

FELIX BAUTISTA, PLAINTIFF AND APPELLEE, VS. AQUILINA TIONGSON ET AL., DEFENDANTS AND APPELLANTS.*G.R. No. 4232. November 07, 1908*

Ponente: TORRES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-4232/>**TORRES, J.:**

By an amended written complaint dated the 29th of October, 1904, Felix Bautista, administrator of the intestate estate of Ciriaco Tiongson, alleged: that the said deceased Ciriaco Tiongson, and Aquilina Tiongson, were, until the 22d of July, 1901, when the first named died, the owners pro indiviso of five parcels of land, one of them situated in the place named Tinapayong or Catulinan, in the town of Baliuag, and the other four in Sapang Malaqui, Sapang Munti, Sapang Bagbag and Maysasa, within the municipality of Hagonoy, and all of them in the Province of Bulacan, their area, location and boundaries being described in the said complaint; that one-half of the said land appertained to said intestate estate, and the other half to the defendant, Aquilina Tiongson; the latter and her husband, Domingo Tomacruz, were the only parties who had administered and were then administering the aforesaid property, having collected the rentals thereof without rendering an accounting of their administration to anyone; and that at that time the said property was not encumbered in favor of any other person; therefore, he prayed the court to order that the same be partitioned in accordance with the law, and that the defendants be instructed to render an accounting of their administration and deliver the balance, if any there be, to the plaintiff.

In view of the foregoing amended complaint, the defendants reproduced their previous answer, wherein it was set forth that they denied the first paragraph of the complaint, for the reason that, at the time of the death of Ciriaco Tiongson, the only plot of land held jointly by the latter and by Aquilina Tiongson was the first of those described in the complaint, because the four remaining, the second, third, fourth, and fifth, were owned exclusively by the defendants who had purchased the same from the late Ciriaco Tiongson, in ignorance of the existence of plot No. 6; that they denied the allegation in paragraph 2 of the complaint for the same reason given in reference to paragraph 1, and also the allegation in paragraph 4, inasmuch as Ciriaco Tiongson, while living, together with the defendants, administered the undivided lands, and that, after his death, his widow, Marciana de Zulueta, as the administratrix of the property of her seven minor children, received that portion of the crops from the land described in paragraph 1 of the complaint belonging to the intestate estate until the year 1903.

As a special defense they alleged; that the plaintiff lacked the capacity to bring this action because the legal administration of the property of the late Ciriaco Tiongson pertained to his widow who lived with her minor children, acting on behalf of the latter; that, besides the rentals received by the widow of Ciriaco, she, on several occasions, took from the defendants, on account of the rentals of the said land, the sum of 1,402.45 pesos, and that the deceased, before his death, personally owed the defendants the sum of 143.75 pesos; for which reasons they prayed that the appointment of the administrator of the intestate estate of Ciriaco Tiongson be annulled, and that the complaint be dismissed entirely; and, in the event that the said nullity be not declared, that they be absolved from the complaint except in so far as it relates to the partition of the land described in paragraph 1 thereof, without prejudice to their claim against the property of the intestate for the amounts taken by the late Ciriaco and

his widow, with the costs against the plaintiff.

By a writing dated the 31st of October, 1904, Benito Mojica, with permission of the court, presented a petition of intervention, alleging that he was an owner by virtue of a contract of sale with a pacto de retro clause, entered into with the spouses Domingo Tomacruz and Aquilina Tiongson for a period of three years from November, 1902, of four parcels of rice land situated in Sapang Malaqui, Sapang Munti, Sapang Bagbag, and Maysasa, in the municipality of Hagonoy, the area, location and boundaries of which are stated; and having been informed that the plaintiff, Felix Bautista, had filed a complaint against the said parties demanding the partition of the property and that it be placed in the hands of a trustee, the said administrator Bautista being aware of the sale with right of redemption, he prayed that, after due process of law, the Request for partition be denied with costs.

The case was tried and evidence adduced by the parties whose exhibits were made of record. The court below entered judgment on the 4th of April, 1907, and allowed the demand interposed by Felix Bautista as administrator Of the: intestate estate of Ciriaco Tiongson, and, in consequence decreed the partition of the property described in the amended complaint, and at the beginning of the judgment, on the basis that one-half of the said property belonged to Aquilina Tiongson, and the other half to the intestate estate of Ciriaco Tiongson, as property inherited by the latter and by the said Aquilina from their late father, Emeterio Tiongson, further ordered that Domingo Tomacruz should render an accounting of the administration of said property within a period of fifty days. The petition for intervention presented by Benito Mojica against Felix Bautista with respect to the rice lands in Sapang Malaqui, Sapang Munti, Sapang Bagbag, and Sapang Maysasa, above referred to, was dismissed without special ruling as to costs.

The defendants and the intervener, upon being informed of the foregoing decision, excepted thereto and made known their intention to appeal therefrom by a bill of exceptions, and presented a motion for a new trial because the evidence did not sufficiently justify the decision, and because the same was contrary to law. The motion for a new trial was overruled ; thereupon the defendants and the intervener excepted to the last ruling in due course, and the said intervener agreed in writing to the bill of exceptions presented by the defendants, and made it his own for the purposes of his appeal to this court

The proceedings instituted by Felix Bautista as administrator of the intestate estate of Ciriaco Tiongson, wherein he asks for the partition of certain lands which the said deceased and his sister, Aquilina Tiongson, inherited from their late father, Emeterio Tiongson, and which they possessed pro indiviso, are governed by sections 181 to 196 of the Code of Civil Procedure.

No provision of the said sections authorizes an administrator of the property of an intestate to bring an action demanding the partition of real estate owned pro indiviso by the deceased, whose property he is administering, and by another person.

In the above cited sections, the law refers to a coparcener, coheir, or other person interested in the undivided property held, because any one of such persons is a real party concerned in the partition. In cases like the present, where the property is held by a person, not as a coheir but as the exclusive owner, the right of action for partition, which supposes joint ownership or community of property, pertains only to the heirs of the late Ciriaco Tiongson, not to the administrator who, when claiming the division of real estate not included in the inventory, or which he did not take charge of on commencing to exercise office, but which is alleged to belong to the estate, is not authorized to represent the intestate succession of the property administered by him; neither is he authorized to represent the heirs, because the latter, as successors to the deceased, are the only parties who may maintain such an action for partition of real estate held pro indiviso by coheirs or owners in common. The matter should be decided in accordance with the provisions contained in the first part of the Code of Civil Procedure.

Only in the event that one of the parties in interest were a minor, could he be represented by his guardian, tutor or curator ad litem, with the court's approval, to institute an action for the partition of property or appear therein, under the provisions of section 195 of the said code.

It is to be noted that in dealing with the partition of property, the law mentions the personality of the guardian or curator who represents a minor, but no mention is made of the executor or administrator, inasmuch as the partition of property which, as a matter of fact, does not form a part of the inheritance, can not be regulated by the sections of the Code of Procedure which refer to special proceedings in connection with testate or intestate estates, but by those of the chapter on partition of real property.

With regard to the rendering of accounts, the demand therefor presupposes that the action for partition brought by the administrator was in accordance with the law and that the same could be granted by the court below; once the latter is dismissed, it follows that the former should likewise be denied.

Therefore, it is our opinion that the judgment appealed from should be and is hereby reversed, and that the administrator of the intestate estate of Ciriaco Tiongson has no right to bring an action claiming the partition of real estate on the ground that one moiety of the same belongs to the estate of the deceased. No special ruling is made as to the costs in either instance. So ordered.

Arellano, C. J., Mapa, Carson, Willard, and Tracey, 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.