

## GLORIOSA V. VALARAO, PETITIONER, VS. CONRADO C. PASCUAL AND MANUEL C. DIAZ,

*G.R. No. 150164. November 26, 2002*

Ponente: BELLOSILLO, J.

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### **BELLOSILLO, J.:**

FELICIDAD C. PASCUAL died at seventy-one (71) years, femme sole, leaving a substantial inheritance for her querulous collateral relatives who all appear disagreeable to any sensible partition of their windfall.

To divide the disputed estate are five (5) groups of legal heirs which include respondents Conrado C. Pascual, a brother of the deceased, and Manuel C. Diaz, a nephew, son of her sister Carmen P. Diaz, and petitioner Gloriosa V. Valarao who is the decedent's niece. The bloodlines marking the groups of heirs are: (a) the legitimate children of her late sister Leoncia P. Villanueva, including petitioner Gloriosa V. Valarao; (b) the legitimate children of her late sister Carmen P. Diaz including respondent Manuel C. Diaz; (c) the legitimate children of her late brother Macario Pascual; (d) the legitimate children of her late sister Milagros P. de Leon; and, (e) the decedent's surviving sister Augustia C. Pascual and brothers Leonardo C. Pascual and Conrado C. Pascual, the latter being one of respondents herein.

On 27 May 1998 petitioner Gloriosa V. Valarao initiated before the Regional Trial Court of Parañaque City special proceedings docketed as SP No. 98-061 for the issuance of letters of administration in her favor over the estate of Felicidad C. Pascual. On 29 September 1998 respondent Conrado C. Pascual and some of his co-heirs, including respondent Diaz, filed with the same probate court a petition for probate, docketed as SP No. 98-0124, of an alleged holographic will of Felicidad C. Pascual. The two (2) special proceedings were consolidated.

On 26 January 1999, by agreement of the parties in the proceedings a quo, petitioner Valarao and respondent Diaz were appointed joint administrators of the estate of Felicidad C. Pascual. On 8 February 2000, RTC-Br. 260 of Parañaque City rendered a Decision which dismissed SP No. 98-0124, denying probate of the alleged holographic will of the decedent and giving due course to the intestate settlement of the estate.[2] On 22 March 2000 respondent Pascual appealed the Decision to the Court of Appeals by notice of appeal.

On 2 May 2000, in view of the appeal taken from the disallowance of the holographic will, petitioner Valarao moved in the probate court for her appointment as special administratrix of the estate. On 9 May 2000 respondent Diaz also asked for his designation as special co-administrator of the estate alongside petitioner. On 10 May 2000 the motions were heard wherein petitioner opposed the request of respondent Diaz on the ground that he had allegedly neglected his previous assignment as co-administrator of the estate.

On 7 June 2000 the probate court issued an Order appointing petitioner Valarao as special administratrix based on this observation -

Weighing the pros and cons of the situation, considering the unanimity of choice by the heirs, of Mrs. Valarao as special administratrix, and the vigorous objection to Mr. Diaz as co-administrator, not to mention the fact that the heirs on the side of Mrs. Valarao represent a numerical majority of the legal heirs of the deceased, the

Court believes that it will be to the best interest of the estate and the heirs themselves if Mrs. Gloriosa Valarao is appointed special administratrix.[3]

On 29 June 2000 the probate court approved petitioner's bond of P500,000.00, and on 6 July 2000 she took her oath of office as special administratrix.

On 19 July 2000 respondent Diaz moved for reconsideration of his rejection as special co-administrator of the estate. He contested the allegation of petitioner Valarao that he had been remiss in his duties as co-administrator. He cited as examples of his services the collection of rentals for properties included in the estate, the payment of estate taxes and the deposit of about P4,000,000.00 in a joint bank account held in trust for the estate by him and petitioner as co-administrators. Respondent Diaz further alleged that justice and equity demanded that his group of heirs be also represented in the management of the estate.

On the other hand, petitioner reiterated the alleged uncooperative conduct of respondent Diaz in discharging his tasks as co-administrator, and at the same time moved that he and his group of sympathetic heirs be compelled to surrender to her as special administratrix the books and records of a corporation where the estate owned substantial interests.

On 11 September 2000 the probate court denied the motion for reconsideration and ordered respondent Diaz and all the heirs to respect the authority of petitioner Valarao as special administratrix, especially by furnishing her with copies of documents pertinent to the properties comprising the estate. Anent the charges of nonfeasance in his tasks as co-administrator, the probate court found -

x x x [respondent] Diaz has not disputed these charges beyond making a mere general denial, stating that he had been diligent and regular in the performance of his duties when he was still the estate's co-administrator. Considering the allegations of both Manuel Diaz and Gloriosa Valarao and assessing the circumstances surrounding the case, this Court is of the considered view that the best interest of the estate will be best protected if only one administrator is appointed for, in that way, conflicting interests which might work to the detriment of the estate may be avoided.[4]

On 25 September 2000 respondents Pascual and Diaz along with other heirs moved for reconsideration of the 11 September 2000 Order on the ground that petitioner Valarao as special administratrix was not authorized to dispossess the heirs of their rightful custody of properties in the absence of proof that the same properties were being dissipated by them, and that the possessory right of petitioner as special administratrix had already been exercised by her "constructively" when the heirs on her side took possession of the estate supposedly in her behalf. Respondents further alleged that the motion was pending resolution by the probate court.

On 10 October 2000, while the motion for reconsideration was pending resolution, respondents filed a petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure with the Court of Appeals, docketed as CA-G.R. SP No. 61193, to reverse and set aside the Orders dated 7 June 2000 and 11 September 2000 insofar as the probate court appointed only petitioner Valarao as special administratrix, and to order the appointment of respondent Diaz as special co-administrator of the estate.

On 15 May 2001 the probate court upon motion cited respondents for indirect contempt of court for refusing to turn over to petitioner Valarao documents covering properties belonging to the estate and ordered them arrested until compliance with the order to hand over the documents. The warrant of arrest was subsequently lifted by the probate court after respondents promised to deliver the documents.

On 13 June 2001 respondents filed their supplemental petition for certiorari in CA-G.R. SP No. 61193 seeking permanent injunction against the enforcement of the Orders of 7 June 2000 and 11 September 2000 also as they mandated the turn over of documents to petitioner Valarao.

On 28 September 2001 the Court of Appeals promulgated its Decision reversing and setting aside the Order of 7 June 2000 of RTC-Br. 260, Parañaque City, appointing petitioner Valarao as lone special administratrix although the fallo of the CA Decision was silent on whether the probate court should also appoint respondent Diaz as special co-administrator of the estate of Felicidad C. Pascual.[5] The appellate court explained that since the heirs were divided into two (2) scrappy factions, justice and equity demanded that both factions be represented in the management of the estate of the deceased, citing *Matias v. Gonzales*,[6] *Corona v. Court of Appeals*,[7] and *Vda. de Dayrit v. Ramolete*. [8] Hence, this petition for review on certiorari.

Petitioner Valarao claims that the probate court did not commit grave abuse of discretion when it rejected the application of respondent Diaz for appointment as special co-administrator of the estate because of his indubitable uncooperative attitude towards effective administration of the estate. She also argues that diverse interests among different groups of heirs do not give each of them the absolute right to secure the appointment of a co-administrator from within their ranks since it remains the discretion of the probate court to designate the administrators of an estate. She further asserts that as special administratrix of the estate she possesses the authority to demand the surrender of documents pertinent to the estate insofar as necessary to fulfill her mandate.

On 26 February 2002 respondents filed their Comment on the petition alleging the absence of special reasons to justify a review of the assailed Decision and of the partiality of the trial judge in favor of petitioner.

We grant the petition. To begin with, the probate court had ample jurisdiction to appoint petitioner Valarao as special administratrix and to assist her in the discharge of her functions, even after respondents had filed a notice of appeal from the Decision disallowing probate of the holographic will of Felicidad C. Pascual. This is because the appeal is one where multiple appeals are allowed and a record on appeal is required.[9] In this mode of appeal, the probate court loses jurisdiction only over the subject matter of the appeal but retains jurisdiction over the special proceeding from which the appeal was taken for purposes of further remedies which the parties may avail of, including the appointment of a special administrator.[10]

Moreover, there is nothing whimsical nor capricious in the action of the probate court not to appoint respondent Diaz as special co-administrator since the Orders of 7 June 2000 and 11 September 2000 clearly stipulate the grounds for the rejection. The records also manifest that the probate court weighed the evidence of the applicants for special administrator before concluding not to designate respondent Diaz because the latter was found to have been remiss in his previous duty as co-administrator of the estate in the early part of his administration. Verily, the process of decision-making observed by the probate court evinces reason, equity, justice and legal principle unmistakably opposite the core of abusive discretion correctible by the special civil action of certiorari under which the appellate court was bound to act. Finally, the extraordinary writ does not operate to reverse factual findings where evidence was assessed in the ordinary course of the proceedings since perceived errors in the appreciation of evidence do not embroil jurisdictional issues.[11]

Respondents cannot take comfort in the cases of *Matias v. Gonzales*,[12] *Corona v. Court of Appeals*[13] and *Vda. de Dayrit v. Ramolete*,[14] cited in the assailed Decision. Contrary to their claim, these cases do not establish an absolute right demandable from the probate court to appoint special co-administrators who would represent the respective interests of squabbling heirs. Rather, the cases constitute precedents for the authority of the probate court to designate not just one but also two or more special co-administrators for a single estate. Now whether the probate court exercises such prerogative when the heirs are fighting among themselves is a matter left entirely to its sound discretion.[15]

Furthermore, the cases of *Matias*, *Corona* and *Vda. de Dayrit* hinge upon factual circumstances other than the incompatible interests of the heirs which are glaringly absent from the instant case. In *Matias* this Court ordered

the appointment of a special co-administrator because of the applicant's status as the universal heir and executrix designated in the will, which we considered to be a "special interest" deserving protection during the pendency of the appeal. Quite significantly, since the lower court in *Matias* had already deemed it best to appoint more than one special administrator, we found grave abuse of discretion in the act of the lower court in ignoring the applicant's distinctive status in the selection of another special administrator.

In *Corona* we gave "highest consideration" to the "executrix's choice of Special Administrator, considering her own inability to serve and the wide latitude of discretion given her by the testatrix in her will,"[16] for this Court to compel her appointment as special co-administrator. It is also manifest from the decision in *Corona* that the presence of conflicting interests among the heirs therein was not per se the key factor in the designation of a second special administrator as this fact was taken into account only to disregard or, in the words of *Corona*, to "overshadow" the objections to the appointment on grounds of "impracticality and lack of kinship." [17]

Finally in *Vda. de Dayrit* we justified the designation of the wife of the decedent as special co-administrator because it was "our considered opinion that inasmuch as petitioner-wife owns one-half of the conjugal properties and that she, too, is a compulsory heir of her husband, to deprive her of any hand in the administration of the estate prior to the probate of the will would be unfair to her proprietary interests." [18] The special status of a surviving spouse in the special administration of an estate was also emphasized in *Fule v. Court of Appeals* [19] where we held that the widow would have more interest than any other next of kin in the proper administration of the entire estate since she possesses not only the right of succession over a portion of the exclusive property of the decedent but also a share in the conjugal partnership for which the good or bad administration of the estate may affect not just the fruits but more critically the naked ownership thereof. And in *Gabriel v. Court of Appeals* [20] we recognized the distinctive status of a surviving spouse applying as regular administrator of the deceased spouse's estate when we counseled the probate court that "there must be a very strong case to justify the exclusion of the widow from the administration."

Clearly, the selection of a special co-administrator in *Matias*, *Corona* and *Vda. de Dayrit* was based upon the independent proprietary interests and moral circumstances of the appointee that were not necessarily related to the demand for representation being repeatedly urged by respondents.

We also rule that the probate court in issuing the Order of 11 September 2000 did not err in commanding respondents to turn over all documents pertinent to the estate under special administration and in enforcing such order by means of contempt of court. The powers of a special administrator are plainly delineated in Sec. 2, Rule 80 of the Rules of Court, vesting upon him the authority to "take possession and charge of the goods, chattels, rights, credits and estate of the deceased and preserve the same for the executor or administrator afterwards appointed x x x x"

Contrary to respondents' assertion, there is nothing in Sec. 2 requiring a special administrator to take possession of the estate only upon a prior finding that the heirs have been wasting properties of the estate which are in their possession. The law explicitly authorizes him to take possession of the properties in whatever state they are, provided he does so to preserve them for the regular administrator appointed afterwards. Clearly, the special administrator enjoys not merely subsidiary possession to be carried out when the heirs dissipate the properties but the primary and independent discretion of keeping them so they may be preserved for regular administration.

Moreover, respondents cannot deprive the special administratrix of access to and custody of essential documents by arguing that their possession thereof allegedly in behalf of petitioner is already the equivalent of "constructive possession" which constitutes full compliance with the possessory powers of petitioner as special administratrix under Sec. 2 of Rule 80. Contrary to what respondents seem to understand by "constructive possession," the right

of possession whether characterized as actual or constructive invariably empowers the special administrator with the discretion at any time to exercise dominion or control over the properties and documents comprising the estate.[21] Hence, even if we are to give credence to the theory that petitioner also has "constructive possession" of the documents alongside respondents' actual possession thereof, respondents would nonetheless be under the obligation to turn them over whenever the special administratrix requires their actual delivery.

In any event, as we have held in *De Guzman v. Guadiz*,[22] the partisan possession exercised by litigants over properties of the estate differs greatly from the neutral possession of a special administrator under the Rules of Court. Quite obviously, with this distinction, the possession of portions of the estate by respondents as heirs necessarily excludes the possessory right over the same properties inherent in the mandate of a special administrator.

The language of Sec. 2, Rule 80 of the Rules of Court, also unmistakably gives a special administrator the discretion to take actual custody of the properties of the estate for the purpose of preserving them for regular administration. This appreciation of the powers of a special administrator is fairly evident from the combination of the words "possession" and "charge" in Sec. 2, so much so that even if we have to concede that "possession" means only the fictitious custody of a thing as respondents suggest, the word "charge," i.e., the commitment of a thing to the care and custody of another,[23] would emphasize the requirement of actual possession of the properties of the estate whenever vital according to the discretion of the special administrator. When taken together, the words "possession" and "charge" serve to highlight the fact that a special administrator must be able to subject the properties of the estate to his control and management when in his good judgment such action is needed. Indeed, this understanding of the possessory right of a special administrator is indispensable in fulfilling his mandate to preserve the properties of the estate until a regular administrator is designated, for fiction and illusion cannot stand in place of the concrete and tangible exercise of possession if he is to function effectively.

Finally, respondents cannot disobey the reasonable exercise of the authority of a special administrator on the dubious ground that the order appointing petitioner Valarao as special administratrix had not in the meantime become final and executory because of a pending motion for reconsideration filed by them. The fallacy of this reasoning is apparent, for an interlocutory order is not instantly appealable and therefore there is no period nor action to suspend or interrupt by a motion for reconsideration;[24] it is even well settled that a special civil action for certiorari does not suspend the immediate enforceability of an interlocutory order absent a temporary restraining order or an injunction.[25] In the same manner, the appointment of a special administrator being an interlocutory order is not interrupted by a motion for reconsideration and thus must be obeyed as the proceedings in the probate court progress.[26] The ruling in *PAFLU v. Salvador*[27] reiterated in *Republic Commodities Corporation v. Oca*[28] is enlightening -

[The] refusal to accord due respect and yield obedience to what a court or administrative tribunal ordains is fraught with such grave consequences x x x x If such a conduct were not condemned, some other group or groups emboldened by the absence of any reproof or disapproval may conduct themselves similarly. The injury to the rule of law may well-nigh be irreparable x x x x When judicial or quasi-judicial tribunals speak, what they decree must be obeyed; what they ordain must be followed. A party dissatisfied may ask for reconsideration and, if denied, may go on to higher tribunal. As long as the orders stand unmodified, however, they must, even if susceptible to well-founded doubts on jurisdictional grounds be faithfully complied with.

Needless to state, the special administratrix appointed by the probate court must be constantly aware that she is not a representative nor the agent of the parties suggesting the appointment but the administrator in charge of the estate and in fact an officer of the court. As an officer of the court, she is subject to the supervision and control of the probate court and is expected to work for the best interests of the entire estate, especially its smooth

administration and earliest settlement.[29] Whatever differences that may exist between the heirs shall be ironed out fairly and objectively for the attainment of that end. She ought to be sensitive to her position as special administratrix and neutral possessor which under the Rules of Court is both fiduciary and temporary in character upon which accountability attaches in favor of the estate as well as the other heirs, especially respondents Pascual and Diaz in light of her alleged rivalry with them.

WHEREFORE, the instant Petition for Review is GRANTED. The Decision of the Court of Appeals dated 28 September 2001 in CA-G.R. SP No. 61193, "Conrado C. Pascual and Manuel P. Diaz v. The Hon. RTC of Parañaque City, Branch 260, and Gloriosa V. Valarao," is REVERSED and SET ASIDE. The Orders dated 7 June 2000 and 11 September 2000 of the Regional Trial Court, Branch 260, of Parañaque City, rejecting the application of respondent Manuel C. Diaz[30] as special co-administrator of the estate of Felicidad C. Pascual and ordering respondents Conrado C. Pascual and Manuel C. Diaz and all other heirs who may have in their possession or custody papers, records, certificates of titles over parcels of land, etc., pertaining to properties of the estate of the late Felicidad C. Pascual to turn over such papers, records and titles to petitioner Gloriosa V. Valarao as special administratrix thereof, are REINSTATED and AFFIRMED. No costs.

**SO ORDERED.**

Mendoza, Quisumbing, Austria-Martinez, and Callejo, Sr., JJ., concur.

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[1] Respondent Manuel C. Diaz is also referred to as "Manuel P. Diaz" by the courts below.

[2] Penned by Judge Helen Bautista-Ricafort.

[3] Ibid.

[4] Ibid.

[5] Penned by Associate Justice Andres B. Reyes, Jr., concurred in by Associate Justices B.A. Adefuin-de la Cruz and Amelita G. Tolentino, Fourteenth Division.

[6] 101 Phil. 852 (1957).

[7] 201 Phil. 782 (1982).

[8] 202 Phil. 937 (1982).

[9] Sec. 2 (a), Rule 41, 1997 Rules of Civil Procedure; Sec. 39, BP 129; Lacsamana v. Second Special Cases Division of the Intermediate Appellate Court, G.R. Nos. 73146-53, 26 August 1986, 143 SCRA 643.

[10] I F.D. Regalado, Remedial Law Compendium (1997), p. 508; see De Guzman v. Guadiz, No. L-48585, 31 March 1980, 96 SCRA 938.

[11] Cruz v. People, G.R. No. 110436, 27 June 1994, 233 SCRA 439; Abig v. Constantino, No. L-1260, 31 May 1961, 2 SCRA 299.

[12] See Note 6.

[13] See Note 7.

[14] See Note 8.

[15] Rivera v. Santos, No. L-24563, 29 November 1966, 18 SCRA 871; Fernandez v. Maravilla, No. L-18799, 26

March 1965, 13 SCRA 416; De Gala v. Gonzales, 53 Phil. 104 (1929).

[16] See Note 7, p. 787.

[17] Ibid.

[18] See Note 8, p. 942.

[19] No. L-40502, 29 November 1976, 74 SCRA 189.

[20] G.R. No. 101512, 7 August 1992, 212 SCRA 413, 421.

[21] Black's Law Dictionary (1990), pp. 314, 1163.

[22] See Note 10.

[23] See Note 21, p. 233.

[24] Rubio v. Municipal Trial Court in Cities, G.R. No. 87110, 24 January 1996, 252 SCRA 172.

[25] See Note 10, p. 705.

[26] De Borja v. Tan, 97 Phil 872 (1955) where we held that the Rules of Court precludes a party from appealing from an order appointing a special administrator because such appointment is only for a limited time and for a specific purpose.

[27] No. L-29471, 28 September 1968, 25 SCRA 393, 403.

[28] No. L-24995, 27 May 1970, 33 SCRA 24, 27-28.

[29] Medina v. Court of Appeals, No. L-34760, 28 September 1973, 53 SCRA 206.

[30] See Note 1.

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