

DIOSDADO S. MANUNGAS, PETITIONER, VS. MARGARITA AVILA LORETO AND FLORENCIA AVILA PARREÑO, RESPONDENTS.*G.R. No. 193161. August 22, 2011*

Ponente: VELASCO JR., J.

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This Petition for Review on Certiorari under Rule 45 seeks the reversal of the April 30, 2009 Decision[1] and July 21, 2010 Resolution[2] of the Court of Appeals (CA), in CA-G.R. SP No. 74531-MIN, entitled Margarita Avila Loreto and Florencia Avila Parreño v. Hon. Erasto D. Salcedo, Acting Presiding Judge, RTC (Branch 2), Tagum City, and Diosdado Salinas (Manungas). The CA Decision set aside as null and void the Order dated November 4, 2002[3] of the Regional Trial Court (RTC), Branch 2 in Tagum City, Davao del Norte, in Special Proceedings No. 708 entitled In the Matter of the Intestate Estate of the Deceased Engracia N. Vda de Manungas, Diosdado Manungas, petitioner, wherein the RTC reversed its appointment of respondent Florencia Avila Parreño (Parreño) as the special administrator of the estate of Engracia Manungas and appointed petitioner Diosdado Salinas Manungas (Diosdado) in her stead.

The Facts

Engracia Manungas was the wife of Florentino Manungas. They had no children. Instead, they adopted Samuel David Avila (Avila) on August 12, 1968. Florentino Manungas died intestate on May 29, 1977, while Avila predeceased his adoptive mother.[4] Avila was survived by his wife Sarah Abarte Vda. de Manungas.

Thereafter, Engracia Manungas filed a Motion for Partition of Estate on March 31, 1980 in the intestate estate proceedings of Florentino Manungas, of which she was the administratrix. There, she stated that there are no other legal and compulsory heirs of Florentino Manungas except for herself, Avila and a Ramon Manungas whom she acknowledged as the natural son of Florentino Manungas.[5] Meanwhile, Avila's widow executed a Waiver of Rights and Participation on October 29, 1980, renouncing her rights over the separate property of her husband in favor of Engracia Manungas. Thereafter, a Decree of Final Distribution was issued in the intestate estate proceedings of Florentino Manungas distributing the properties to Engracia Manungas and Ramon Manungas, the surviving heirs.[6]

On October 25, 1995, the RTC, Branch 4 in Panabo City, appointed Parreño, the niece of Engracia Manungas, as the Judicial Guardian of the properties and person of her incompetent aunt.[7]

Engracia Manungas, through Parreño, then instituted Civil Case No. 5196-96 against the spouses Diosdado Salinas Manungas and Milagros Pacifico for illegal detainer and damages with the Municipal Trial Court (MTC) in Panabo City. In their answer, the spouses Salinas claimed that Diosdado is the illegitimate son of Florentino Manungas. However, the answer was filed beyond the reglementary period and was not considered by the MTC. Thus, the MTC issued a summary judgment in favor of Engracia Manungas, ordering the spouses to vacate the

premises and to restore possession to Engracia Manungas. The Decision was appealed by the spouses Salinas to the RTC of Tagum, Davao City which affirmed in toto the Decision of the MTC.[8] On appeal to this Court, defendants' petition was denied for having been filed out of time in a Resolution which became final on April 20, 1998.[9]

Thereafter, on August 7, 1998, Diosdado instituted a petition for the issuance of letters of administration over the Estate of Engracia Manungas (Estate of Manungas) in his favor before the RTC, Branch 2 in Tagum City, Davao. He alleged that he, being an illegitimate son of Florentino Manungas, is an heir of Engracia Manungas.[10] The petition was opposed by Margarita Avila Loreto (Loreto) and Parreño alleging that Diosdado was incompetent as an administrator of the Estate of Manungas claiming that he was not a Manungas, that he was not an heir of Engracia Manungas, he was not a creditor of Engracia Manungas or her estate and that he was in fact a debtor of the estate having been found liable to Engracia Manungas for PhP 177,000 by virtue of a Decision issued by the MTC in Civil Case No. 5196-96. On May 15, 2002, the RTC issued an Order appointing Parreño as the administrator of the Estate of Manungas, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, Florencia A. Parreño is hereby appointed as Special Administrator of the property of the late Engracia N. Vda. de Manungas. The Special Administrator is hereby directed to post a bond in the amount of P200,000.00 pursuant to Sec. 4 of Rule 81.

SO ORDERED.[11]

Diosdado filed a Motion for Reconsideration with a Prayer for Temporary Restraining Order and Preliminary Injunction.[12] In his motion, Diosdado argued that Parreño's appointment as special administrator of the Estate of Manungas was by virtue of her being the judicial guardian of the latter but which relation ceased upon Engracia Manungas' death, concluding that her appointment as special administrator was without basis. He added that Parreño was not fit to become a special administrator having already been fined by the court for failing to render a timely accounting of Engracia Manungas' property as her judicial guardian. Diosdado also reasoned that Parreño is a mere niece, a collateral relative, of Engracia Manungas, while he is the illegitimate son of Florentino Manungas.

On November 4, 2002, the RTC issued an Order reversing itself and ordering the revocation of its earlier appointment of Parreño as the administrator of the Estate of Manungas while appointing Diosdado as the Special Administrator.[13]

Parreño and Loreto appealed the ruling of the RTC to the CA. The CA issued its assailed April 30, 2009 Decision finding that the RTC acted with grave abuse of discretion in revoking its earlier appointment of Parreño as the administrator of the Estate of Manungas and appointing Diosdado instead. The CA further reinstated Parreño as the special administrator of the estate. The dispositive portion reads:

WHEREFORE, premises considered, the petition is GRANTED. The Order dated November 4, 2002 setting aside the appointment of Florencia Parreño as special administrator of the estate of the late Engracia Vda. de Manungas, and denying the property bond posted by Florencia Parreño [is] hereby declared NULL and VOID and SET ASIDE as having been issued by Public Respondent Judge of the Regional Trial Court, Branch 2, Tagum City, Davao del Norte with grave abuse of discretion amounting to lack or excess of jurisdiction.

SO ORDERED.[14]

Diosdado assailed the CA Decision in a Motion for Reconsideration dated May 15, 2009[15] which the CA denied in the July 21, 2010 Resolution.

Hence, We have this petition.

The Issues

Diosdado raises the following issues:

The Court a Quo utterly disregarded the jurisprudence that certiorari cannot be a substitute for an appeal where the latter remedy is available.[16]

The Court a Quo in denying petitioner's Motion for Reconsideration grossly violated the rule that once a decision or order is final and executory, it becomes immutable and unalterable.[17]

The Court a Quo committed a grave error when it ruled to annul the appointment of petitioner, Diosdado Manungas as judicial administrator and reinstating the appointment of Florencia Parreño as special administrator.[18]

The Court a Quo gravely erred in [giving] due course to oppositors' petition that is flawed.[19]

The Court's Ruling

The petition must be denied.

The RTC Order dated November 4, 2002 is an interlocutory order

The first two issues raised by Diosdado revolve around the issue of whether the RTC Order dated November 4, 2002 is an interlocutory order.

Diosdado alleges that, following the ruling of this Court that Certiorari cannot be the substitute for a lost appeal, Parreño should have appealed the RTC Order dated November 4, 2002 to the CA through a petition for review on certiorari under Rule 45 of the Rules of Court. Diosdado contends that the Order dated November 4, 2002 became final and executory, Parreño having failed to file the petition within the reglementary period; thus, the Order cannot be the subject of review even by this Court. However, Diosdado's position assumes that the RTC Order dated November 4, 2002 is a final order instead of an interlocutory order.

In *Philippine Business Bank v. Chua*,[20] the Court stated what an interlocutory order is:

Conversely, an order that does not finally dispose of the case, and does not end the Court's task of adjudicating the parties' contentions and determining their rights and liabilities as regards each other, but obviously indicates that other things remain to be done by the Court, is "interlocutory", e.g., an order denying a motion to dismiss under Rule 16 of the Rules x x x. Unlike a final judgment or order, which is appealable, as above pointed out, an interlocutory order may not be questioned on appeal except only as part of an appeal that may eventually be taken from the final judgment rendered in the case.

The Court has considered an appointment of a special administrator as an interlocutory or preliminary order to the main case for the grant of letters of administration in a testate or intestate proceeding. In *Ocampo v. Ocampo*,[21] the Court succinctly held, "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."

With such categorical ruling of the Court, the Order dated November 4, 2002 is clearly an interlocutory order. As such, the order cannot be the subject of an appeal under Rule 45 of the Rules of Court as argued by petitioner. The proper remedy is the filing of a Petition for Certiorari under Rule 65. Thus, Section 1(c) of Rule 41 states:

Section 1. Subject of appeal.

An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.

No appeal may be taken from:

x x x x

(c) An interlocutory order;

x x x x

In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65.

Verily, respondents made use of the proper mode of review by filing a petition for certiorari under Rule 65 with the CA. Respondents filed the petition well within the prescribed period under this rule.

There was no necessity to file a motion for reconsideration

As properly noted by petitioner, the general rule is that a motion for reconsideration is required before a decision may be appealed through a petition for certiorari under Rule 65. Under the rule, there must be no other plain, speedy and adequate remedy in the ordinary course of law, such as a motion for reconsideration, to justify the filing of a petition for certiorari. Thus, petitioner argues that respondent's failure to move for the reconsideration of the Order dated November 4, 2002 is fatal to an appeal from it. Such general rule, however, admits of exceptions as explained in *Delos Reyes v. Flores*:^[22]

We have held in a litany of cases that the extraordinary remedies of certiorari and mandamus are available only when there is no other plain, speedy, and adequate remedy in the ordinary course of law, such as a motion for reconsideration. The writ of certiorari does not lie where another adequate remedy is available for the correction of the error. x x x However, there are several exceptions where a petition for certiorari will lie without the prior filing of a motion for reconsideration, to wit:

x x x x

i. where the issue raised is one purely of law or where public interest is involved. (Emphasis supplied.)

The instant case is clearly an exception to the general rule. An examination of the issues raised by respondents in appealing the Order dated November 4, 2002, reveals that the issues are only questions of law. Ergo, there is no need for a motion for reconsideration.

In addition, the Court has even allowed the filing of a petition for certiorari despite the existence of an appeal or other appropriate remedy in several instances, including when the court *quo acted* with grave abuse of discretion amounting to lack of or in excess of jurisdiction in issuing the assailed order.^[23]

Thus, while respondent failed to move for the reconsideration of the November 4, 2002 Order of the RTC, a petition for certiorari may still prosper, as in this case.

The RTC acted with grave abuse of discretion

The lower court stated in its November 4, 2002 Order that:

After carefully scrutinizing the arguments and grounds raised by both petitioner and oppositors, this Court finds merit in the contention of petitioner. In the case of *Gonzales vs. Court of Appeals*, 298 SCRA 324, the Supreme Court ruled:

The presence of illegitimate children precludes succession by collateral relatives to his estate;

Diosdado Manungas, being the illegitimate son of Florentino Manungas inherits the latter's property by operation of law;

WHEREFORE, in view of the foregoing the order appointing Florencia Parreño as special administrator of the estate of the late Engracia Vda. de Manungas is ordered set aside.

Such reasoning is a non sequitur.

The fact that Diosdado is an heir to the estate of Florentino Manungas does not mean that he is entitled or even qualified to become the special administrator of the Estate of Manungas.

Jurisprudence teaches us that the appointment of a special administrator lies within the discretion of the court. In *Heirs of Belinda Dahlia A. Castillo v. Lacuata-Gabriel*,^[24] it was stated that:

It is well settled that the statutory provisions as to the prior or preferred right of certain persons to the appointment of administrator under Section 1, Rule 81, as well as the statutory provisions as to causes for removal of an executor or administrator under section 653 of Act No. 190, now Section 2, Rule 83, do not apply to the selection or removal of special administrator. x x x As the law does not say who shall be appointed as special administrator and the qualifications the appointee must have, the judge or court has discretion in the selection of the person to be appointed, discretion which must be sound, that is, not whimsical or contrary to reason, justice or equity. (Emphasis supplied; citation omitted.)

This principle was reiterated in the *Ocampo* case, where the Court ruled that:

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. 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 and the application of the order of preference under Section 6 of Rule 78, 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.^[25] (Emphasis supplied.)

While the trial court has the discretion to appoint anyone as a special administrator of the estate, such discretion must be exercised with reason, guided by the directives of equity, justice and legal principles. It may, therefore, not be remiss to reiterate that the role of a special administrator is to preserve the estate until a regular administrator is appointed. As stated in Sec. 2, Rule 80 of the Rules:

Section 2. Powers and duties of special administrator. -- Such special administrator shall take possession and charge of the goods, chattels, rights, credits, and estate of the deceased and preserve the same for the executors 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.

Given this duty on the part of the special administrator, it would, therefore, be prudent and reasonable to appoint someone interested in preserving the estate for its eventual distribution to the heirs. Such choice would ensure that such person would not expose the estate to losses that would effectively diminish his or her share. While the court may use its discretion and depart from such reasoning, still, there is no logical reason to appoint a person who is a debtor of the estate and otherwise a stranger to the deceased. To do so would be tantamount to grave abuse of discretion.

Hence, the CA ruled that the trial court erred in issuing the November 4, 2002 Order, acting with grave abuse of discretion in appointing Diosdado as the special administrator of Engracia Manungas' estate:

In any case, the trial court erred in revoking the appointment of Florencia Avila Parreño as Special

Administrator on the ground that it found merit in Diosdado's contention that he is the illegitimate child of the late Florentino Manungas. The evidence on record shows that Diosdado is not related to the late Engracia and so he is not interested in preserving the latter's estate. On the other hand, Florencia, who is a former Judicial guardian of Engracia when she was still alive and who is also the niece of the latter, is interested in protecting and preserving the estate of her late aunt Engracia, as by doing so she would reap the benefit of a wise administration of the decedent's estate. Hence, the Order of the lower court revoking the appointment of Florencia Avila Parreño as special administrator constitutes not only a reversible error, but also a grave abuse of discretion amounting to lack or excess of jurisdiction. In the instant case, the lower court exercised its power in a despotic, arbitrary or capricious manner, as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.[26] (Emphasis supplied.)

To reiterate, the subject of the intestate proceedings is the estate of Engracia Manungas. It must be remembered that the estate of Florentino Manungas was already the subject of intestate proceedings that have long been terminated with the proceeds distributed to the heirs with the issuance of a Decree of Final Distribution.[27] With the termination of the intestate estate proceedings of Florentino Manungas, Diosdado, as an illegitimate heir of Florentino Manungas, is still not an heir of Engracia Manungas and is not entitled to receive any part of the Estate of Manungas. In fact, Diosdado is a debtor of the estate and would have no interest in preserving its value. There is no reason to appoint him as its special administrator. The trial court acted with grave abuse of discretion in appointing Diosdado as special administrator of the Estate of Manungas. The CA correctly set aside the November 4, 2002 Order of the RTC.

Consequently, with the setting aside of the November 4, 2002 Order of the trial court, reversing its May 15, 2002 Order and appointing Diosdado as the special administrator of Engracia Manungas' estate, the May 15, 2002 Order is necessarily reinstated and Parreño's appointment as special administrator is revived.

WHEREFORE, the petition is hereby DENIED. The CA's April 30, 2009 Decision and July 21, 2010 Resolution in CA-G.R. SP No. 74531-MIN declaring as null and void the November 4, 2002 Order of the RTC in Special Proceedings No. 708 are AFFIRMED. Consequently, the Order dated May 15, 2002 of the RTC is hereby REINSTATED and Florencia Avila Parreño is REINSTATED as the special administrator of the estate of Engracia Manungas.

SO ORDERED.

Peralta, Abad, Mendoza, and Sereno,[*] JJ., concur.

[*] Additional member per Special Order No. 1028 dated June 21, 2011.

[1] Rollo, pp. 22-36. Penned by Associate Justice Ruben C. Ayson and concurred in by Associate Justices Edgardo A. Camello and Michael P. Elbinias.

[2] Id. at 50-51.

[3] CA rollo, pp. 113-114. Penned by Judge Erasto D. Salcedo.

[4] Rollo, p. 23.

[5] Id.

[6] Id. at 24.

[7] Id. at 25.

[8] Id. at 25.

[9] Id. at 25-26.

[10] Id. at 26.

[11] Id. at 28.

[12] Id.

[13] Id. at 29.

[14] Id. at 35.

[15] Id. at 37-46.

[16] Id. at 4.

[17] Id. at 6.

[18] Id.

[19] Id. at 9.

[20] G.R. No. 178899, November 15, 2010.

[21] G.R. No. 187879, July 5, 2010, 623 SCRA 559, 571.

[22] G.R. No. 168726, March 5, 2010, 614 SCRA 270, 277-278.

[23] Republic v. Coalbrine International Philippines, Inc., G.R. No. 161838, April 7, 2010, 617 SCRA 491, 502.

[24] G.R. No. 162934, November 11, 2005, 474 SCRA 747, 759-760.

[25] Supra note 21.

[26] Rollo, p. 35.

[27] Id. at 24.

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