

BLESILO BUAN AND FLORENCIO BUAN, JR., PETITIONERS, VS. HON. FERNANDO S. ALCANTARA, AS JUDGE OF THE COURT OF FIRST INSTANCE OF TARLAC, AND A. NATIVIDAD PARASNISCE, RESPONDENTS.

G.R. No. 59592. February 29, 1984

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

Assailed in this petition is the Order dated October 15, 1981 of the then Court of First Instance of Tarlac, Branch I, in Special Proceedings No. 766 covering the Intestate Estate of Florencio P. Buan and Rizalina Paras-Buan, denying the Omnibus Motion filed by petitioners Blesilo Buan and Florencio Buan, Jr. principally praying for the closure of the intestate estate proceedings of their deceased parents, and their applications for precautionary measures against respondent Administratrix A. Natividad Paras-Nisce.

The antecedent facts, in brief, are:

On January 3, 1953, petitioners' parents, Florencio P. Buan and Rizalina Paras-Buan, owners of Philippine Rabbit Bus Lines and several other properties, died in a motor vehicle accident. They were survived by their five then minor children: Jesusa Janina, 12 years old; Lourdes Palmyra, 5; Florencio, 4; Valentino, 3; and Blesilo, 11 months.

On January 9, 1953, intestate proceedings were commenced. Respondent Natividad Paras, younger sister of the orphans' mother, still single then, and Bienvenido Buan, younger brother of their father, were appointed co-administrators of the estate of the deceased spouses. They were also appointed guardians of the children in Special Proceeding No. 1099.

In 1957, the Philippine Rabbit Bus Lines was in-corporated. The Buan estate was the majority stockholder with 1,992 shares of stock with a par value of P100.00 per share, or 99.67%, with the co-administrators and the other stockholders, Ricardo L. Paras, Mariano P. Buan, Simplicio P. Buan, Diosdado L. Paras, Alejandro Paras, Jr. and Lauro P. Pascual, subscribing to one share of stock each.[1]

Upon authorization to increase its capital stock from two million to five million pesos[2] having been obtained, the administrators filed on May 25, 1964, a Petition to Waive Estate's Pre-emptive Right to Subscribe to the Increase of Capital Stock.[3] This was granted by respondent Court on May 27, 1964.[4] The Certificate of Increase of Capital Stock of Philippine Rabbit Bus Lines, Inc. shows that administrators Bienvenido Buan and Natividad Paras-Nisce subscribed to 9,100 shares of stock each in the total amount of P1,820,000.00. The six remaining stockholders also bought additional shares: Ricardo L. Paras and Mariano P. Buan, 1,000 shares each; Simplicio P. Buan, Diosdado L. Paras, Alejandro Paras, Jr. and Lauro P. Pascual, 500 shares each.[5] The controlling interest of the estate was thereby reduced to barely 35% as against the co-administrators and other relatives 65% interest in the outstanding capital.

In the interim, the co-administrators formed other corporations, the Tarlac Development Bank and Bupar Motors Corporation.

Tarlac Development Bank was organized on July 5, 1961. It has an authorized capital of P2 million and an actual subscription of P1,070,000.00. The Development Bank of the Philippines subscribed and paid for P500,000.00 in preferred stock. Of the common stock, the Buan estate subscribed and paid for shares worth P350,000.00; respondent administratrix and her husband Ramon Nisce to P65,000.00; Bienvenido P. Buan and his wife to P65,000.00; the co-administrators' respective brothers, Ricardo L. Paras and Mariano P. Buan, to P10,000.00 each. The capitalization was later increased to P3 million. Petitioners have no knowledge of the present status of the stockholdings.[6]

Bupar Motors Corporation was put up on March 25, 1963 for the purpose of engaging in the business of assembly (including bus body building), sale and distribution of motor trucks, spare parts and tire recapping. The Buan estate subscribed to P50,000.00 worth of shares from the authorized capital of P1 million. Co-administrator Bienvenido P. Buan subscribed to P50,000.00 worth of shares; respondent administratrix and her husband to P50,000.00; Ricardo L. Paras and Mariano P. Buan to P25,000.00 each.

On August 21, 1964, the capitalization was increased to P3 million. The estate subscribed to P850,000.00 worth of shares; respondent administratrix and her husband to P700,000.00; co-administrator Bienvenido P. Buan to P175,000.00; Ricardo L. Paras to P175,000.00; Mariano P. Buan to P100,000.00; and Diosdado L. Paras to P100,000.00.

Bupar Motors Corporation became the purchasing arm of Philippine Rabbit Bus Lines Inc. An entire tire section of the bus company was transferred to Bupar. A parcel of land with a concrete building belonging to the Buan estate was sold to Bupar Motors for P135,000.00. In the petition to waive pre-emptive right to subscribe to the increase of the capital stock of Philippine Rabbit Bus Lines Inc., the co-administrators gave as reason therefor, the estate's alleged controlling interest in this Bupar corporation.[7]

On March 26, 1965, the heirs Jesusa Janina Buan-Monteyro and Lourdes Palmyra Buan-Tabamo, filed an Omni-bus Motion praying among others, for their appointment, either, solely or jointly, as administratrices of the estate of their late parents, and on April 11, 1965, an Alternative Motion to Close Administration Proceedings on the ground that the administrators were not taking positive steps to close the intestate proceedings instituted some twelve years back.[8]

On October 20, 1965, the sisters filed a Supplemental Omnibus Motion for (1) Immediate Removal of Co-Administrators, (2) Annulment of Illegal Subscription, (3) Return of Shares, (4) Setting Aside Order, (5) Contempt, principally assailing the actuations of the co-administrators in filing the Petition to Waive Estate's Pre-emptive Right to Subscribe to the Increase of Capital Stock, and their subsequent purchase themselves of additional stock, which reduced the estate into a minority stockholder. The administrators filed an opposition thereto.

On February 24, 1970, administrator Bienvenido Buan died, and respondent Administratrix continued managing the estate alone.

Another corporation was organized by respondent Administratrix on May 11, 1970, the Ledi Realty Enterprises Inc., with an authorized capital of P1 million. The principal stockholders are respondent Administratrix and her husband, with a subscription of P280,000.00. Her brother Diosdado L. Paras, subscribed to P1,000.00 worth of shares. The heirs Florencio Buan, Jr. and Valentino Buan were made to appear to have subscribed to P160,000.00 and P59,000.00 worth of shares of stocks, respectively. On May 20, 1970, the corporation bought the inheritance rights in the estate of petitioners' sisters and co-heirs, Janina and Palmyra.[9]

On October 2, 1974, the sisters finally moved to withdraw the pleadings they had filed.[10] The lower Court granted the same on October 7, 1974.[11]

On February 23, 1981, petitioner Blesilo Buan, with the conformity of his co-heirs Janina Buan-Monteyro,

Lourdes Palmyra Buan and Florencio P. Buan, Jr., filed a Petition for Letters of Co-Administration.[12] Their brother Valentino died on February 27, 1970. Respondent Administratrix expressed her conformity to the same in a Manifestation filed on April 3, 1981.[13] After hearing, the Court, on April 9, 1981, appointed Blesilo P. Buan as co-administrator of the estate of the deceased spouses upon filing of a bond of P25,000.00.[14]

On June 19, 1981, Blesilo and Florencio, Jr., filed an Omnibus Motion praying, principally, for the closure of the intestate proceedings, having been long deprived of the possession of their inheritance, and, subsidiarily, for some precautionary remedies by reason of alleged breaches of trust committed by respondent Administratrix.

In particular, the precautionary or provisional orders prayed for are:

"(1) an order immediately suspending respondent A. Natividad Paras-Nisce as administratrix of the estate, enjoining her exercise of its powers and performance of its duties;

(2) an order enjoining respondent A. Natividad Paras-Nisce from disposing or in any way encumbering any of her stockholding interests whether held in her name or in the names of her trustees or nominees in Philippine Rabbit Bus Lines, Inc., Bupar Motors Corporation, Tarlac Development Corporation and Ledi Realty Enterprises Inc. charged to have been 'seized and developed at the expense and with the facilities of' the estates;

(3) an order enjoining, respondent A. Natividad Paras-Nisce from causing Philippine Rabbit Bus Lines Inc., Bupar Motors Corporation and Ledi Realty Enterprises Inc. charged to have been 'seized and developed at the expense and with the facilities of' the estates to effect any disposition or encumbrance of their assets or to incur any new obligations without prior authority from the court;

(4) an order instructing and directing the respondent A. Natividad Paras-Nisce to deliver to petitioner-administrator Blesilo Buan all the properties of the estate including real properties, the stockholding interests in Philippine Rabbit Bus Lines Inc., Bupar Motors Corporation, Tarlac Development Bank, and Ledi Realty Enterprises Inc. for him to take and receive said properties and hold and administer than as such administrator; and

(5) since the properties of the estate particularly the real properties have been mortgaged by respondent A. Natividad Paras-Nisce to secure loans for the use of the Philippine Rabbit Bus Lines Inc., an order enjoining said respondent A. Natividad Paras-Nisce or petitioner administrator Blesilo Buan to see to it that the Philippine Rabbit Bus Lines Inc. regularly service its obligations obtained on the security of the properties of the estate and, for the purpose, to order them to cause Philippine Rabbit Bus Lines Inc. to retain the services of an established auditing firm to take charge of daily collections from the buses and the other sources of income like the canteen and to control the disbursements of funds so that only legitimate expenses of operations are met and the balance kept and preserved to pay the obligations of the corporation obtained on the security of the properties of the estate."[15]

Respondent Administratrix opposed the Motion denying the charges of breach of trust and stating that the delay in the closure of the estate was not caused by her, but was due to the pendency of actions for damages filed against the administrators of the estate, which have remained pending over the years, and that the heirs Janina Buan-Monteyro and Lourdes Palmyra Buan had already sold, transferred and conveyed their hereditary rights over the estate to the Ledi Realty Enterprises, Inc..

On October 15, 1981, respondent Court issued the challenged Order, decreeing:

"xxx xxx this Court resolved and hereby declares and holds that:

(1) There is no necessity of issuing an order enjoining the administratrix Natividad Paras-Nisce from performing any act of administration whether involving disposition or mere administration of any and all of the

properties of the estate, not only because there is no ground for the issuance of said order but also because based on the records, the administratrix has heretofore invariably sought and obtained the approval of this Court for the acts of administration involving the disposition of the properties of the estate;

(2) For insufficiency of evidence and lack of legal basis (see Secs. 3 and 5[b] P.D. 902-A), the prayer in the Omnibus Motion that the administratrix Natividad Paras-Nisce be enjoined from disposing or in any way encumbering any of her stockholding interests whether held by her in her name or in the name of her alleged trustees, her husband Ramon Nisce, Ricardo L. Paras, Diosdado L. Paras and Mariano P. Buan in Philippine Rabbit Bus Lines, Inc., Bupar Motors Corporation, Tarlac Development Bank, and Ledi Realty Enterprises, Inc. is hereby denied;

(3) The prayer in the Omnibus Motion that an order be issued enjoining the administratrix Natividad Paras-Nisce from causing Philippine Rabbit Bus Lines, Inc., Bupar Motors Corporation, Ledi Realty Enterprises, Inc. to effect any disposition or encumbrance of their assets or to incur any new obligation without prior authority from this Court is denied for lack of merit and for the added reason that this Court is of the opinion that under the present law (Secs. 3 and 5 [b] P.D. 902-A), it has no jurisdiction to issue such an order;

(4) The prayer in the Omnibus Motion that an order be immediately issued instructing and directing the administratrix Natividad Paras-Nisce to deliver all the properties of the estate including real properties, the stockholding interests in Philippine Rabbit Bus Lines, Inc. Bupar Motors Corporation, Tarlac Development Bank, Ledi Realty Enterprises, Inc. and all other businesses and properties allegedly seized and developed at the ex-pense and With the facilities of the estate and instructing and directing the co-administrator Blesilo Buan to take and receive said properties and hold and administer them as such administratrix is hereby denied for lack of merit and for insufficiency of evidence;

(5) The prayer in the Omnibus Motion that an order be issued enjoining the administratrix Natividad Paras-Nisce and the co-administrator Blesilo Buan to see to it that the Philippine Rabbit Bus Lines, Inc. regularly service its obligations obtained on the security of the properties of the estate and, for this purpose, to order them to cause Philippine Rabbit Bus Lines, Inc. to retain the services of an established auditing firm to take charge of daily collection from the buses and to control the disbursement of funds so that legitimate expenses of operations are met and the balance kept and preserved to pay the obligations of the corporation obtained on the security of the properties of the estate is likewise denied for lack of merit and for insufficiency of evidence;

(6) The prayer in the Omnibus Motion that an order be issued after hearing to approve the alleged partial project of partition that the administrator Blesilo Buan shall submit pursuant to the alleged extra-judicial agreement entered into among the heirs and to order the administrator Blesilo Buan to effect such alleged partial distribution of the estate is hereby denied, no such partial project of partition having been submitted to his Court;

(7) The prayer in the Omnibus Motion that an order be issued requiring the administratrix Natividad Paras-Nisce to submit accounting of her, administration within fifteen (15) days from date of the order has become moot and academic, it appearing from the records that the aforesaid Administratrix had on July 1, 1981 filed and already submitted her accounting from the year 1976 to 1980. Let the accounting submitted by the Administratrix for the years 1976 to 1980 be set for hearing on December 7, 1981, at 8:30 in the morning;

(8) The Administratrix having filed her opposition to the Omnibus Motion embodying therein and in her Rejoinder her answer to the charges of alleged breach of trust, let the hearing of the charges of trust filed by the movants Blesilo Buan and Florencio Buan, Jr. be set for hearing on November 23, 1981, at 8:30 o'clock in the morning.

For the same reasons already stated in the order of this Court of October 4, 1965 and more specifically because of the prevailing doctrine laid down by a unanimous Court in *Ang Chia vs. Dinglasan*, 88 Phil. 476, the petition to

close this estate not being legally feasible at this time is hereby denied.

Resolution of paragraphs 9 and 10 of the petitory portion of the Omnibus Motion of June 18, 1981 is hereby held in abeyance until after the charges on alleged breach of trust shall have been heard and submitted for resolution and as requested by counsel for movants-heirs."

Petitioners sought reconsideration of the foregoing Order but respondent Court denied it on February 2, 1982.[16]

Petitioners allege:

I

"Respondent Court erred in not ordering the closure of administration now twenty eight years too long.

II

The Probate Court erred in denying closure of administration already twenty eight years long just for a few remaining pending separate damage suits against the estate arising from vehicular accidents.

III

Respondent Court erred in citing the first order denying closure issued sixteen years ago.

IV

Respondent Court erred in denying the precautionary remedies applied for notwithstanding prima-facie showing of breach of trust."

The glaring problem in this case is that the intestate case below, which was instituted in 1953, is still pending despite the lapse of 30 years, mainly on the proposition that damage suits filed against the administrators in connection with the land transportation business of the decedents have prevented the settlement of the estate. No account has been taken of the fact that the land transportation business was incorporated in 1957 as the Philippine Rabbit Bus Lines, Inc. Since the estate became the owner of practically all the shares of stock of the corporation, the damage suits, thereafter, should have also become the responsibility of the corporation.

At the time of incorporation, the administrators and the corporation technically became "alter egos", each in respect of the other. The administrators would still be liable for obligations of the corporation.[17] Similarly, the corporation would have to be liable for the debts of the administrators.

"A new corporation taking over all of mortgaged assets of old corporation in exchange for all of old corporation's capital stock and continuing to operate business formerly operated by old corporation was 'alter ego' of old corporation so as to be obligated to pay annual patent royalty which old corporation was required to pay, notwithstanding that old corporation retained title to mortgaged assets. *Dummer v. Wheeler Osgood Sales Corp.*, 88 P.2d 453, 458, 198 Wash. 381."[18]

It should be rather clear that, as between the estate and the corporation, the intention of incorporation was to make the corporation liable for past and pending obligations of the estate as the transportation business itself was being transferred to and placed in the name of, the corporation. That liability on the part of the corporation, vis-a-vis the estate, should continue to remain with it even after the percentage of the estate's shares of stock in the corporation should be diluted.

The case of *Dinglasan vs. Ang Chia*, 88 Phil. 476 (1951), upon which respondent Court relied in denying closure,

will not apply, first, because the litigation involved therein was for the recovery of real property and, second, it was the only property of the estate left subject of administration such that whatever was determined in the civil case would have had far-reaching effects in the determination and distribution of the estate. In this case, however, the damage suits bear no intimate connection or close interrelation with the estate per se, specially after incorporation.

It should also be borne in mind that vehicular accidents are a risk inherent in transportation business, and as long as this business continues in operation, accidents are bound to occur from time to time with the consequent filing of suits by persons who may be injured. To await the termination or settlement of all these suits before closing the intestate proceedings will virtually place the estate under perpetual administration contrary to the intendment of the law.

WHEREFORE, 1) a) the lower Court Order, dated October 15, 1981, denying the closure of the estate is hereby SET ASIDE and, presuming that estate and inheritance taxes have been paid, said Court or the corresponding Regional Trial Court to which this case is as-signed, is hereby ordered, not later than three (3) months after receipt hereof, to distribute the assets of the estate to the heirs or their assignees, or their successors-in-interest, according to the rules on intestate succession or as the heirs may agree;

b) The lower Court shall continue hearings, until final disposition of the exceptions of the heirs to actions previously taken by the administrator(s), with the Court taking account of Article 209 of the Civil Code.[19]

c) The lower Court shall see to it that the lawyers of Philippine Rabbit Bus Lines, Inc. shall defend all pending suits against the former administrators, in the understanding that any judgment rendered in favor of plaintiffs shall be satisfied by said corporation. Should the corporation refuse to pay the judgment, the administrator may file corresponding complaints against the corporation, and the Court may also authorize the heirs to sue said corporation, if necessary;

d) The lower Court shall submit a report to this Court within ten (10) days from expiration of the period in paragraph 1(a) above on the steps it has taken in implementation of this decision.

2) a) The co-administrators, private-respondent A. Natividad Paras-Nisce, and petitioner Blesilo Buan, are hereby directed to implement immediately the directive to close the estate within the period given in paragraph 1(a) above, and to submit a report to this Court within ten (10) days from the expiration of said period;

b) Private respondent A. Natividad Paras Nisce, shall render a final accounting to the lower Court not later than three (3) months after receipt hereof, with copy furnished this Court.

Without pronouncement as to costs. SO ORDERED.

Teehankee, (Chairman), Plana, Gutierrez, Jr., and De La Fuente, JJ., concur.

Relova, J., in the result.

[1] pp. 285-288, Vol. I, Records of Sp. Proc. No. 766.

[2] pp. 662-664, *ibid.*

[3] pp. 659-660, *ibid.*

[4] p. 687, Vol. II, *ibid.*

[5] pp. 868-869, *ibid.*

[6] pp. 16-17, Rollo.

[7] pp. 14-15, *ibid.*

[8] 844-850; Vol. II, Records of Sp. Proc. No. 766.

[9] p. 17, Rollo.

[10] pp. 2159-2161, Vol. III, Records of Sp. Proc.No.766.

[11] p. 4162, *ibid.*

[12] pp, 2469-2470, *ibid.*

[13] p. 2475, *ibid.*

[14] p. 2476, *ibid.*

[15] pp 31-32, Rollo.

[16] p. 2769, Vol. IV, Records of Sp. Proc. No. 766.

[17] *Ramirez Telephone Corp. vs. Bank of America*, 29 SCRA 191 (1969).

[18] 3 Words & Phrases 425.

[19] "Art. 2029. The court shall endeavor to persuade the litigants in a civil case to agree upon some fair compromise."

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