

GAVINA FERNANDEZ, AS JUDICIAL ADMINISTRATRIX OF THE ESTATE OF THE DECEASED PEDRO PENA, PLAINTIFF AND APPELLEE, VS. EULOGIO TRIA, AS JUDICIAL ADMINISTRATOR OF THE ESTATE OF THE D...

G. R. NO. 6286. March 26, 1912

Ponente: ARELLANO, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-6286-2/>

ARELLANO, C.J.:

Clemente Pena at the time of his death was the owner of some real estate, cattle, and other personal property. Among his heirs he left a son named Pedro Pena. When the estate of Clemente Pena was divided, Pedro Pena had already died and his daughter, named Francisca Pena, received his portion of the inheritance. She was then a minor and a guardian, Ramon Ortiz, was appointed, and the latter took over and administered the property that had come to Francisca Pena, through her father, from the estate of the aforesaid Clemente Pena. Francisca Pena married Eulogio Tria and died March 2, 1902.

After the death of Francisca Pena, her surviving husband, Eulogio Tria, made application, on January 13, 1903, for the appointment of a judicial administrator for the intestate estate of his late wife, and was himself appointed. He presented an inventory of the property of the deceased, which inventory included seven parcels of land. But commissioners of appraisal were appointed and appraised thirty-four parcels, and there the proceedings of that administration terminated.

On January 18, 1907, Gavina Fernandez also made special application for the appointment of an administration for the property which Pedro Pefia had left at his decease, by a will executed and probated under the late sovereignty. and the petitioner herself, Gavina Fernandez, widow of the said Pedro Pena, was appointed. In the same instrument she asked for the partition of the estate of Pedro Pena, and there the proceedings terminated.

Later, on July 23, 1908, Gavina Fernandez, as such judicial administratrix, instituted the present suit praying for judgment in her favor and against the defendant for the ownership and possession of the property set forth in the complaint, for P2,000 damages and the costs.

The material facts of the complaint are: the third, wherein it is averred that the hereditary succession of the deceased Pedro Pena is the owner and is entitled to ownership and possession of the property which is then described, to wit, according to the fourth fact, seven parcels of rural land, and five horses, the condition of the latter being a matter of surmise (B. of e., 2 and 3); and the fifth, in which it is averred that the defendant Eulogio Tria, as judicial administrator of the property left by the deceased Francisca Pena (second fact) illegally retains, in his possession the property described in the complaint and claims to have rights therein adverse to those of the plaintiff.

In his reply the defendant confines himself to a general denial.

From the evidence adduced, the Court of First Instance of Ambos Camarines, which tried the case, decided it "in

favor of the plaintiff in her capacity as administratrix for the deceased Pedro Pena, declaring that she was entitled to possession during the probate proceedings with reference to the real property described in the complaint and ordering the defendant to deliver it to her." (B. of e., 8 and 9).

The defendant prepared a bill of exceptions and appealed to this court, submitting the following assignments of error:

- In having declared the plaintiff-administratrix owner of the land sought.
- In denying the request for a new trial on the ground that the judgment is not sustained by the evidence.

With reference to the first assignment, the trial court made no declaration of ownership. It merely stated the conclusion that the plaintiff, as administratrix of the estate of Pedro Pena, was entitled to possession of the property described in the complaint so that she might act as administratrix during the probate proceedings of the estate of Pedro Pena, and that when the debts had been paid, if any existed, and said proceedings were terminated, the property remaining should be divided among the heirs; and judgment was rendered to this effect.

With reference to the second, no error was incurred in denying the request for a new trial, for the evidence adduced sufficiently sustains the conclusions in the judgment.

The trial court held the following facts to be proven:

- That Pedro Pena was the son of Clemente Pena, and that the latter died before the former. A fact admitted by the defendant.
- That the land described in the complaint belonged to Clemente Pena and, according to his will, said land belonged to Pedro Pena as heir, and for this reason it was delivered first to Ramon Ortiz as guardian of Francisca Pena and later to her, aided by her husband Eulogio Tria, in whose possession it now is as judicial administrator of the intestate estate of Francisca Pena. A fact not refuted by the defendant.
- That, according to the will of the deceased Pedro Pena, his widow Gavina Fernandez and his legitimate daughter Francisca Pena are his heirs

The clause in the will of Pedro Pena wherein this testamentary disposition of his is made reads thus: "Item. - I affirm that I have been married three times: The first time to Dona Maria Ramirez, by whom I had six children, all now dead; the second time to Dona Petrona Fernandez, also dead, from which marriage we have a minor daughter named Francisca; and the third time to Dona Gavina Fernandez, by whom I have another son, named Ambrosio, to whom I leave, as heirs by force of law, one-half of all my property to my daughter Francisca, and the other half to my wife Gavina Fernandez and son Ambrosio."

This son Ambrosio died after his father, and his rights of inheritance passed by operation of law to his mother Gavina Fernandez, a fact that does not appear to be contradicted by the oral evidence adduced.

That the property described in the complaint is the same which appears in the inventory, presented by the appellant as remaining at the death of his wife Francisca Peiia, when he asked for the judicial administration of her intestate estate (Exhibit A of the plaintiff), the same which, together with other property, was enumerated in

the inventory made by the commissioners of appraisal in said proceedings in the intestate succession of Francisca Pena (Exhibit B of the plaintiff), and finally the same which, together with other property, appears to have been turned over by the guardian of Francisca Peiia, Ramon Ortiz, to the attorney in fact of the married couple, Eulogio Tria and Francisca Pena (Exhibit C of the plaintiff).

Therefore there is no justification for the request for a new trial on the ground that the judgment is not sustained by the evidence.

It is clearly established that Francisca Pena, instead of her father Pedro Pena, received all the property that the latter's father had left him, and that this property did not all belong to Francisca Pena, but only a half of it, according to the express disposition of Pedro Pena. The other half belonged to Gavina Fernandez, and in order to secure it, she instituted special proceedings wherein she was appointed judicial administratrix of the estate of her deceased husband, Pedro Pena, with the object and for the purpose the law fixes, in order to transmit the inheritance from the hands of him who leaves it at his death to those who, according to his wish or according to the provisions of law, are entitled to receive it.

The law provides that, when a will has been proved and allowed, the court shall issue letters testamentary thereon to the person named as executor therein, if he accepts the trust and gives the bond required by law. The term "executor" in this Act shall include an administrator with the will annexed. (Code of Civ. Proc, sec. 641.)

If no executor is named in the will, or if a person dies intestate, the administration shall first be granted to the surviving husband or wife. (Ibid., 642.)

In appointing as administratrix for the estate of the deceased, Pedro Pefia his widow Gavina Fernandez the court acted in conformity with these legal provisions.

The law further provides that "every executor or administrator, unless he is residuary legatee and has given the bond prescribed for the residuary legatee, shall, within three months after his appointment, return to the court a true inventory of the real estate and all the goods, chattels, rights and credits of the deceased which come into his possession or knowledge. (Ibid., 668.)

"An executor or administrator may commence, prosecute, or defend, in the right of the deceased, actions which survive to such executor or administrator, and are necessary for the recovery and protection of the property or rights of the deceased, and may prosecute or defend such actions or suits commenced in the lifetime of the deceased. (Ibid., 702.)

"Actions to recover the title or possession of real estate, buildings, or any interest therein, actions to recover damages for an injury to person or property, real or personal, and actions to recover the possession of specific articles of personal property, shall survive, and may be commenced and prosecuted by or against the executor or administrator." (Ibid., 703.)

In conformity with these provisions and in accordance with general principles of law, the plaintiff Gavina Fernandez, as administratrix of the estate of Pedro Pena has been able to say justly in her complaint that the hereditary succession of this deceased is the owner and is entitled to ownership and possession of the property, which is withheld by the defendant, Eulogio Tria, in his capacity as administrator of the intestate estate of Francisca Pena, property the identity of which, according to the copy of the inventories made of said intestate estate, is set forth by the trial judge, against which statement and finding this Supreme Court finds no error to have been committed, and property which, as was properly asked in the complaint and as ordered in the judgment

appealed from, should be in the possession and under the administration of the plaintiff.

Once in possession, there should be applied the principle which this Supreme Court has laid down in interpreting the law:

'By section 641, when a will is proved it is obligatory upon the court to appoint an executor or administrator. By virtue of other provisions of the code this executor or administrator has, under the direction of the court, the full administration and control of the deceased's property, real and personal, until a final decree is made in accordance with section 753. During the period of administration the heirs, devisees, and legatees have no right to interfere with the administrator or executor in the discharge of his duties. They have no right, without his consent, to the possession of any part of the estate, real or personal. The theory of the present system is that the property is all in the hands of the court, and must stay there until the affairs of the deceased are adjusted and liquidated, and then the net balance is turned over to the persons by law entitled to it. * * * After the estate is fully settled, and all the debts and expenses of administration are paid, the law contemplates that there shall be a hearing or trial in this proceeding in the Court of First Instance for the purpose of determining who the parties are that are entitled to the estate in the hands of the executor or administrator for distribution, and after such hearing or trial it is made the duty of the court to enter a decree or final judgment, in which decree, according to section 753, the court 'shall assign the residue of the estate to the persons entitled to the same, and in its order the court shall name the persons and proportions or parts to which each is entitled/ ' (Pimentel vs. Palanca, 5 Phil. Rep., 439, 440.)

Until this time comes, therefore, it can not be determined which is the property or, which is the part thereof that belongs to the intestate estate of Francisca Pena, and until such time there is no property belonging to Francisca Pena or to Gavina Fernandez, but only property belonging to the intestate estate of Pedro Pena.

To assert rights of ownership and possession in favor of Francisca Pena, before determining what the property is which may fall to her from the estate of Pedro Pena, seems to be a plain absurdity that does not require demonstration, just as there is no need for demonstrating that an effect can not precede its cause. Francisca Pena and Gavina Fernandez are the successors in interest of the estate of Pedro Pena, their predecessor in interest, and Francisca Pena can hardly have private property derived from Pedro Pena's estate before such estate has been divided and before Francisca Pena and Gavina Fernandez have been legally assigned their respective portions.

So the judgment appealed from could not be more in accordance with law, with strict justice and with the dictates of reason, and it is therefore hereby affirmed, with the costs of this instance against the appellant.

Torres, Mapa, and Carson, JJ., concur.

DISSENTING:

MORELAND, J.,

This is an action of ejectment begun by Gavina Fernandez, as administratrix of the estate of Pedro Pena, deceased, against Eulogio Tria, as administrator of the estate of Francisca Pena, deceased.

The land in suit is owned, according to the undisputed facts in this case, and as found by the decision of this court, as, follows:

Gavina Fernandez, personally, an undivided one-half interest.

Eulogio Tria, personally, and his only child, Buenaventura, a minor, together own the other undivided one-half part, as heirs of Francisca Pefia, deceased, who, prior to her death, owned said undivided one-half part as tenant in common with said Gavina Fernandez.

So that Gavina Fernandez, representing a half interest, and Eulogio Tria and his child, together representing the other half, are concededly owners and tenants in common of the land in suit in this case.

The land in question was originally owned by Pedro Pena, who concededly died in November, 1890. He left a will dividing an undivided one-half of said land to his widow, Gavina Fernandez, and the other undivided one-half to his daughter, Francisca Pena. Francisca Pena, immediately on the death of her father, Pedro Pena, took possession of all of said lands and retained them till her death, which occurred on the 2d day of March, 1902. She left, her surviving, as her only heirs at law, her husband, Eulogio Tria, and an only child, a son, Buenaventura, born on the 14th day of July, 1899. These two heirs took possession of the property left by the wife and mother and continue in the same at present.

During all the years from 1890 no one has ever questioned or challenged the ownership or the possession of Francisca or her successors in interest.

It will be noticed that the only apparent parties to this action are administrators. Not one of the conceded owners of the land is a party. Neither Gavina Fernandez, Eulogio Tria nor his minor son is a party.

It will also be noticed that, although the complaint alleges that the defendant administrator is in possession of the lands, that allegation is denied by the answer, and there is no legal proof in the evidence showing the possession alleged. The only witness who testified for the plaintiff on that subject was Emilio Fuentebella who said that he supposed or concluded that the possession was by Eulogio as administrator simply because he was administrator. On the contrary, all the facts and circumstances show that Eulogio Tria and his minor son are in possession of the lands in question as heirs and owners and have been since the death of the wife and mother in 1902. In fact, this court finds as a fact that the administration of the estate of Francisca by her husband, Eulogio, as administrator, terminated in 1903. The court says:

"After the death of Francisca Pena, her widower Eulogio Tria made application, on January 13, 1903, for the appointment of a judicial administrator for the intestate estate of his late wife, and was himself appointed. He presented an inventory of the property of the deceased, which inventory included seven parcels of land. But commissioners of appraisal were appointed and appraised thirty-four parcels, and there the proceedings of that administration terminated."

In view of this positive declaration I do not stop to discuss the character and effect of certain accounts introduced in evidence by the plaintiff.

The result is that, if the decision of this court amounts to anything in the end, it will terminate in the exclusion of Eulogio Tria and his son, Buenaventura, from the possession of the land in dispute. Moreover, if the defendant administrator is the representative of the heirs, then his expulsion from possession is equivalent, legally, to the expulsion of the heirs themselves. I therefore treat the matter from the point of view of the heirs themselves,

Therefore, I dissent from this decision:

- Because it recognizes and approves the wisdom and policy as well as the validity of the appointment of an administrator with the will annexed seventeen years after the death of the person for whose estate the

administrator was appointed (Pedro Pena having died in 1890), when, at the time of the appointment, there were no claims for or against the estate, when there was no personal property left by the deceased in existence, and when the real property left by the decedent had been continuously in the undisputed and unchallenged possession of his only child and devisee and her heirs for seventeen years.

- Because it sanctions and approves such appointment when, in my humble judgment, there was no legal or practical reason justifying such appointment.

- Because it sanctions such appointment upon a theory which, in my opinion, misconstrues the object and purpose of administration under the law of the Islands the theory of the court being that, when heirs or devisees differ over their respective rights in real estate, such real estate should, by means of the appointment of an administrator, be taken away from all. This ignores the rights of owners of lands to settle their disputes' between themselves or by appealing to the court in person. It is the forcible appointment of a guardian for every person who happens to be an heir and does not agree with his coheirs.

- Because 4 it lays down the proposition, and lays it down as the policy of the law of administration in this country, that one can do by indirection what he cannot do by direction. Gavina Fernandez being the owner of an undivided half of the real estate in question, and that is all she claims, and Eulogio and Buenaventura being the owners of the other undivided half, it is a principle unquestioned anywhere that Gavina could not dispossess them by any action or proceeding known to the law. One tenant in common cannot legally dispossess his fellow tenant in common. Their rights are equal, and equal rights cannot in law or justice produce unequal results. Both are entitled to possession, but not one alone. Not being able, then, to dispossess the defendants by direct attack, Gavina astutely takes the path of indirection. She procures the appointment of an administrator; and lo, a miracle is wrought, a right which never existed before was born, namely the right to drive from possession those whose rights in the premises from which they are expelled are inferior to those of no man. Prior to speaking the mysterious and portentous words which created the administration, all the powers of the estate could not have dispossessed them. There were no rights greater than theirs. There was no justice that they did not share. There was no one who could drive them from their home. In spite of all this, the administratrix passes her magic wand over this legal vacuum, this receptacle, this space in which there is nothing, and behold, it is peopled with powers. Where there was nothing before, there is something now. Where, before, there was nothing which could expel a person from land which he owned (and had possessed for seventeen years without challenge), now there is a strange creature of the law which, without ownership, dispossesses the owner, without right overcomes the rightful, and with nothing takes all. By the utterance of a single word, "appointed," the king becomes the beggar. Where direction is unsuccessful, the devious ways of indirection meet success.

- Because, while giving miraculous virtues to the appointment of an administrator in one case, it gives none whatever to such appointment in another. If the appointment of Gavina Fernandez as administratrix of the estate of Pedro Pena produces such miraculous results, why does not the appointment of Eulogio Tria as administrator of the estate of Francisca Pena produce results equally miraculous? It is certain that Francisca Pena was just as much the owner of her real estate as Pedro Pena was of his; and therefore if the administrator of Pedro Pena can take his real estate away from everybody regardless of owners' rights, of law, equity, justice and everything else,

why cannot the administrator of Francisca Pena do the same thing with the real estate which she left? If the administratrix of Pedro is an irresistible force as to the real property of Pedro, why is not the administrator of Francisca an irresistible force as to the real estate of Francisca? This court, as well as the court below, found the ownership of Francisca with the same force and effect as it found the ownership of Pedro. Why, then, should the administrator of Francisca give way to the administratrix of Pedro? If one can claim miraculous attributes, why cannot the other, and for the same reason? If one can succeed with nothing, why cannot the other? When two irresistible forces come together in opposition, the result is necessarily nil. If the administratrix of Pedro claims that she must take the real estate which he owned to administer it, the administrator of Francisca makes the same claim relative to the real estate which Francisca owned. If the administratrix of Pedro asserts that she must hold the real estate of Pedro during administration, so asserts the administrator of Francisca. Simply because Pedro Pena died first and Francisca's property came from him does not under the facts of this case give his administratrix superior powers over the administrator of Francisca. In reality there never was, in effect, an estate of Pedro Pena. The appointment seventeen years after his death was abortive. The estate, if one ever came into existence, ceased to exist on the distribution of the property. (Sections 596, 597, Code of Civil Procedure; *McMicking vs. Sy Conbieng*, 21 Phil. Rep., 211.) The appointment in 1907 could not give life to something which, if it was ever born, died in 1890; nor can it destroy a status created by the division of the estate and a delivery of the property in 1890, which status obtained in 1907 when the futile appointment of plaintiff was made.

- Because it deprives the owners of their rights of property without any beneficial result whatever. What is the administratrix to do with this property? What can she do with it? Absolutely nothing. If it be said that the administratrix took it to divide between the devisees (a power attributed to an administrator which I deny, particularly relative to tenants in common, such proceedings being properly of partition under section 181 of the Code of Civil Procedure), I reply that we do not know that the devisees want to divide it. There is not a particle of evidence in the record showing such a desire. Indeed, the devisees are not even parties. Surely the court will not divide real property among owners without their consent! If it be urged that the administratrix took it to ascertain who the owners are, I reply that the administratrix admits the ownership of Eulogio and Buenaventura. But, even if it be conceded that the administratrix took the property, and properly so, for the purposes mentioned, that does not in any sense or to any degree justify the dispossession of the owners. Both of those ends could be attained just as well by leaving them in possession while the questions were being determined. And being the unquestioned owners of an undivided one-half interest and having been in unchallenged possession for more than seventeen years, are they not entitled, under every principle of justice and equity, to remain in possession until superior rights are shown? I again put the question, Why should the administratrix take this property? The only possible answer is, "Just to give it back again after she has fattened her fees at the expense of rights which should never have been disturbed." It is the old refrain of marching up the hill and marching down again.

- Because so far as this action is concerned, it destroys the owners' rights in the property in question depriving them of legal virtue and effect and making them go for nought. Their admitted ownership of an undivided half, their undisturbed possession for seventeen years, are given no effect, are accorded no legal virtue and go for nothing. In spite of these conceded rights, this decision strips them as naked as the veriest squatter. While such deprivation of rights may be limited in time, it is nevertheless a deprivation.

- Because the only evidence presented in the case by the plaintiff to show the right which she asserts is the order

appointing her administratrix. There is no other evidence in the case on that subject. The only proof which the administratrix offers to sustain her alleged rights is her naked appointment.

- Because it lays down the doctrine, which I regard as a most unfortunate one, that the right of an administrator to the possession of the real estate of a decedent is general and absolute and not special and relative; and this court by this decision now and for the future drives absolute and conceded owners from the possession of their lands on the mere proof of the appointment of an administrator, without showing the existence of the special conditions upon which, in my judgment, the rights of an administrator in real estate depend. This doctrine, enunciated so generally in this case, and, no other interpretation can be given to the decision, is not founded in the provisions of the Code of Civil Procedure and is not supported, so far as I can ascertain, by a single Anglo-Saxon authority.

- Because it makes the administrator the representative of one heir as against another, thereby seriously misapprehending the nature and purpose of administration and the functions of an administrator.

- Because the decision holds that before anyone has any title or right to property whatever under the law of these Islands it must go to the administrator and be administered by him, and then passed through the court in the proceedings for division; that before property belongs to an heir or devisee and before he has any right to it whatever, it must go through the weary and expensive length of administration; that, although his ownership is admitted by everybody, and although there are no claims for or against the estate and no reason exists why an administrator should be appointed, yet the property is, nevertheless, taken from him, he is dispossessed of the use and occupation thereof, it is placed in a useless administration, and it is returned to him, after perhaps years, reduced by useless expense and the fees of the administrator. During all this time the administrator is promoting litigation. If the heir in possession believes that, in justice, he ought not to be driven out except by superior rights, and accordingly refuses to vacate, there must be a suit to put him out. Then there must be another to determine whether he is the son of his father or not and whether his father and mother were married. There must be still another hearing to ascertain what his share in the property is. And all this, although every one of these facts thus determined may be and generally is admitted by everybody. In this very case no one questions the rights of Eulogio and his son. Yet out they go. The court says:

"Until this time comes (until an administrator has been appointed, the property taken away from the real owners, placed in court, the heirs and their shares determined, and final order made for distribution), therefore, it cannot be determined which is the property or which the part thereof that belongs to the intestate estate of Francisca Pena, and until such time there is no property belonging to Francisca Pena or to Gavina Fernandez, but only property belonging to the intestate estate of Pedro Pena.

"To assert rights of ownership and possession in favor of Francisca Pena before determining what the property, is which may fall to her from the estate of Pedro Pena seems to be a plain absurdity that does not require demonstration, just as there is no need for demonstrating that an effect cannot precede its cause. Francisca Pena and Gavina Fernandez are the successors in interest of the estate of Pedro Pena, their predecessor in interest, and Francisca Pena can hardly have private property derived from Pedro Pena's estate before such estate has been divided and before Francisca Pena and Gavina Fernandez have been legally assigned their respective portions."

The opinion also says:

"In conformity with these provisions and in accordance with general principles of law, the plaintiff, Gavina Fernandez, as administratrix of the estate of Pedro Pena, has been able to say justly in her complaint that the hereditary succession of this deceased is the owner and is entitled to ownership and possession of the property, which is withheld by the defendant, Eulogio Tria. * * *."

I regard the doctrine laid down in these quotations to be contrary to the proposition as already established by this court in several decisions. I am of the opinion also that it is contrary to the provisions of the Civil Code and the decisions of the supreme court of Spain. Articles 657, 658 and 661 of the Civil Code read as follows:

"The rights to the succession of a person are transmitted from the moment of his death.

"Succession is granted either by the will of the man as expressed in a will or, in its absence, by provision of law.

"The first is called testamentary the second legal succession.

"It may also be bestowed partly by will of man and partly by provision of law.

"Heirs succeed the deceased in all his rights, and obligations by the mere fact of his death."

In a decision of the supreme court of Spain dated November 23, 1903, the court said:

"As has been repeatedly decided by this supreme court, the heir, as the successor of the deceased in all his rights and obligations, has the power and the right to demand what pertains to his interest, without reference to his co-heirs, whenever it is not to their prejudice and provided that he conforms to the laws regulating community of property."

In another decision dated December 11 of the same year the court said:

"It is an ancient rule of our law, confirmed by article 661 of the Civil Code, that the heirs succeed by the mere fact of the death of their predecessor in interest."

In the case of Pascual vs. Angeles (4 Phil. Rep., 604) the court said:

"If the juridical personality of the deceased testatrix is transmitted to the heir and the latter is considered as identified with his deviser, to whose rights, actions, and obligations, not extinguished by her death, he succeeded, then there is no doubt that the plaintiff, as testamentary successor of his deceased sister Ciriaca, as appears from the will on page 17 of the bill of exceptions, had a right to oust the defendant, Angeles, for failure to pay the stipulated rent. (Art. 659 of the Civil Code; judgments of the supreme court of Spain of February 10, 1879; September 13, 1882; and January 28, 1892.)"

In the case of Ilustre, as administrator, vs. Frondosa (17 Phil. Rep., 321), this court said:

"Under the provisions of the Civil Code (arts. 657-661), the rights to the succession of a person are transmitted from the moment of his death; in other words, the heirs succeeded immediately to all of the property of the deceased ancestor. The property belongs to the heirs at the moment of the death of the ancestor as completely as if the ancestor had executed and delivered to them a deed for the same before his death. In the absence of debts existing against the estate, the heirs may enter upon the administration of the said property immediately. If they desire to administer it jointly, they may do so. If they desire to partition it among themselves and can do this by mutual agreement, they also have that privilege. The Code of Procedure in Civil Actions provides how an estate may be divided by a petition for partition in case they can not mutually agree in the division. When there are no debts existing against the estate, there is certainly no occasion for the intervention of an administrator in the settlement and partition of the estate among the heirs. When the heirs are all of lawful age and there are no debts, there is no reason why the estate should be burdened with the costs and expenses of an

administrator. The property belonging absolutely to the heirs, in the absence of existing debts against the estate, the administrator has no right to intervene in any way whatever in the division of the estate among the heirs. * * * If there are any heirs of the estate who have not received their participation, they have their remedy by petition for partition of the said estate."

In the case of Malahacan, as administrator, vs. Ignacio and others (19 Phil. Rep., 434), this court cited with approval the case just quoted from and said:

"The action is brought by Simon Malahacan as administrator of the goods, chattels, and credits of Guillerma Martinez, deceased, against the defendants, the only heirs at law of the said deceased, to recover possession of the real estate of which the said Guillerma Martinez died seized, which said real estate the defendants had been occupying for some years before the commencement of this action.

"Under the provisions of the Civil Code the ownership of real estate passes to the heirs of the owner instantly on his death. Guillerma Martinez, having died seized of the lands involved in this suit, leaving the defendants as her only heirs at law, it follows that said heirs instantly became the owners and were entitled to the immediate possession thereof. It is not alleged in the complaint nor does it appear from the record or the evidence in this case that there were debts outstanding against Guillerma Martinez at the time of her death. The only ground upon which an administrator can demand of the heirs at law possession of the real estate of which his intestate died seized is that such land will be required to be sold to pay the debts of the deceased."

To the same effect is the case of Irlanda vs. Pitargue (22 Phil. Rep., 383).

In the case of McMicking vs. Sy Conbieng (21 Phil. Rep., 211), this court held:

"It is the undisputed policy of every people which maintains the principle of private ownership of property that he who owns property shall not be deprived of its immediate possession and use except for urgent and imperative reasons; and then only so long and to such extent as is necessary to make the opposing rights which underlie those reasons effective. This being so, said sections, which have for their object the prompt possession and use of property by the persons who really own it, should be given liberal construction. They should not be unreasonably straitened or narrowed in their extent, but, rather, should be given that wideness and fullness of application without which they cannot produce their most beneficial effects."

In relation to sections 596 and 597 of the Code of Civil Procedure, the court held in said case:

"The purpose of these sections being, also, to avoid the trouble, loss of time, expense, and other undesirable concomitants of administration, such construction should be given as will best conserve this purpose."

- Because the administrator against whom it is rendered was not in possession of the land in dispute when the judgment was rendered and has never been in possession. On the contrary it is the inevitable conclusion from the whole case that Eulogio Tria and his minor son are in possession as heirs of Francisca Pena and have been without dispute or challenge since 1902.

- Because the court found as a fact in another part of the same decision that the administration proceedings on the estate of Francisca Pena, wife of Eulogio, terminated in 1903. This being so, the administrator of that estate could not have been in possession when this action was commenced, and cannot be now. Therefore the basic allegation in ejectment, viz, the possession of the defendant, is unproved in this case.

- Because the actual owners of the land in suit, two of whom were also in actual possession when this action was commenced and are now in possession, are not parties in this action. Not one of the actual owners is a party to this

suit although two of them and their predecessors in interest have been continuously in possession since 1890.

- Because no steps were taken by the court below or by this court to protect the interests of a minor in actual possession of the real estate in litigation in this suit. If the judgment rendered by this court in this case is not fruitless, it will dispossess Eulogio and his minor son by excluding Eulogio as administrator, the court having found that he is in partial possession as such. It is undoubted that the court below will, on the judgment of this court, at once order the plaintiff put in possession to the exclusion of everybody else. This will dispossess the minor son with his father, when it is indisputable that they together are the real possessors and not the administrator. Under such conditions the court should take measures to. protect the minor.

- Because the evidence produced by the plaintiff is legally worthless for any purpose except to strengthen the defendants' case and the decision has, therefore, nothing to sustain it. The possession of the father and son is not illegal or unlawful. It is not subordinate to anyone else. Their rights are not inferior to those of any other person, especially the plaintiff. No one in the world, so far as this record shows, has higher or more perfect legal rights than they.

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.