

JUSTINA SANTOS Y CANON FAUSTINO AND VICENTE F. FAUSTINO, PETITIONERS, VS. JUDGE NATIVIDAD ALMEDA LOPEZ AND EPHRAIM GOCHANGCO, RESPONDENTS.

G.R. No. 16422. April 29, 1961

Ponente: PAREDES, J.

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PAREDES, J.:

On November 11, 1959, petitioner Vicente F. Faustino alleging that his co-petitioner Justina Santos y Canon Faustino, 93 years old, was afflicted with several physical infirmities, bed-ridden, completely blind and all alone, was being exploited by one Wong Heng, who taking advantage of her condition, subjected her (Justina) under his control and sought to appropriate the use, enjoyment and ownership of her properties by fraudulent schemes, presented with the Juvenile and Domestic Relations Court, a petition for the appointment of a guardian over the person and properties of said Doña Justina.

Pursuant thereto, Judge Natividad Almeda Lopez issued an Order authorizing Vicente F. Faustino to bring two reputable doctors to examine Doña Justina and if the examination warranted hospitalization and treatment, to take her to a hospital. Doctors J. Fernandez and M. Limson found that:

"She is very undernourished so much so that she is lacking very much vitamins. I recommended her transfer to a hospital. Dr. Limson was also agreeable to her transfer. She was brought to the Lourdes Hospital, where she is now. * * *.

"She is completely blind due to bilateral cataract. It could be operated on, but she is now 92 years old and she is physically very weak. Her life would be endangered by an operation.

She cannot take care of her person, because she is too weak, and she is suffering from many physical diseases."

She was then ordered to be confined at the Lourdes Hospital.

On December 1, 1951, according to Faustino, Doña Justina expressed her desire to be brought back to her house. Faustino filed a Motion in Court to that effect. Before acting on the motion, Judge Almeda Lopez, accompanied by a hearing officer of the Court, in the afternoon of December 9, 1959, repaired to the Hospital where she talked to the patient Doña Justina and the attending physician. At the hearing of the guardianship proceedings on December 11, 1959, Judge Lopez, resolving the motion of Faustino issued, in open court, an Order decreeing the continuation of the confinement of Doña Justina at the Lourdes Hospital.

Under date of December 21, 1959, Judge Lopez promulgated another Order, to wit:

"NOW, THEREFORE, this Court hereby appoint Ephraim Gochangco of Manila as special guardian over the person of Doña Justina Santos y Canon Faustino, and directs him to take her from the said Hospital and bring her to her residence at 660 F. Torres, Manila, after having filed his oath of office."

The patient Doña Justina signified her refusal to leave the hospital and expressed her desire to remain there. The

Hospital Director submitted a Memorandum to Judge Lopez with a report of Doña Justina's doctors, describing her condition and expressing the opinion that the hospital was the proper place for her to stay. Faustino presented an alleged affidavit of Doña Justina in Tagalog, stating her desire to remain in the hospital and that she did not like Gochangco or anyone else, to be her guardian, except said Faustino. Judge Almada Lopez insisted in carrying out her order and Gochangco had made known to Faustino that he would comply with such order.

Contending that the order and its execution are not only illegal but cruel, inhuman and criminal, Faustino, on December 24, 1959, brought the matter to this Court, praying for the annulment of said order and pending such annulment, for writ of preliminary injunction restraining the respondent Judge from enforcing the Order and Gochangco from complying with the same. The Writ was issued.

Respondent Judge Almada Lopez filed a 30 page Answer which was subsequently adopted by respondent Gochangco. In their Answer, the respondents contended that it was within the power of the court, in guardianship proceedings, to appoint a Special or Temporary Guardian; that respondent Gochangco was appointed after respondent Judge came to know, in the hearings and investigations conducted by her, the cause of the conflicts and controversies in the guardianship proceedings over the person and properties of Doña Justina; that there are 57 contending parties, all claiming to be relatives of the ward of Doña Justina; that having found that Doña Justina has no will of her own, the respondent decided on the necessity of appointing a neutral person as her guardian; and that petitioner Faustino had been charged by the other supposed relatives of personal and selfish motives in asking for his appointment as guardian.

On the same date this petition was filed with this Court, that is December 24, 1959, respondent Judge Almada Lopez appointed her co-respondent Ephraim Gochangco as regular guardian over the person of Doña Justina and said Gochangco qualified and entered into the performance of his duties as such. On January 7, 1960, petitioner appealed said Order (that appointing Gochangco as regular guardian) to the Court of Appeals (CA-G. R. No. 27584-R). The latter certified the same to this Court and it is now case G. R. No. L-17326.

In view hereof, and considering the matter of the appointment of the Special or temporary Guardian, which is the main object of the present petition, moot or academic, the same should be, as it is hereby dismissed. Without costs.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Barrera, and Dizon, JJ., concur.

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