

SIXTO CASTILLO GONZALEZ, ASSISTED BY HIS GUARDIAN AD LITEM SIXTO CASTILLO, JR., PLAINTIFF AND APPELLANT, VS. MODESTO CASTILLO ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 45404. May 11, 1938

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

A motion has been filed by the appellant for the reconsideration of the resolution of the 31st of January of the current year denying the petition filed by her for the purpose of securing from this court an order lifting the attachment levied on the properties of the plaintiff Sixto Castillo.

As the said motion alleged a new ground not set forth in the previous petition which was denied, this court, by resolution of March 25th, last, treated said motion for reconsideration as a new petition and ordered that the defendants be served with a copy thereof.

The defendants having answered the said new petition, and it appearing that, with the death of the original plaintiff Sixto Castillo, the danger that he might fraudulently alienate the properties in litigation, to the prejudice of the defendants, has disappeared, the reason for maintaining the attachment has consequently ceased to exist.

Furthermore, inasmuch as the judicial administratrix of the properties of the deceased plaintiff in whose name the present litigation is continued, could not likewise alienate the properties here involved without judicial sanction which would not be granted without previous notice to the defendants, children of the deceased, and without prior determination by the court of the real necessity or use of the sale of any of said properties, it is obvious that the fundamental ground on which the preliminary attachment of the properties of said plaintiff was granted, has altogether disappeared.

Wherefore, it is ordered that the attachment of the properties of the plaintiff in this case be lifted. So ordered.

Villa-Real, Abad Santos, Imperial, Diaz, and Laurel, JJ., concur.

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