

**INTESTATE ESTATE OF THE DECEASED PROCESO DE GUZMAN.
NICOLASA DE GUZMAN, PETITIONER AND APPELLEE, VS. ANGELA
LIMCOLIOC, OPPOSITOR AND APPELLANT.**

G.R. No. 46320, October 05, 1939

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

This is an appeal taken by the oppositor Angela Limcolioc from the order of the Court of First Instance of Rizal, dated March 30, 1938, the dispositive part of which reads as follows:

"It is hereby ordered that Apolinario de Guzman be, as he is hereby, appointed coadministrator of the estate of the deceased upon filing a bond in the sum of P5,000 with two or more sufficient sureties to the satisfaction of the Court. The coadministrator will not be entitled to receive compensation for his services."

In the case of Nicolasa de Guzman vs. Angela Limcolioc, G. R. No. 46134, wherein the parties are the same as those in this case, this court, in a judgment rendered on April 18, 1939, stated as follows:

"The principal consideration reckoned with in the appointment of the administrator of the estate of a deceased person is the interest in said estate of the one to be appointed as such administrator. This is the same consideration which the law takes into account in establishing the preference of the widow to administer the estate of her husband, upon the latter's death, because she is supposed to have an interest therein as a partner in the conjugal partnership. But this preference established by law is not absolute, if there are other reasons justifying the appointment of an administrator other than the surviving spouse. If the interest in the estate is what principally determines the preference in the appointment of an administrator of the estate of a deceased person, and if, under the circumstances of each case, it develops that there is another who has more interest therein than the surviving spouse, the preference established in the latter's favor falls to the ground."

The same reasons are applicable to the case under consideration, inasmuch as the appointed coadministrator, Apolinario de Guzman—as brother of Nicolasa de Guzman whom the latter needs to help her in the administration of the properties left by their deceased father, many of which consist in fisheries situated in the provinces—is as interested as his sister in that said properties be duly administered and conserved for the benefit of the heirs. It is true that Apolinario de Guzman's father, Proceso de Guzman, in life, filed a complaint against his son on the ground that the latter, as administrator of his father's estate, misappropriated from P12,000 to P5,000 to buy a fishery, a De Soto sedan, and a duck farm in Los Banos, and loaned money and made deposits in the Philippine National Bank, but said complaint was dismissed at the instance of the father himself. In the present case, aside from the fact that Apolinario de Guzman, as coadministrator, will administer properties in which he has a greater share than that of the oppositor, the childless widow of the deceased by a second marriage, and will act merely as a helper of his sister, there is no ground to believe that he would squander said properties and the products thereof. The lower court having been of the opinion that Apolinario de Guzman deserves the appointment of coadministrator, and it being discretionary on its part to determine who should be appointed administrator of the properties of a deceased person, we believe it unjustified for us to meddle in the exercise of such discretion, it not

appearing that said court has committed a grave abuse thereof (Esler and Tad-Y vs. Tad-Y and Locsin, 46 Phil., 854; Navas L. Sioca vs. Garcia, 44 Phil., 711).

Wherefore, not finding any error in the order appealed from, it is affirmed in toto, with the costs to the appellant. So ordered.

Avanceña, C. J., Imperial, Diaz, Laurel, Concepcion, and Moran, JJ., concur.

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