

DOROTEA DAIS ET AL., PETITIONERS, VS. THE COURT OF FIRST INSTANCE OF CAPIZ ET AL., RESPONDENTS.

G.R. No. 28770. January 21, 1928

Ponente: VILLA-REAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-28770/>

VILLA-REAL, J.:

This is a petition for a writ of certiorari filed by Dorotea Dais et al., against the Court of First Instance of Capiz, Seventeenth Judicial District, Jose Altavas and Jose Morente, in which it is prayed that an order be issued to the respondent judge requiring him to certify and transmit to this court an exact and complete transcription of the record, decision and proceedings in cadastral proceeding No. 18 (G. L. R. O. Record No. 714), entitled the Director of Lands vs. Justo Abiertas et al., concerning the portion referring to lots Nos. 626, 1132 and 1136, for review by this Supreme Court; and that after hearing both parties, judgment be rendered declaring the judicial orders of the Court of First Instance of Capiz dated July 25, 1927, August 8, 1927, and September 22, 1927, as well as the judgment rendered by the same court on September 29, 1927, and all other proceedings had in connection therewith, void and of no effect.

The facts appearing from the pleadings and documentary evidence attached thereto, presented in this case, are hereinafter set forth in the order of their occurrence.

In the course of the intestate proceedings for the settlement of the estate of the deceased Serapion Dais, civil case No. 988 of the Court of First Instance of Capiz, Manuel Arnaldo was appointed administrator of the estate. For the payment of some of the debts of the deceased, said administrator was authorized to sell certain parcels of land of said estate; whereupon he sold lots Nos. 1132 and 1136 in the form prescribed by the law, to Antonio Habana, which sale was approved by the court on February 15, 1926. The herein petitioners or some of them objected to such approval and filed a motion for reconsideration on March 6, 1926, which was denied on March 10, 1926. They appealed accordingly on April 6, 1927, and the same was denied on August 1, 1927, on the ground that it was not presented within the time prescribed by section 783 of the Code of Civil Procedure, because more than twenty days had elapsed since the orders appealed from had been entered. It appears from the order denying said appeal that the appellants contend that the time within which said appeal should be taken must be counted from the date of the notification of said orders and not from the date on which they were entered.

On May 20, 1926, Manuel Arnaldo filed an answer in the cadastral proceeding No. 18 (G. L. R. O. Record No. 714), in the name of Serapion Dais's heirs, claiming title to lots Nos. 626, 1132 and 1136 of said proceeding. Jose Morente also filed an answer claiming title to lots Nos. 1132 and 1136. Jose Altavas also filed an answer claiming title to lot No. 626.

Before the hearing of the case, and in pursuant of a motion of the claimants Jose Altavas and Jose Morente, respectively, with the consent of Manuel Arnaldo, as judicial administrator of Serapion Dais's intestate estate, the respondent court ordered the answers presented by said administrator in the name of Serapion Dais's heirs with respect to lots Nos. 626, 1132 and 1136 stricken out.

Dissatisfied with this order striking out their answer, the heirs of Serapion Dais presented a motion for reconsideration, objecting to the motions to strike out their answer and praying that the order of July 25, 1927, granting said motions, be annulled. The motion for reconsideration being denied, the movants, heirs to Serapion Dais, took formal exception to said order, and gave notice of their intention to appeal to this court, and, to perfect their appeal, filed the proper bill of exceptions, which was disapproved by the court on the motion of claimants Jose Altavas and Jose Morente.

After the aforementioned answers presented by the judicial administrator Manuel Arnaldo on behalf of the heirs of Serapion Dais anent lots Nos. 626, 1132 and 1136, had been stricken from the record of the cadastral proceeding, the court proceeded to the hearing of the answers of Jose Altavas and Jose Morente in regard to the said lots, after which the respondent court rendered a judgment on September 29, 1927, adjudicating lot No. 626 to the spouses Jose Altavas and Socorro Laserna, and lots Nos. 1132 and 1136 to Jose Morente and Patria Altavas.

There are two principal questions to be determined in the present instance, to wit:

- Have the petitioners the right to intervene in a cadastral proceeding for the purpose of objecting to the striking out of an answer filed by the judicial administrator of the intestacy of the petitioners' predecessor in interest, claiming several parcels of land as the property of said estate, when the aforementioned administrator consents to its being stricken out?
- And in case they have, has the respondent judge exceeded his powers in ordering that the answer be stricken from the record, over the objection of the said petitioners? In relation to the first question, article 657 of the Civil Code provides:

"ART. 657. The rights to the succession of a person are transmitted from the moment of his death."

And article 661 of the same Code says:

"ART. 661. Heirs succeed to all the rights and obligations of the decedent by the mere fact of his death."

Interpreting the above quoted legal provisions, this court has held in various decisions that the rights to the succession of a person are transmitted from the moment of his death; in other words, the heirs immediately succeed to the dominion, ownership and possession of the property of their predecessor. (Quison vs. Salud, 12 Phil., 109; Ilustre vs. Alaras Frondosa, 17 Phil., 321; Malahacan vs. Ignacio, 19 Phil., 434; Beltran vs. Dorian, 32 Phil., 66; Bondad vs. Bondad, 34 Phil., 232; Velazco vs. Vizmanos, 45 Phil., 675; Fule vs. Fule, 46 Phil., 317.) The fact that the law provides for the appointment of a legal administrator for the liquidation of the deceased's property, and the partition of his hereditas jacens among his heirs, does not deprive the heirs of the right to intervene in the administration of said property for the protection of their interests. On the contrary section 714 of the Code of Civil Procedure, in connection with section 722 of the same Code, requires that the written consent and approval of the heirs be obtained for the sale of the deceased's property in order to pay his debts and the costs of administration. This provision shows that, notwithstanding the appointment of a judicial administrator, the heirs have a right to intervene when they believe the administrator's acts are prejudicial to their interest. And it cannot be said that the administrator answers with his bond for any damage he may cause to the interests of the estate, since such bond might not be sufficient to cover said damages.

For the reasons above stated, we are of opinion that the heirs have a right to intervene in a cause involving certain property of the decedent's hereditas jacens whenever they believe the legal administrator's acts are prejudicial to their interests.

The second question to determine is whether or not the respondent court exceeded its jurisdiction in ordering that the answers filed by the legal administrator in the name of the heirs be stricken out, said administrator having

consented against the opposition of said heirs.

In determining the first question, we have seen that the heirs have a right to intervene when they believe that the acts of the judicial administrator of the property of the hereditas jacens of their predecessor in interest are prejudicial to their interests. The petitioners have made use of this right in the present proceedings, opposing the dismissal and taking exception to the order granting the motion filed to that end.

The answers in cadastral proceedings partake of the character of an action to recover title, as real rights are claimed therein. According to section 10 of Act No. 2347, the provisions of the Code of Civil Procedure are of a suppletory nature in land registration cases. Since Act No. 496, known as Land Registration Act, contains no special rule as to the procedure to be followed in impugning the sufficiency of the answers in cadastral proceedings nor in determining whether or not they must be dismissed, the provisions of the Code of Civil Procedure are applicable. According to the said Code, complaints can only be dismissed by a failure to prosecute, by default, by abandonment, or by defects provided by the law as grounds for a demurrer (Secs. 101 and 127, Act No. 190). When two persons claim the ownership of one and the same cadastral lot, both of them are claimants and opponents at the same time, and their respective answers cannot be dismissed by the court without the presence of any of said circumstances; and a motion for dismissal that is not based on any of said grounds does not confer jurisdiction on the court to dismiss the complaint, and if it does so, it exceeds its powers.

In this case, the motion presented by Jose Altavas, claimant of lot No. 626, praying for the dismissal of the answer filed by the judicial administrator, Manuel Arnaldo, on behalf of the heirs of the deceased Serapion Dais, with reference to the same lot, is based on the allegation that said lot never pertained to the mass of property of said decedent, and that it had never been in the possession of said administrator. The motion presented by Jose Morente for the dismissal of the answers presented by the judicial administrator of the intestate estate of Serapion Dais on behalf of the latter's heirs, with reference to lots Nos. 1132 and 1136, is based on the claim that said lots were sold by the said administrator with the approval and authority of the court. Neither of these grounds is found among those mentioned by the present law of civil procedure as causes for dismissal. It is true that the judicial administrator agreed to the dismissal asked for, but the heirs, in whose name he had presented said answers, objected to it, and presented a motion for reconsideration in time, which was denied by the respondent court. In view of such opposition of the heirs, who are interested parties in the case, the court should not have ordered the dismissal of the said answers, but should have proceeded to the trial on the merits of the lots in question with the intervention of said heirs.

In ordering the dismissal of the answers presented by the judicial administrator of the intestate estate of Serapion Dais, in the name of the latter's heirs, notwithstanding their opposition and for a cause not provided by law as a ground for dismissal, the respondent court did really exceed its jurisdiction; because it is not enough that a court have jurisdiction over the subject matter in litigation and the parties, but it is necessary that it have authority in and over each and every one of the essential particulars of the case.

In the case of Larrobis vs. Wislizenus and Smith, Bell & Co. (42 Phil., 401), this court laid down the doctrine that the erroneous exercise of interlocutory powers is irregular and justifies the institution of certiorari proceedings.

And on page 104 of volume 11 of Corpus Juris, the following rule may be found:

"* * * But it has been held that 'any departure from the recognized and established requirements of law, however close the apparent adherence to mere form in method of procedure, which has the effect to deprive one of a constitutional right is as much an excess of jurisdiction as where there is an inceptive lack of power.' "

In dismissing the answer presented by the judicial administrator, Manuel Arnaldo in the name of the heirs of the deceased Serapion Dais, over their objection, and in finally deciding the case on the merits awarding the

controverted lots to their adversaries, without hearing said heirs, the court not only exceeded its jurisdiction, but also deprived them of their constitutional right to be heard before being deprived of their property rights, and its proceedings were in this sense, void and of no effect.

The appeals taken by the petitioners from the orders which are the subject of this proceeding were denied by the respondent judge; hence, said petitioners have no other adequate and speedy remedy in law to protect their rights other than a writ of certiorari.

It is, therefore, proper to grant, as we do hereby grant, the remedy sought, and the decree of the Court of First Instance of Capiz of July 25, 1927, ordering the dismissal of the answers concerning lots Nos. 626, 1132 and 1136 filed on behalf of the petitioners in cadastral proceeding No. 18 (G. L. R. O. Record No. 714) is set aside, as well as the orders dated August 8, 1927, and September 22, 1927, denying the motion for reconsideration and the appeal respectively, and the judgment of the same court dated September 29, 1927, awarding lot No. 626 to the spouses Jose Altavas and Socorro Laserna and the lots Nos. 1132 and 1136 to the spouses Jose Morente and Patria Altavas, with all the orders rendered in connection with said decision, without costs. So ordered.

Johnson, Street, Malcolm, Ostrand, Johns, and Romualdez, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.