

DALISAY E. OCAMPO, VINCE E. OCAMPO, MELINDA CARLA E. OCAMPO, AND LEONARDO E. OCAMPO, JR., PETITIONERS, VS. RENATO M. OCAMPO AND ERLINDA M. OCAMPO, RESPONDENTS.

G.R. No. 187879. July 05, 2010

Ponente: NACHURA, J.

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NACHURA, J.:

This petition[1] for review on certiorari under Rule 45 of the Rules of Court seeks to reverse and set aside the Decision[2] dated December 16, 2008 and the Resolution[3] dated April 30, 2009 of the Court of Appeals (CA) in CA-G.R. SP No. 104683. The Decision annulled and set aside the Order dated March 13, 2008[4] of the Regional Trial Court (RTC), Branch 24, Biñan, Laguna, in Sp. Proc. No. B-3089; while the Resolution denied the motion for reconsideration of the Decision.

The Antecedents

Petitioners Dalisay E. Ocampo (Dalisay), Vince E. Ocampo (Vince), Melinda Carla E. Ocampo (Melinda), and Leonardo E. Ocampo, Jr. (Leonardo, Jr.) are the surviving wife and the children of Leonardo Ocampo (Leonardo), who died on January 23, 2004. Leonardo and his siblings, respondents Renato M. Ocampo (Renato) and Erlinda M. Ocampo (Erlinda) are the legitimate children and only heirs of the spouses Vicente and Maxima Ocampo, who died intestate on December 19, 1972 and February 19, 1996, respectively. Vicente and Maxima left several properties, mostly situated in Biñan, Laguna. Vicente and Maxima left no will and no debts.

On June 24, 2004, five (5) months after the death of Leonardo, petitioners initiated a petition for intestate proceedings, entitled "In Re: Intestate Proceedings of the Estate of Sps. Vicente Ocampo and Maxima Mercado Ocampo, and Leonardo M. Ocampo," in the RTC, Branch 24, Biñan, Laguna, docketed as Spec. Proc. No. B-3089.[5] The petition alleged that, upon the death of Vicente and Maxima, respondents and their brother Leonardo jointly controlled, managed, and administered the estate of their parents. Under such circumstance, Leonardo had been receiving his share consisting of one-third (1/3) of the total income generated from the properties of the estate. However, when Leonardo died, respondents took possession, control and management of the properties to the exclusion of petitioners. The petition prayed for the settlement of the estate of Vicente and Maxima and the estate of Leonardo. It, likewise, prayed for the appointment of an administrator to apportion, divide, and award the two estates among the lawful heirs of the decedents.

Respondents filed their Opposition and Counter-Petition dated October 7, 2004,[6] contending that the petition was defective as it sought the judicial settlement of two estates in a single proceeding. They argued that the settlement of the estate of Leonardo was premature, the same being dependent only upon the determination of his hereditary rights in the settlement of his parents' estate. In their counter-petition, respondents prayed that they be appointed as special joint administrators of the estate of Vicente and Maxima.

In an Order dated March 4, 2005,[7] the RTC denied respondents' opposition to the settlement proceedings but admitted their counter-petition. The trial court also clarified that the judicial settlement referred only to the

properties of Vicente and Maxima.

Through a Motion for Appointment of Joint Special Administrators dated October 11, 2005,[8] respondents reiterated their prayer for appointment as special joint administrators of the estate, and to serve as such without posting a bond.

In their Comment dated November 3, 2005,[9] petitioners argued that, since April 2002, they had been deprived of their fair share of the income of the estate, and that the appointment of respondents as special joint administrators would further cause injustice to them. Thus, they prayed that, in order to avoid further delay, letters of administration to serve as joint administrators of the subject estate be issued to respondents and Dalisay.

In another Motion for Appointment of a Special Administrator dated December 5, 2005,[10] petitioners nominated the Biñan Rural Bank to serve as special administrator pending resolution of the motion for the issuance of the letters of administration.

In its June 15, 2006 Order,[11] the RTC appointed Dalisay and Renato as special joint administrators of the estate of the deceased spouses, and required them to post a bond of P200,000.00 each.[12]

Respondents filed a Motion for Reconsideration dated August 1, 2006[13] of the Order, insisting that Dalisay was incompetent and unfit to be appointed as administrator of the estate, considering that she even failed to take care of her husband Leonardo when he was paralyzed in 1997. They also contended that petitioners' prayer for Dalisay's appointment as special administrator was already deemed abandoned upon their nomination of the Biñan Rural Bank to act as special administrator of the estate.

In their Supplement to the Motion for Reconsideration,[14] respondents asserted their priority in right to be appointed as administrators being the next of kin of Vicente and Maxima, whereas Dalisay was a mere daughter-in-law of the decedents and not even a legal heir by right of representation from her late husband Leonardo.

Pending the resolution of the Motion for Reconsideration, petitioners filed a Motion to Submit Inventory and Accounting dated November 20, 2006,[15] praying that the RTC issue an order directing respondents to submit a true inventory of the estate of the decedent spouses and to render an accounting thereof from the time they took over the collection of the income of the estate.

Respondents filed their Comment and Manifestation dated January 15, 2007,[16] claiming that they could not yet be compelled to submit an inventory and render an accounting of the income and assets of the estate inasmuch as there was still a pending motion for reconsideration of the June 15, 2006 Order appointing Dalisay as co-special administratrix with Renato.

In its Order dated February 16, 2007, the RTC revoked the appointment of Dalisay as co-special administratrix, substituting her with Erlinda. The RTC took into consideration the fact that respondents were the nearest of kin of Vicente and Maxima. Petitioners did not contest this Order and even manifested in open court their desire for the speedy settlement of the estate.

On April 23, 2007, or two (2) months after respondents' appointment as joint special administrators, petitioners filed a Motion for an Inventory and to Render Account of the Estate,[17] reiterating their stance that respondents, as joint special administrators, should be directed to submit a true inventory of the income and assets of the estate.

Respondents then filed a Motion for Exemption to File Administrators' Bond[18] on May 22, 2007, praying that they be allowed to enter their duties as special administrators without the need to file an administrators' bond due to their difficulty in raising the necessary amount. They alleged that, since petitioners manifested in open court

that they no longer object to the appointment of respondents as special co-administrators, it would be to the best interest of all the heirs that the estate be spared from incurring unnecessary expenses in paying for the bond premiums. They also assured the RTC that they would faithfully exercise their duties as special administrators under pain of contempt should they violate any undertaking in the performance of the trust of their office.

In an Order dated June 29, 2007,[19] the RTC directed the parties to submit their respective comments or oppositions to the pending incidents, i.e., petitioners' Motion for Inventory and to Render Account, and respondents' Motion for Exemption to File Administrators' Bond.

Respondents filed their Comment and/or Opposition,[20] stating that they have already filed a comment on petitioners' Motion for Inventory and to Render Account. They asserted that the RTC should, in the meantime, hold in abeyance the resolution of this Motion, pending the resolution of their Motion for Exemption to File Administrators' Bond.

On October 15, 2007, or eight (8) months after the February 16, 2007 Order appointing respondents as special joint administrators, petitioners filed a Motion to Terminate or Revoke the Special Administration and to Proceed to Judicial Partition or Appointment of Regular Administrator.[21] Petitioners contended that the special administration was not necessary as the estate is neither vast nor complex, the properties of the estate being identified and undisputed, and not involved in any litigation necessitating the representation of special administrators. Petitioners, likewise, contended that respondents had been resorting to the mode of special administration merely to delay and prolong their deprivation of what was due them. Petitioners cited an alleged fraudulent sale by respondents of a real property for P2,700,000.00, which the latter represented to petitioners to have been sold only for P1,500,000.00, and respondents' alleged misrepresentation that petitioners owed the estate for the advances to cover the hospital expenses of Leonardo, but, in fact, were not yet paid.

Respondents filed their Opposition and Comment[22] on March 10, 2008, to which, in turn, petitioners filed their Reply to Opposition/Comment[23] on March 17, 2008.

In its Order dated March 13, 2008,[24] the RTC granted petitioners' Motion, revoking and terminating the appointment of Renato and Erlinda as joint special administrators, on account of their failure to comply with its Order, particularly the posting of the required bond, and to enter their duties and responsibilities as special administrators, i.e., the submission of an inventory of the properties and of an income statement of the estate. The RTC also appointed Melinda as regular administratrix, subject to the posting of a bond in the amount of P200,000.00, and directed her to submit an inventory of the properties and an income statement of the subject estate. The RTC likewise found that judicial partition may proceed after Melinda had assumed her duties and responsibilities as regular administratrix.

Aggrieved, respondents filed a petition for certiorari[25] under Rule 65 of the Rules of Court before the CA, ascribing grave abuse of discretion on the part of the RTC in (a) declaring them to have failed to enter the office of special administration despite lapse of reasonable time, when in truth they had not entered the office because they were waiting for the resolution of their motion for exemption from bond; (b) appointing Melinda as regular administratrix, a mere granddaughter of Vicente and Maxima, instead of them who, being the surviving children of the deceased spouses, were the next of kin; and (c) declaring them to have been unsuitable for the trust, despite lack of hearing and evidence against them.

Petitioners filed their Comment to the Petition and Opposition to Application for temporary restraining order and/or writ of preliminary injunction,[26] reiterating their arguments in their Motion for the revocation of respondents' appointment as joint special administrators. Respondents filed their Reply.[27]

On December 16, 2008, the CA rendered its assailed Decision granting the petition based on the finding that the RTC gravely abused its discretion in revoking respondents' appointment as joint special administrators without first ruling on their motion for exemption from bond, and for appointing Melinda as regular administratrix without conducting a formal hearing to determine her competency to assume as such. According to the CA, the posting of the bond is a prerequisite before respondents could enter their duties and responsibilities as joint special administrators, particularly their submission of an inventory of the properties of the estate and an income statement thereon.

Petitioners filed a Motion for Reconsideration of the Decision.[28] The CA, however, denied it. Hence, this petition, ascribing to the CA errors of law and grave abuse of discretion for annulling and setting aside the RTC Order dated March 13, 2008.

Our Ruling

The pertinent provisions relative to the special administration of the decedents' estate under the Rules of Court provide--

Sec. 1. Appointment of special administrator. - When there is delay in granting letters testamentary or of administration by any cause including an appeal from the allowance or disallowance of a will, the court may appoint a special administrator to take possession and charge of the estate of the deceased until the questions causing the delay are decided and executors or administrators appointed.[29]

Sec. 2. Powers and duties of special administrator. - Such special administrator shall take possession and charge of goods, chattels, rights, credits, and estate of the deceased and preserve the same for the executor or administrator afterwards appointed, and for that purpose may commence and maintain suits as administrator. He may sell only such perishable and other property as the court orders sold. A special administrator shall not be liable to pay any debts of the deceased unless so ordered by the court.[30]

Sec. 1. Bond to be given before issuance of letters; Amount; Conditions. - Before an executor or administrator enters upon the execution of his trust, and letters testamentary or of administration issue, he shall give a bond, in such sum as the court directs, conditioned as follows:

(a) To make and return to the court, within three (3) months, a true and complete inventory of all goods, chattels, rights, credits, and estate of the deceased which shall come to his possession or knowledge or to the possession of any other person for him;

(b) To administer according to these rules, and, if an executor, according to the will of the testator, all goods, chattels, rights, credits, and estate which shall at any time come to his possession or to the possession of any other person for him, and from the proceeds to pay and discharge all debts, legacies, and charges on the same, or such dividends thereon as shall be decreed by the court;

(c) To render a true and just account of his administration to the court within one (1) year, and at any other time when required by the court;

(d) To perform all orders of the court by him to be performed.[31]

Sec. 4. Bond of special administrator. - A special administrator before entering upon the duties of his trust shall give a bond, in such sum as the court directs, conditioned that he will make and return a true inventory of the goods, chattels, rights, credits, and estate of the deceased which come to his possession or knowledge, and that he will truly account for such as are received by him when required by the court, and will deliver the same to the person appointed executor or administrator, or to such other person as may be authorized to receive them.[32]

Inasmuch as there was a disagreement as to who should be appointed as administrator of the estate of Vicente and Maxima, the RTC, acting as a probate court, deemed it wise to appoint joint special administrators pending the determination of the person or persons to whom letters of administration may be issued. The RTC was justified in doing so considering that such disagreement caused undue delay in the issuance of letters of administration, pursuant to Section 1 of Rule 80 of the Rules of Court. Initially, the RTC, on June 15, 2006, appointed Renato and Dalisay as joint special administrators, imposing upon each of them the obligation to post an administrator's bond of P200,000.00. However, taking into account the arguments of respondents that Dalisay was incompetent and unfit to assume the office of a special administratrix and that Dalisay, in effect, waived her appointment when petitioners nominated Biñan Rural Bank as special administrator, the RTC, on February 16, 2007, revoked Dalisay's appointment and substituted her with Erlinda.

A special administrator is an officer of the court who is subject to its supervision and control, expected to work for the best interest of the entire estate, with a view to its smooth administration and speedy settlement.[33] When appointed, he or she is not regarded as an agent or representative of the parties suggesting the appointment.[34] The principal object of the appointment of a temporary administrator is to preserve the estate until it can pass to the hands of a person fully authorized to administer it for the benefit of creditors and heirs, pursuant to Section 2 of Rule 80 of the Rules of Court.[35]

While the RTC considered that respondents were the nearest of kin to their deceased parents in their appointment as joint special administrators, this is not a mandatory requirement for the appointment. It has long been settled that the selection or removal of special administrators is not governed by the rules regarding the selection or removal of regular administrators.[36] The probate court may appoint or remove special administrators based on grounds other than those enumerated in the Rules at its discretion, such that the need to first pass upon and resolve the issues of fitness or unfitness[37] and the application of the order of preference under Section 6 of Rule 78,[38] as would be proper in the case of a regular administrator, do not obtain. As long as the discretion is exercised without grave abuse, and is based on reason, equity, justice, and legal principles, interference by higher courts is unwarranted.[39] The appointment or removal

of special administrators, being discretionary, is thus interlocutory and may be assailed through a petition for certiorari under Rule 65 of the Rules of Court.[40]

Granting the certiorari petition, the CA found that the RTC gravely abused its discretion in revoking respondents' appointment as joint special administrators, and for failing to first resolve the pending Motion for Exemption to File Administrators' Bond, ratiocinating that the posting of the administrators' bond is a pre-requisite to respondents' entering into the duties and responsibilities of their designated office. This Court disagrees.

It is worthy of mention that, as early as October 11, 2005, in their Motion for Appointment as Joint Special Administrators, respondents already prayed for their exemption to post bond should they be assigned as joint special administrators. However, the RTC effectively denied this prayer when it issued its June 15, 2006 Order, designating Renato and Dalisay as special administrators and enjoining them to post bond in the amount of P200,000.00 each. This denial was, in effect, reiterated when the RTC rendered its February 16, 2007 Order substituting Dalisay with Erlinda as special administratrix.

Undeterred by the RTC's resolve to require them to post their respective administrators' bonds, respondents filed anew a Motion for Exemption to File Administrators' Bond on May 22, 2007, positing that it would be to the best interest of the estate of their deceased parents and all the heirs to spare the estate from incurring the unnecessary expense of paying for their bond premiums since they could not raise the money themselves. To note, this Motion was filed only after petitioners filed a Motion for an Inventory and to Render Account of the Estate on April 23,

2007. Respondents then argued that they could not enter into their duties and responsibilities as special administrators in light of the pendency of their motion for exemption. In other words, they could not yet submit an inventory and render an account of the income of the estate since they had not yet posted their bonds.

Consequently, the RTC revoked respondents' appointment as special administrators for failing to post their administrators' bond and to submit an inventory and accounting as required of them, tantamount to failing to comply with its lawful orders. Inarguably, this was, again, a denial of respondents' plea to assume their office sans a bond. The RTC rightly did so.

Pursuant to Section 1 of Rule 81, the bond secures the performance of the duties and obligations of an administrator namely: (1) to administer the estate and pay the debts; (2) to perform all judicial orders; (3) to account within one (1) year and at any other time when required by the probate court; and (4) to make an inventory within three (3) months. More specifically, per Section 4 of the same Rule, the bond is conditioned on the faithful execution of the administration of the decedent's estate requiring the special administrator to (1) make and return a true inventory of the goods, chattels, rights, credits, and estate of the deceased which come to his possession or knowledge; (2) truly account for such as received by him when required by the court; and (3) deliver the same to the person appointed as executor or regular administrator, or to such other person as may be authorized to receive them.

Verily, the administration bond is for the benefit of the creditors and the heirs, as it compels the administrator, whether regular or special, to perform the trust reposed in, and discharge the obligations incumbent upon, him. Its object and purpose is to safeguard the properties of the decedent, and, therefore, the bond should not be considered as part of the necessary expenses chargeable against the estate, not being included among the acts constituting the care, management, and settlement of the estate. Moreover, the ability to post the bond is in the nature of a qualification for the office of administration.[41]

Hence, the RTC revoked respondents' designation as joint special administrators, especially considering that respondents never denied that they have been in possession, charge, and actual administration of the estate of Vicente and Maxima since 2002 up to the present, despite the assumption of Melinda as regular administratrix. In fact, respondents also admitted that, allegedly out of good faith and sincerity to observe transparency, they had submitted a Statement of Cash Distribution[42] for the period covering April 2002 to June 2006,[43] where they indicated that Renato had received P4,241,676.00, Erlinda P4,164,526.96, and petitioners P2,486,656.60, and that the estate had advanced P2,700,000.00 for the hospital and funeral expenses of Leonardo.[44] The latter cash advance was questioned by petitioners in their motion for revocation of special administration on account of the demand letter[45] dated June 20, 2007 of Asian Hospital and Medical Center addressed to Dalisay, stating that there still remained unpaid hospital bills in the amount of P2,087,380.49 since January 2004. Undeniably, respondents had already been distributing the incomes or fruits generated from the properties of the decedents' estate, yet they still failed to post their respective administrators' bonds despite collection of the advances from their supposed shares. This state of affairs continued even after a considerable lapse of time from the appointment of Renato as a special administrator of the estate on June 15, 2006 and from February 16, 2007 when the RTC substituted Erlinda, for Dalisay, as special administratrix.

What is more, respondents' insincerity in administering the estate was betrayed by the Deed of Conditional Sale dated January 12, 2004[46] discovered by petitioners. This Deed was executed between respondents, as the only heirs of Maxima, as vendors, thus excluding the representing heirs of Leonardo, and Spouses Marcus Jose B. Brillantes and Amelita Catalan-Brillantes, incumbent lessors, as vendees, over a real property situated in Biñan, Laguna, and covered by Transfer Certificate of Title No. T-332305 of the Registry of Deeds of Laguna, for a total purchase price of P2,700,000.00. The Deed stipulated for a payment of P1,500,000.00 upon the signing of the

contract, and the balance of P1,200,000.00 to be paid within one (1) month from the receipt of title of the vendees. The contract also stated that the previous contract of lease between the vendors and the vendees shall no longer be effective; hence, the vendees were no longer obligated to pay the monthly rentals on the property. And yet there is a purported Deed of Absolute Sale^[47] over the same realty between respondents, and including Leonardo as represented by Dalisay, as vendors, and the same spouses, as vendees, for a purchase price of only P1,500,000.00. Notably, this Deed of Absolute Sale already had the signatures of respondents and vendee-spouses. Petitioners claimed that respondents were coaxing Dalisay into signing the same, while respondents said that Dalisay already got a share from this transaction in the amount of P500,000.00. It may also be observed that the time of the execution of this Deed of Absolute Sale, although not notarized as the Deed of Conditional Sale, might not have been distant from the execution of the latter Deed, considering the similar Community Tax Certificate Numbers of the parties appearing in both contracts.

Given these circumstances, this Court finds no grave abuse of discretion on the part of the RTC when it revoked the appointment of respondents as joint special administrators, the removal being grounded on reason, equity, justice, and legal principle. Indeed, even if special administrators had already been appointed, once the probate court finds the appointees no longer entitled to its confidence, it is justified in withdrawing the appointment and giving no valid effect thereto.^[48]

On the other hand, the Court finds the RTC's designation of Melinda as regular administratrix improper and abusive of its discretion.

In the determination of the person to be appointed as regular administrator, the following provisions of Rule 78 of the Rules of Court, state -

Sec. 1. Who are incompetent to serve as executors or administrators. - No person is competent to serve as executor or administrator who:

(a) Is a minor;

(b) Is not a resident of the Philippines; and

(c) Is in the opinion of the court unfit to execute the duties of the trust by reason of drunkenness, improvidence, or want of understanding or integrity, or by reason of conviction of an offense involving moral turpitude.

x x x x

Sec. 6. When and to whom letters of administration granted. - If no executor is named in the will, or the executor or executors are incompetent, refuse the trust, or fail to give bond, or a person dies intestate, administration shall be granted:

(a) To the surviving husband or wife, as the case may be, or next of kin, or both, in the discretion of the court, or to such person as such surviving husband or wife, or next of kin, requests to have appointed, if competent and willing to serve;

(b) If such surviving husband or wife, as the case may be, or next of kin, or the person selected by them, be incompetent or unwilling, or if the husband or widow, or next of kin, neglects for thirty (30) days after the death of the person to apply for administration or to request that administration be granted to some other person, it may be granted to one or more of the principal creditors, if competent and willing to serve;

(c) If there is no such creditor competent and willing to serve, it may be granted to such other person as the court may select.

Further, on the matter of contest for the issuance of letters of administration, the following provisions of Rule 79

are pertinent -

Sec. 2. Contents of petition for letters of administration. - A petition for letters of administration must be filed by an interested person and must show, so far as known to the petitioner:

- (a) The jurisdictional facts;
- (b) The names, ages, and residences of the heirs, and the names and residences of the creditors, of the decedent;
- (c) The probable value and character of the property of the estate;
- (d) The name of the person for whom letters of administration are prayed.

But no defect in the petition shall render void the issuance of letters of administration.

Sec. 3. Court to set time for hearing. Notice thereof. - When a petition for letters of administration is filed in the court having jurisdiction, such court shall fix a time and place for hearing the petition, and shall cause notice thereof to be given to the known heirs and creditors of the decedent, and to any other persons believed to have an interest in the estate, in the manner provided in Sections 3 and 4 of Rule 76.

Sec. 4. Opposition to petition for administration. - Any interested person may, by filing a written opposition, contest the petition on the ground of the incompetency of the person for whom letters are prayed therein, or on the ground of the contestant's own right to the administration, and may pray that letters issue to himself, or to any competent person or persons named in the opposition.

Sec. 5. Hearing and order for letters to issue. - At the hearing of the petition, it must first be shown that notice has been given as herein-above required, and thereafter the court shall hear the proofs of the parties in support of their respective allegations, and if satisfied that the decedent left no will, or that there is no competent and willing executor, it shall order the issuance of letters of administration to the party best entitled thereto.

Admittedly, there was no petition for letters of administration with respect to Melinda, as the prayer for her appointment as co-administrator was embodied in the motion for the termination of the special administration. Although there was a hearing set for the motion on November 5, 2007, the same was canceled and reset to February 8, 2008 due to the absence of the parties' counsels. The February 8, 2008 hearing was again deferred to March 10, 2008 on account of the ongoing renovation of the Hall of Justice. Despite the resetting, petitioners filed a Manifestation/Motion dated February 29, 2008,[49] reiterating their prayer for partition or for the appointment of Melinda as regular administrator and for the revocation of the special administration. It may be mentioned that, despite the filing by respondents of their Opposition and Comment to the motion to revoke the special administration, the prayer for the appointment of Melinda as regular administratrix of the estate was not specifically traversed in the said pleading. Thus, the capacity, competency, and legality of Melinda's appointment as such was not properly objected to by respondents despite being the next of kin to the decedent spouses, and was not threshed out by the RTC acting as a probate court in accordance with the above mentioned Rules.

However, having in mind the objective of facilitating the settlement of the estate of Vicente and Maxima, with a view to putting an end to the squabbles of the heirs, we take into account the fact that Melinda, pursuant to the RTC Order dated March 13, 2008, already posted the required bond of P200,000.00 on March 26, 2008, by virtue of which, Letters of Administration were issued to her the following day, and that she filed an Inventory of the Properties of the Estate dated April 15, 2008.[50] These acts clearly manifested her intention to serve willingly as administratrix of the decedents' estate, but her appointment should be converted into one of special administration, pending the proceedings for regular administration. Furthermore, since it appears that the only unpaid obligation is the hospital bill due from Leonardo's estate, which is not subject of this case, judicial partition may then

proceed with dispatch.

WHEREFORE, the petition is PARTIALLY GRANTED. The Decision dated December 16, 2008 and the Resolution dated April 30, 2009 of the Court of Appeals in CA-G.R. SP No. 104683 are AFFIRMED with the MODIFICATION that the Order dated March 13, 2008 of the Regional Trial Court, Branch 24, Biñan, Laguna, with respect to the revocation of the special administration in favor of Renato M. Ocampo and Erlinda M. Ocampo, is REINSTATED. The appointment of Melinda Carla E. Ocampo as regular administratrix is SET ASIDE. Melinda is designated instead as special administratrix of the estate under the same administrator's bond she had posted. The trial court is directed to conduct with dispatch the proceedings for the appointment of the regular administrator and, thereafter, to proceed with judicial partition. No costs.

SO ORDERED.

Carpio, (Chairperson), Peralta, Abad, and Mendoza, JJ., concur.

[1] Rollo, pp. 12-33.

[2] Penned by Associate Justice Ramon R. Garcia, with Associate Justices Josefina Guevara-Salonga and Magdangal M. de Leon, concurring; id. at 34-51.

[3] Id. at 52-53.

[4] Id. at 54-55.

[5] Id. at 35-36.

[6] Id. at 36.

[7] Id. at 36-37.

[8] Id. at 37.

[9] Id.

[10] Id.

[11] Id.

[12] As admitted by respondents in their Petition for Certiorari with Urgent Prayer for the Issuance of a Temporary Restraining Order and/or Preliminary Injunction; id. at 86.

[13] Id. at 38.

[14] Id.

[15] Id.

[16] Id. at 39.

[17] Id.

[18] Id. at 40.

[19] Id.

[20] Id. at 40-41.

- [21] Id. at 56-63.
- [22] Id. at 71-75.
- [23] Id. at 76-80.
- [24] Id. at 54-55.
- [25] Id. at 81-107.
- [26] Id. at 108-132.
- [27] Id. at 142-145.
- [28] Id. at 146-155.
- [29] Rule 80.
- [30] Id.
- [31] Rule 81.
- [32] Id.
- [33] Co v. Rosario, G.R. No. 160671, April 30, 2008, 553 SCRA 225, 229.
- [34] Heirs of Belinda Dahlia A. Castillo v. Lacuata-Gabriel, G.R. No. 162934, November 11, 2005, 474 SCRA 747, 757; Valarao v. Pascual, 441 Phil. 226, 238 (2002).
- [35] Tan v. Gedorio, Jr., G.R. No. 166520, March 14, 2008, 548 SCRA 528, 537.
- [36] Co v. Rosario, supra note 33, at 228; Tan v. Gedorio, Jr., supra, at 536; Heirs of Belinda Dahlia A. Castillo v. Lacuata-Gabriel, supra note 34, at 760; Pijuan v. De Gurrea, 124 Phil. 1527, 1531-1532 (1966); Roxas v. Pecson, 82 Phil. 407, 410 (1948).
- [37] Co v. Rosario, supra note 33, at 228; Rivera v. Hon. Santos, et al., 124 Phil. 1557, 1561 (1966).
- [38] Infra.
- [39] Co v. Rosario, supra note 33, at 228; Fule v. Court of Appeals, 165 Phil. 785, 800 (1976).
- [40] Tan v. Gedorio, Jr., supra note 35, at 536; Jamero v. Melicor, 498 Phil. 158, 165-166 (2005).
- [41] Commissioner of Internal Revenue v. Court of Appeals, 385 Phil. 397, 409 (2000); Moran Sison v. Teodoro, 100 Phil. 1055, 1058 (1957); Sulit v. Santos, 56 Phil. 626, 630 (1932).
- [42] Annex "N" to the Petition for Certiorari before the CA.
- [43] Per respondents' Petition for Certiorari before the CA; rollo, p. 96.
- [44] Per petitioners' Comment to the petition before the CA; id. at 114.
- [45] Id. at 64-65.
- [46] Id. at 66-67.
- [47] Id. at 68-70.
- [48] Co v. Rosario, supra note 33, at 228-229.

[49] Rollo, p. 41.

[50] As admitted by respondents in their Comment; id. at 165-166.

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