

**INTESTATE ESTATE OF THE DECEASED MARIANO G. VELOSO.
GEORGE CASTRO, ASSIGNEE OF THE INVOLUNTARY INSOLVENCY
OF GABINO M. VELOSO, APPELLANT, VS. CONSUELO CARRATALA
VIUDA DE VELOSO,...**

G.R. No. 42454. December 21, 1935

Ponente: IMPERIAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-42454/>

IMPERIAL, J.:

This is an appeal taken by the assignee of the Involuntary Insolvency of Gabino M. Veloso from the orders of the Court of First Instance of Cebu of March 31 and April 21, 1934, respectively. The first declared that the appellant had no standing or right to intervene in the intestate of the deceased Mariano G. Veloso, and the second approved the accounts filed by the administratrix-appellee on September 30, 1933 and April 11, 1934, respectively.

Among the ten legitimate heirs of Mariano G. Veloso is Gabino M. Veloso who, upon petition of various creditors, was declared insolvent by the court in these involuntary insolvency proceedings, civil cause No. 9312. The appellant George Castro was named assignee of the involuntary insolvency and appeared as such in the intestate of Mariano G. Veloso to safeguard the participation of the insolvent and the rights of all the known creditors who had appeared in the insolvency. The appellee Consuelo Carratala, widow of Mariano G. Veloso was appointed administratrix. The latter, as such administratrix, filed in the intestate sundry accounts and motions asking judicial authority to sell certain real property of said intestate, all of which were objected to and assailed by the assignee-appellant. In the course of the intestate proceedings, the attorneys for the appellee objected to the intervention of the appellant in the intestate and challenged his standing and right to take part therein. The appellant answered the challenge alleging that he had legal capacity to intervene for the protection of the rights of the insolvent as well as those of his known creditors. Notwithstanding his written appearance in the intestate and his petition that he be formally notified of all the pleadings which the appellee, as administratrix, may file, the appellant did not receive copies or notice of hearing of the accounts and motions to sell property filed by the appellee. While the accounts of administration were pending approval the court, on March 31, 1934, issued an order declaring that the appellant, as assignee, had neither standing nor right to intervene in the intestate. On April 21 of the same year, it issued another order approving the accounts dated September 30, 1933 and April 11, 1934, respectively, and in other prior orders approved the appellee's petitions asking for permission to sell real property of the intestate. The accounts and motions were thus approved without affording the appellant an opportunity which he had asked for from the beginning to intervene in the hearings, and without enabling him to adduce evidence support of his allegations. As was said at the beginning, the appellant excepted to the two orders of 1934 which motivate the present appeal.

In his five assigned errors, the appellant alleges that the court erred in holding that he has neither standing nor right to intervene in the intestate; in permitting the administratrix to squander the estate to the prejudice of the co-heir Gabino M. Veloso and his creditors; in not requiring the administratrix to make a correct and complete report of all the property of the intestate in order to ascertain the net distributable estate; and, finally, in permitting

that the accounts and petitions to sell property be heard and determined favorably in violation of the rules of courts and without giving him an opportunity to be heard and to adduce his evidence.

In *Hunter, Kerr & Co. vs. Murray* (48 Phil., 499), we held that the assignee in insolvency is in effect a special legal agent of the insolvent. Responsive to the spirit underlying the Insolvency Law (Act No. 1956) and pursuant to the provisions of Chapter V thereof relative to the powers and duties of the assignee, this officer represents in a voluntary or involuntary insolvency proceeding both the insolvent as well as all his creditors. This same principle prevails in almost all the states of the Union in which an insolvency law similar to that in force in this jurisdiction has been adopted (32 C. J., sec. 125, p. 859). As legal representative of an heir or legatee, he is entitled to intervene in the proceedings begun to liquidate and distribute the estate in which the former is interested, in order to protect not only the interests of said heir or legatee but also those of his creditors (24 C. J., sec. 2308, p. 930). As a corollary of the principles just enunciated, which are controlling in this jurisdiction, it is undeniable and we so held that the appellant, as assignee of the co-heir Gabino M. Veloso, was entitled to intervene in the intestate of the Jatter's father, Mariano G. Veloso, and could ask, as he did, that the administratrix present correct accounts of her administration and that the property of the intestate be partitioned in accordance with law among all the legitimate heirs. Consequently, the court erred in not acknowledging his standing and in denying his right to be heard in connection with the questions raised by him.

It also appears that the appellee was permitted not only to sell the real property of the intestate but also to distribute and spend the proceeds of the sales without the intervention of the appellant, and, lastly, she was allowed to file ex-parte motions without either notifying or serving copies on the attorneys for the appellant. We hold that this was also error, because the appearance of the attorneys for the appellant being of record, the latter were entitled not only to be informed of all the proceedings but also to be served with copies of all the pleadings to be filed by the appellee as administratrix.

In view of the foregoing, the appealed orders of March 81 and April 21, 1934, respectively, are reversed, and it is held that the herein appellant, as assignee, is entitled to intervene in the intestate of the deceased Mariano G. Veloso. The accounts filed by the appellee, as administratrix, dated September 30, 1933 and April 11, 1934, respectively, challenged by the appellant, shall again be heard, and the parties shall be afforded an opportunity to be heard and to adduce evidence. The appellee in the same capacity, shall be required to render a detailed accounting of all the properties under her administration, and, if necessary, she must present a new inventory containing a statement of all the property, with its value, of the intestate that had come to her possession; with the costs of this instance to the administratrix-appellee. So ordered.

Malcolm. Villa-Real, Butte, and Goddard, JJ., concur.

Orders reversed.

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.