

**IN THE MATTER OF THE ESTATE OF THE DECEASED CHUNG LIU,
NGO THE HUA, PETITIONER AND APPELLANT, VS. CHUNG KIAT HUA,
ET AL., OPPOSITORS AND APPELLEES. CHUNG KIAT KANG,
OPPOSITOR AN...**

G.R. No. 17091. September 30, 1963

Ponente: LABRADOR, J.

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LABRADOR, J.:

This is an appeal from an order of the Court of First Instance of Rizal, Pasay City Branch, Hon. Jesus Perez, presiding, appointing Chung Kiat Hua as administrator of the estate of the deceased Chung Liu in Special Proceeding No. 1552-P of said court.

On December 7, 1957, Ngo The Hua, claiming to be the surviving spouse of the deceased Chung Liu, filed a petition to be appointed administratrix of the estate of the afore-mentioned deceased. Her petition was opposed by Chung Kiat Hua, Lily Chung Cho, Bonifacio Chung Siong Pek and Chung Ka Bio, all claiming to be children of the deceased Chung Liu by his first wife, Tan Hua. They claim that Ngo The Hua is morally and physically unfit to execute the duties of the trust as administratrix, and that she and the deceased have secured an absolute divorce in Taiwan, both being Chinese citizens, confirmed and legalized by the Taipei District Court, Taipei, Taiwan on August 25, 1955. In this same opposition they prayed that Chung Kiat Hua, allegedly the eldest child of the deceased, be appointed administrator instead. These oppositors' prayer was in turn opposed by Ngo The Hua who claimed that the oppositors are not children of Chung Liu.

On January 13, 1957, Chung Kiat Kang, claiming to be a nephew of the deceased, filed his opposition to the appointment of either Ngo The Hua or Chung Kiat Hua, on the ground that to be appointed, they must first prove their respective relationship to the deceased Chung Liu, and prayed that he be appointed administrator.

The petition was heard and evidence presented by both petitioner Ngo The Hua and the oppositors Chung Kiat Hua, et al When Chung Kiat Kang's turn to present his evidence came, he manifested, through his counsel, that he was waiving his right to present evidence in so far as the appointment of administrator of the estate is concerned. (t.s.n. pp. 3-6, hearing of July 3, 1958).

On December 2, 1959, after a lengthy hearing, the lower court found that Ngo The Hua and the deceased were validly divorced by the afore-mentioned Taipei District Court, and that Chung Kiat Hua, Lily Chung Cho, Bonifacio Chung Siong Pek and Chung Kiat Bio are children of the deceased. So it issued the order appointing Chung Kiat Hua as administrator of the estate of Chung Liu.

From this order, both the petitioner and Chung Kiat Kang appealed. On May 30, 1961, however, petitioner Ngo The Hua filed a petition to withdraw her appeal stating that she had entered into an amicable settlement with the oppositors-appellees. Her petition was granted by this Court in a resolution dated June 26, 1961.

Hence only the appeal of oppositor Chung Kiat Kang remains for the consideration of this Court. Appellant now

contends that the lower court erred in passing upon the validity of the divorce obtained by the petitioner and the deceased and upon the filiation of the oppositors-appellees, such being a prejudgment "since it is well-settled that the declaration of heirs shall only take place after all debts, expenses and taxes have been paid" in accordance with Sec. 1, Rule 91 of the Rules of Court.

The pertinent portion of the section cited by appellant is as follows:

"Section 1. When order for distribution of residue made. * * * When the debts, funeral charges, and expenses of administration, the allowances to the widow, and inheritance tax, if any, chargeable to the estate in accordance with law, have been paid, the court * * * shall assign the residue of the estate of the persons entitled to the same * * *.

"No distribution shall be allowed until the payment of the obligations above-mentioned has been made or provided for * * *." (Italics supplied)

A cursory reading of the above-quoted section discloses that what the court is enjoined from doing is the assignment or distribution of the residue of the deceased's estate before the above-mentioned obligations chargeable to the estate are first paid. Nowhere from said section may it be inferred that the court cannot make a declaration of heirs prior to the satisfaction of these obligations. It is to be noted, however, that the court in making the appointment of the administrator did not purport to make a declaration of heirs.

On the other hand, it is clear from the facts of this case that it was deemed necessary by the lower court to determine the relationship of the parties, as advanced by the petitioner and the oppositors-appellees, to be able to appoint an administrator in accordance with the order of preference established in Section 5, Rule 79 of the Rules of Court. Said section provides that letters of administration shall be granted to the surviving spouse, the next of kin, or to any principal creditor, in this order. Oppositors-appellees denied petitioner Ngo The Hua's claim that she is the surviving spouse of Chung Liu, and the petitioner likewise denied the oppositors-appellees' claim that they are children of the deceased. Since these applicants were asking for the letter of administration on the theory that they are preferred according to Section 5 of Rule 79 because of their relationship to the deceased Chung Liu, the lower court necessarily had to pass first on the truth of their respective claims of relationship to be able to appoint an administrator in accordance with the afore-mentioned order of preference.

Let it be made clear that what the lower court actually decided and what we also decide is the relationship between the deceased and the parties claiming the right to be appointed his administrator, to determine who among them is entitled to the administration, not who are his heirs who are entitled to share in his estate. This issue of heirship is one to be determined in the decree of distribution, and the findings of the court in the case at bar on the relationship of the parties is not a final determination of such relationships as a basis of distribution.

Having resolved the issue raised, it is unnecessary to rule on the other questions raised by the appellant Chung Kiat Kang. It is well-settled that for a person to be able to intervene in an administration proceeding concerning the estate of a deceased, it is necessary for him to have interest in such estate (Sec. 4, Rule 80, Rules of Court; Moran, Comments on the Rules of Court, Vol. II, 1957 ed. p. 382). An interested party has been defined in this connection as one who would be benefited by the estate, such as an heir, or one who has a certain claim against the estate, such as a creditor (Saguinsin vs. Lindayag, et al., G. R. No. L-17759, Dec. 17, 1962; Intestate Estate of Julio Magbanwa, 40 Off. Gaz., 1171; Williams vs. Williams, 113 Ga. 1006, cited in Francisco, Rules of Court, Vol. 1955 ed., p. 411). Appellant Chung Kiat Kang does not claim to be a creditor of Chung Liu's estate. Neither is he an heir in accordance with the Civil Code of the Republic of China (Exh. 28 of Chung Kiat Hua), the law that applies in this case, Chung Liu being a Chinese citizen (Art. 16, New Civil Code). The appellant not having any interest in Chung Liu's estate, either as heir or creditor, he cannot be appointed as co-administrator of the

estate, as he now prays.

Wherefore, the order appealed from is hereby affirmed, with costs against appellants. So ordered.

Bengzon, C. J. Padilla, Bautista Angelo, Barrera Paredes, Dizon, Regala, and Makalintal, JJ., concur.

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