to be part of the estate and (2) when it issued a void writ of execution against petitioner FLAG as present owner to implement merely provisional orders, thereby violating FLAG's constitutional right against deprivation of property without due process;

D. In failing to declare null and void the orders of the intestate court which nullified the sale of shares of stock between the legitimate heir Jose S. Ortáñez and petitioner FLAG because of settled law and jurisprudence, i.e., that an heir has the right to dispose of the decedent's property even if the same is under administration pursuant to Civil Code provision that possession of hereditary property is transmitted to the heir the moment of death of the decedent (*Acedebo vs. Abesamis*, 217 SCRA 194);

E. In disregarding the final decision of the Supreme Court in G.R. No. 128525 dated December 17, 1999 involving substantially the same parties, to wit, petitioners Jose C. Lee and Alma Aggabao were respondents in that case while respondent Ma. Divina Enderes was the petitioner therein. That decision, which can be considered law of the case, ruled that petitioners cannot be enjoined by respondent Enderes from exercising their power as directors and officers of Philinterlife and that the intestate court in charge of the intestate proceedings cannot adjudicate title to properties claimed to be part of the estate and which are equally CLAIMED BY petitioner FLAG.[17]

The petition has no merit.

Petitioners Jose Lee and Alma Aggabao, representing Philinterlife and FLAG, assail before us not only the validity of the writ of execution issued by the intestate court dated July 7, 2000 but also the validity of the August 11, 1997 order of the intestate court nullifying the sale of the 2,029 Philinterlife shares of stock made by Juliana Ortáñez and Jose Ortáñez, in their personal capacities and without court approval, in favor of petitioner FLAG.

We cannot allow petitioners to reopen the issue of nullity of the sale of the Philinterlife shares of stock in their favor because this was already settled a long time ago by the Court of Appeals in its decision dated June 23, 1998 in CA-G.R. SP No. 46342. This decision was effectively upheld by us in our resolution dated October 9, 1998 in G.R. No. 135177 dismissing the petition for review on a technicality and thereafter denying the motion for reconsideration on January 13, 1999 on the ground that there was no compelling reason to reconsider said denial.[18] Our decision became final on February 23, 1999 and was accordingly entered in the book of entry of judgments. For all intents and purposes therefore, the nullity of the sale of the Philinterlife shares of stock made by Juliana Ortáñez and Jose Ortáñez in favor of petitioner FLAG is already a closed case. To reopen said issue would set a bad precedent, opening the door wide open for dissatisfied parties to relitigate unfavorable decisions no end. This is completely inimical to the orderly and efficient administration of justice.

The said decision of the Court of Appeals in CA-G.R. SP No. 46342 affirming the nullity of the sale made by Jose Ortáñez and his mother Juliana Ortáñez of the Philinterlife shares of stock read:

Petitioner's asseverations relative to said [memorandum] agreement were scuttled during the hearing before this Court thus:

JUSTICE AQUINO:

Counsel for petitioner, when the Memorandum of Agreement was executed, did the children of Juliana Salgado know already that there was a claim for share in the inheritance of the children of Novicio?

ATTY. CALIMAG:

Your Honor please, at that time, Your Honor, it is already known to them.

JUSTICE AQUINO:

What can be your legal justification for extrajudicial settlement of a property subject of intestate proceedings when there is an adverse claim of another set of heirs, alleged heirs? What would be the legal justification for extra-judicially settling a property under administration without the approval of the intestate court?

ATTY. CALIMAG:

Well, Your Honor please, in that extra-judicial settlement there is an approval of the honorable court as to the property's partition x x x. There were as mentioned by the respondents' counsel, Your Honor.

ATTY. BUYCO:

No...

JUSTICE AQUINO:

The point is, there can be no adjudication of a property under intestate proceedings without the approval of the court. That is basic unless you can present justification on that. In fact, there are two steps: first, you ask leave and then execute the document and then ask for approval of the document executed. Now, is there any legal justification to exclude this particular transaction from those steps?

ATTY. CALIMAG:

None, Your Honor.

ATTY BUYCO:

With that admission that there is no legal justification, Your Honor, we rest the case for the private respondent. How can the lower court be accused of abusing its discretion? (pages 33-35, TSN of January 29, 1998).

Thus, We find merit in the following postulation by private respondent:

What we have here is a situation where some of the heirs of the decedent without securing court approval have appropriated as their own personal property the properties of [the] Estate, to the exclusion and the extreme prejudice of the other claimant/heirs. In other words, these heirs, without court approval, have distributed the asset of the estate among themselves and proceeded to dispose the same to third parties even in the absence of an order of distribution by the Estate Court. As admitted by petitioner's counsel, there was absolutely no legal

justification for this action by the heirs. There being no legal justification, petitioner has no basis for demanding that public respondent [the intestate court] approve the sale of the Philinterlife shares of the Estate by Juliana and Jose Ort   ez in favor of the Filipino Loan Assistance Group.

It is an undisputed fact that the parties to the Memorandum of Agreement dated March 4, 1982 (see Annex 7 of the Comment). . . are not the only heirs claiming an interest in the estate left by Dr. Juvencio P. Ort   ez. The records of this case. . . clearly show that as early as March 3, 1981 an Opposition to the Application for Issuance of Letters of Administration was filed by the acknowledged natural children of Dr. Juvencio P. Ort   ez with Ligaya Novicio. . . This claim by the acknowledged natural children of Dr. Juvencio P. Ort   ez is admittedly known to the parties to the Memorandum of Agreement before they executed the same. This much was admitted by petitioner's counsel during the oral argument. xxx

Given the foregoing facts, and the applicable jurisprudence, public respondent can never be faulted for not approving. . . the subsequent sale by the petitioner [Jose Ort   ez] and his mother [Juliana Ort   ez] of the Philinterlife shares belonging to the Estate of Dr. Juvencio P. Ort   ez." (pages 3-4 of Private Respondent's Memorandum; pages 243-244 of the Rollo)

Amidst the foregoing, We found no grave abuse of discretion amounting to excess or want of jurisdiction committed by respondent judge.[19]

From the above decision, it is clear that Juliana Ort   ez, and her three sons, Jose, Rafael and Antonio, all surnamed Ort   ez, invalidly entered into a memorandum of agreement extrajudicially partitioning the intestate estate among themselves, despite their knowledge that there were other heirs or claimants to the estate and before final settlement of the estate by the intestate court. Since the appropriation of the estate properties by Juliana Ort   ez and her children (Jose, Rafael and Antonio Ort   ez) was invalid, the subsequent sale thereof by Juliana and Jose to a third party (FLAG), without court approval, was likewise void.

An heir can sell his right, interest, or participation in the property under administration under Art. 533 of the Civil Code which provides that possession of hereditary property is deemed transmitted to the heir without interruption from the moment of death of the decedent.[20] However, an heir can only alienate such portion of the estate that may be allotted to him in the division of the estate by the probate or intestate court after final adjudication, that is, after all debtors shall have been paid or the devisees or legatees shall have been given their shares.[21] This means that an heir may only sell his ideal or undivided share in the estate, not any specific property therein. In the present case, Juliana Ort   ez and Jose Ort   ez sold specific properties of the estate (1,014 and 1,011 shares of stock in Philinterlife) in favor of petitioner FLAG. This they could not lawfully do pending the final adjudication of the estate by the intestate court because of the undue prejudice it would cause the other claimants to the estate, as what happened in the present case.

Juliana Ort   ez and Jose Ort   ez sold specific properties of the estate, without court approval. It is well-settled that court approval is necessary for the validity of any disposition of the decedent's estate. In the early case of *Godoy vs. Orellano*,[22] we laid down the rule that the sale of the property of the estate by an administrator without the order of the probate court is void and passes no title to the purchaser. And in the case of *Dillena vs. Court of Appeals*,[23] we ruled that:

[I]t must be emphasized that the questioned properties (fishpond) were included in the inventory of properties of the estate submitted by then Administratrix Fausta Carreon Herrera on November 14, 1974. Private respondent was appointed as administratrix of the estate on March 3, 1976 in lieu of Fausta Carreon Herrera. On November 1, 1978, the questioned deed of sale of the fishponds was executed between petitioner and private respondent without notice and approval of the probate court. Even after the sale, administratrix Aurora Carreon still included the three fishponds as among the real properties of the estate in her inventory submitted on August 13, 1981. In fact, as stated by the Court of Appeals, petitioner, at the time of the sale of the

fishponds in question, knew that the same were part of the estate under administration.

x x x x x x x x

The subject properties therefore are under the jurisdiction of the probate court which according to our settled jurisprudence has the authority to approve any disposition regarding properties under administration. . . More emphatic is the declaration We made in *Estate of Olave vs. Reyes* (123 SCRA 767) where We stated that when the estate of the deceased person is already the subject of a testate or intestate proceeding, the administrator cannot enter into any transaction involving it without prior approval of the probate court.

Only recently, in *Manotok Realty, Inc. vs. Court of Appeals* (149 SCRA 174), We held that the sale of an immovable property belonging to the estate of a decedent, in a special proceedings, needs court approval. . . This pronouncement finds support in the previous case of *Dolores Vda. De Gil vs. Agustin Cancio* (14 SCRA 797) wherein We emphasized that it is within the jurisdiction of a probate court to approve the sale of properties of a deceased person by his prospective heirs before final adjudication. x x x

It being settled that property under administration needs the approval of the probate court before it can be disposed of, any unauthorized disposition does not bind the estate and is null and void. As early as 1921 in the case of *Godoy vs. Orellano* (42 Phil 347), We laid down the rule that a sale by an administrator of property of the deceased, which is not authorized by the probate court is null and void and title does not pass to the purchaser.

There is hardly any doubt that the probate court can declare null and void the disposition of the property under administration, made by private respondent, the same having been effected without authority from said court. It is the probate court that has the power to authorize and/or approve the sale (Section 4 and 7, Rule 89), hence, a fortiori, it is said court that can declare it null and void for as long as the proceedings had not been closed or terminated. To uphold petitioner's contention that the probate court cannot annul the unauthorized sale, would render meaningless the power pertaining to the said court. (*Bonga vs. Soler*, 2 SCRA 755). (emphasis ours)

Our jurisprudence is therefore clear that (1) any disposition of estate property by an administrator or prospective heir pending final adjudication requires court approval and (2) any unauthorized disposition of estate property can be annulled by the probate court, there being no need for a separate action to annul the unauthorized disposition.

The question now is: can the intestate or probate court execute its order nullifying the invalid sale?

We see no reason why it cannot. The intestate court has the power to execute its order with regard to the nullity of an unauthorized sale of estate property, otherwise its power to annul the unauthorized or fraudulent disposition of estate property would be meaningless. In other words, enforcement is a necessary adjunct of the intestate or probate court's power to annul unauthorized or fraudulent transactions to prevent the dissipation of estate property before final adjudication.

Moreover, in this case, the order of the intestate court nullifying the sale was affirmed by the appellate courts (the Court of Appeals in CA-G.R. SP No. 46342 dated June 23, 1998 and subsequently by the Supreme Court in G.R. No. 135177 dated October 9, 1998). The finality of the decision of the Supreme Court was entered in the book of entry of judgments on February 23, 1999. Considering the finality of the order of the intestate court nullifying the sale, as affirmed by the appellate courts, it was correct for private respondent-Special Administratrix Enderes to thereafter move for a writ of execution and for the intestate court to grant it.

Petitioners Jose Lee, Alma Aggabao and FLAG, however, contend that the probate court could not issue a writ of execution with regard to its order nullifying the sale because said order was merely provisional:

The only authority given by law is for respondent judge to determine provisionally whether said shares are included or excluded in the inventory... In ordering the execution of the orders, respondent judge acted in

excess of his jurisdiction and grossly violated settled law and jurisprudence, i.e., that the determination by a probate or intestate court of whether a property is included or excluded in the inventory of the estate being provisional in nature, cannot be the subject of execution.[24] (emphasis ours)

Petitioners' argument is misplaced. There is no question, based on the facts of this case, that the Philinterlife shares of stock were part of the estate of Dr. Juvencio Ortañez from the very start as in fact these shares were included in the inventory of the properties of the estate submitted by Rafael Ortañez after he and his brother, Jose Ortañez, were appointed special administrators by the intestate court.[25]

The controversy here actually started when, during the pendency of the settlement of the estate of Dr. Ortañez, his wife Juliana Ortañez sold the 1,014 Philinterlife shares of stock in favor petitioner FLAG without the approval of the intestate court. Her son Jose Ortañez later sold the remaining 1,011 Philinterlife shares also in favor of FLAG without the approval of the intestate court.

We are not dealing here with the issue of inclusion or exclusion of properties in the inventory of the estate because there is no question that, from the very start, the Philinterlife shares of stock were owned by the decedent, Dr. Juvencio Ortañez. Rather, we are concerned here with the effect of the sale made by the decedent's heirs, Juliana Ortañez and Jose Ortañez, without the required approval of the intestate court. This being so, the contention of petitioners that the determination of the intestate court was merely provisional and should have been threshed out in a separate proceeding is incorrect.

The petitioners Jose Lee and Alma Aggabao next contend that the writ of execution should not be executed against them because they were not notified, nor they were aware, of the proceedings nullifying the sale of the shares of stock.

We are not persuaded. The title of the purchaser like herein petitioner FLAG can be struck down by the intestate court after a clear showing of the nullity of the alienation. This is the logical consequence of our ruling in Godoy and in several subsequent cases.[26] The sale of any property of the estate by an administrator or prospective heir without order of the probate or intestate court is void and passes no title to the purchaser. Thus, in *Juan Lao et al. vs. Hon. Melencio Geneto*, G.R. No. 56451, June 19, 1985, we ordered the probate court to cancel the transfer certificate of title issued to the vendees at the instance of the administrator after finding that the sale of real property under probate proceedings was made without the prior approval of the court. The dispositive portion of our decision read:

IN VIEW OF THE FOREGOING CONSIDERATIONS, the assailed Order dated February 18, 1981 of the respondent Judge approving the questioned Amicable Settlement is declared NULL and VOID and hereby SET ASIDE. Consequently, the sale in favor of Sotero Dionisio III and by the latter to William Go is likewise declared NULL and VOID. The Transfer Certificate of Title issued to the latter is hereby ordered cancelled.

It goes without saying that the increase in Philinterlife's authorized capital stock, approved on the vote of petitioners' non-existent shareholdings and obviously calculated to make it difficult for Dr. Ortañez's estate to reassume its controlling interest in Philinterlife, was likewise void ab initio.

Petitioners next argue that they were denied due process.

We do not think so.

The facts show that petitioners, for reasons known only to them, did not appeal the decision of the intestate court nullifying the sale of shares of stock in their favor. Only the vendor, Jose Ortañez, appealed the case. A careful review of the records shows that petitioners had actual knowledge of the estate settlement proceedings and that they knew private respondent Enderes was questioning therein the sale to them of the Philinterlife shares of stock.

It must be noted that private respondent-Special Administratrix Enderes filed before the intestate court (RTC of Quezon City, Branch 85) a “Motion to Declare Void Ab Initio Deeds of Sale of Philinterlife Shares of Stock” on March 22, 1996. But as early as 1994, petitioners already knew of the pending settlement proceedings and that the shares they bought were under the administration by the intestate court because private respondent Ma. Divina Ortañez-Enderes and her mother Ligaya Novicio had filed a case against them at the Securities and Exchange Commission on November 7, 1994, docketed as SEC No. 11-94-4909, for annulment of transfer of shares of stock, annulment of sale of corporate properties, annulment of subscriptions on increased capital stocks, accounting, inspection of corporate books and records and damages with prayer for a writ of preliminary injunction and/or temporary restraining order.[27] In said case, Enderes and her mother questioned the sale of the aforesaid shares of stock to petitioners. The SEC hearing officer in fact, in his resolution dated March 24, 1995, deferred to the jurisdiction of the intestate court to rule on the validity of the sale of shares of stock sold to petitioners by Jose Ortañez and Juliana Ortañez:

Petitioners also averred that. . . the Philinterlife shares of Dr. Juvencio Ortañez who died, in 1980, are part of his estate which is presently the subject matter of an intestate proceeding of the RTC of Quezon City, Branch 85. Although, private respondents [Jose Lee et al.] presented the documents of partition whereby the foregoing share of stocks were allegedly partitioned and conveyed to Jose S. Ortañez who allegedly assigned the same to the other private respondents, approval of the Court was not presented. Thus, the assignments to the private respondents [Jose Lee et al.] of the subject shares of stocks are void.

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With respect to the alleged extrajudicial partition of the shares of stock owned by the late Dr. Juvencio Ortañez, we rule that the matter properly belongs to the jurisdiction of the regular court where the intestate proceedings are currently pending.[28]

With this resolution of the SEC hearing officer dated as early as March 24, 1995 recognizing the jurisdiction of the intestate court to determine the validity of the extrajudicial partition of the estate of Dr. Ortañez and the subsequent sale by the heirs of the decedent of the Philinterlife shares of stock to petitioners, how can petitioners claim that they were not aware of the intestate proceedings?

Futhermore, when the resolution of the SEC hearing officer reached the Supreme Court in 1996 (docketed as G.R. 128525), herein petitioners who were respondents therein filed their answer which contained statements showing that they knew of the pending intestate proceedings:

[T]he subject matter of the complaint is not within the jurisdiction of the SEC but with the Regional Trial Court; Ligaya Novicio and children represented themselves to be the common law wife and illegitimate children of the late Ortañez; that on March 4, 1982, the surviving spouse Juliana Ortañez, on her behalf and for her minor son Antonio, executed a Memorandum of Agreement with her other sons Rafael and Jose, both surnamed Ortañez, dividing the estate of the deceased composed of his one-half (1/2) share in the conjugal properties; that in the said Memorandum of Agreement, Jose S. Ortañez acquired as his share of the estate the 1,329 shares of stock in Philinterlife; that on March 4, 1982, Juliana and Rafael assigned their respective shares of stock in Philinterlife to Jose; that contrary to the contentions of petitioners, private respondents Jose Lee, Carlos Lee, Benjamin Lee and Alma Aggabao became stockholders of Philinterlife on March 23, 1983 when Jose S. Ortañez, the principal stockholder at that time, executed a deed of sale of his shares of stock to private respondents; and that the right of petitioners to question the Memorandum of Agreement and the acquisition of shares of stock of private respondent is barred by prescription.[29]

Also, private respondent-Special Administratrix Enderes offered additional proof of actual knowledge of the settlement proceedings by petitioners which petitioners never denied: (1) that petitioners were represented by Atty. Ricardo Calimag previously hired by the mother of private respondent Enderes to initiate cases against

petitioners Jose Lee and Alma Aggabo for the nullification of the sale of the shares of stock but said counsel made a conflicting turn-around and appeared instead as counsel of petitioners, and (2) that the deeds of sale executed between petitioners and the heirs of the decedent (vendors Juliana Ortáñez and Jose Ortáñez) were acknowledged before Atty. Ramon Carpio who, during the pendency of the settlement proceedings, filed a motion for the approval of the sale of Philinterlife shares of stock to the Knights of Columbus Fraternal Association, Inc. (which motion was, however, later abandoned).[30] All this sufficiently proves that petitioners, through their counsels, knew of the pending settlement proceedings.

Finally, petitioners filed several criminal cases such as libel (Criminal Case No. 97-7179-81), grave coercion (Criminal Case No. 84624) and robbery (Criminal Case No. Q-96-67919) against private respondent's mother Ligaya Novicio who was a director of Philinterlife,[31] all of which criminal cases were related to the questionable sale to petitioners of the Philinterlife shares of stock.

Considering these circumstances, we cannot accept petitioners' claim of denial of due process. The essence of due process is the reasonable opportunity to be heard. Where the opportunity to be heard has been accorded, there is no denial of due process.[32] In this case, petitioners knew of the pending intestate proceedings for the settlement of Dr. Juvencio Ortáñez's estate but for reasons they alone knew, they never intervened. When the court declared the nullity of the sale, they did not bother to appeal. And when they were notified of the motion for execution of the Orders of the intestate court, they ignored the same. Clearly, petitioners alone should bear the blame.

Petitioners next contend that we are bound by our ruling in G.R. No. 128525 entitled *Ma. Divina Ortáñez-Enderes vs. Court of Appeals*, dated December 17, 1999, where we allegedly ruled that the intestate court "may not pass upon the title to a certain property for the purpose of determining whether the same should or should not be included in the inventory but such determination is not conclusive and is subject to final decision in a separate action regarding ownership which may be constituted by the parties."

We are not unaware of our decision in G.R. No. 128525. The issue therein was whether the Court of Appeals erred in affirming the resolution of the SEC that Enderes et al. were not entitled to the issuance of the writ of preliminary injunction. We ruled that the Court of Appeals was correct in affirming the resolution of the SEC denying the issuance of the writ of preliminary injunction because injunction is not designed to protect contingent rights. Said case did not rule on the issue of the validity of the sale of shares of stock belonging to the decedent's estate without court approval nor of the validity of the writ of execution issued by the intestate court. G.R. No. 128525 clearly involved a different issue and it does not therefore apply to the present case.

Petitioners and all parties claiming rights under them are hereby warned not to further delay the execution of the Orders of the intestate court dated August 11 and August 29, 1997.

WHEREFORE, the petition is hereby DENIED. The decision of the Court of Appeals in CA-G.R. S.P. No. 59736 dated July 26, 2000, dismissing petitioners' petition for certiorari and affirming the July 6, 2000 order of the trial court which ordered the execution of its (trial court's) August 11 and 29, 1997 orders, is hereby AFFIRMED.

SO ORDERED.

Vitug, (Chairman), and Carpio-Morales, JJ., concur.

Sandoval-Gutierrez, J., no part.

[1] Penned by Associate Justice Martin S. Villarama, concurred in by Associate Justices Salome A. Montoya

(Chairman of the First Division) and Romeo Callejo, Sr. (now Associate Justice of the Supreme Court).

[2] Recognized by the decedent, Dr. Juvencio P. Ortáñez and declared by the intestate court as lawful heirs of Dr. Ortáñez in its resolution dated September 22, 2000; Rollo, pp. 203-214.

[3] Inventory and Accounting of Properties of the Estate; Rollo, p. 572.

[4] Deed of Sale with Right to Repurchase; Rollo, pp. 55-56.

[5] Deed of Sale of Shares of Stock; Rollo, pp. 57-58.

[6] Rollo, pp. 39-41.

[7] Cited in the decision of the Court of Appeals dated June 23, 1998 in CA-G.R. SP No. 46842, p. 3; Rollo, p. 240.

[8] Rollo, pp. 238-258.

[9] Rollo, p. 709.

[10] Rollo, pp. 524-526.

[11] Rollo, p. 70.

[12] Rollo, p. 47-48.

[13] Rollo, pp. 266-268.

[14] Rollo, pp. 34-35.

[15] Rollo, p. 38.

[16] Rollo, p. 115.

[17] Rollo, pp. 15-17.

[18] Rollo, pp. 260-262.

[19] Rollo, pp. 254-256.

[20] Acebedo vs. Abesamis, 217 SCRA 186 [1993], citing Vda. De Gil vs. Cancio, 14 SCRA 796 [1965].

[21] Based on the Civil Code provisions on co-ownership (Article 493). Acebedo vs. Abesamis, 217 SCRA 186 [1993], citing Reyes vs. Concepcion, 190 SCRA 171 [1990], PNB vs. Court of Appeals, 98 SCRA 207 [1980], Mercado vs. Liwanag, 5 SCRA 472 [1962].

[22] 42 Phil 347 [1921].

[23] 163 SCRA 631 [1988].

[24] Rollo, pp. 603-604.

[25] Inventory and Accounting of Properties of the Estate dated March 13, 1984, Rollo, pp. 571-754.

[26] Dillena vs. Court of Appeals, 163 SCRA 630 [1988]; Manotok Realty vs. Court of Appeals, 149 SCRA 174 [1987]; Leabres vs. Court of Appeals, 146 SCRA 158 [1986]; Estate of Olave vs. Reyes, 123 SCRA 767 [1983] and Vda. De Gil vs. Cancio, 14 SCRA 797 [1965].

[27] Cited in *Ma. Divina Ortañez-Enderes et al. vs. Court of Appeals et al.*, 321 SCRA 178 [1999].

[28] *Rollo*, pp. 147-149.

[29] *Rollo*, p. 136.

[30] *Rollo*, pp. 728-729.

[31] *Rollo*, pp. 524-526.

[32] *Salonga vs. Court of Appeals*, 269 SCRA 534 [1997].

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