

ELADIO DILLENA, PETITIONER, VS. COURT OF APPEALS AND AURORA CARREON, RESPONDENTS.*G.R. No. 77660. July 28, 1988*

Ponente: BIDIN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-77660/>**BIDIN, J.:**

This is a petition for review on certiorari of the decision dated NOVEMBER 14, 1986 of the respondent Court of Appeals which dismissed the petition for certiorari (CA-G.R. SP No. 08404) filed by herein petitioner Eladio Dillena to nullify the orders dated August 10, 1984, September 13, 1984 and October 28, 1985 of the RTC, Branch 84, Quezon City, sitting as a probate court in Sp. Proc. No. Q-19378. The said orders annulled the sale of fishponds under administration, executed by private respondent Aurora Carreon, as administratrix of the estate under administration in favor of petitioner, for the reason that said sale was made without authority from and/or approval of the probate court.

The facts of this case as found by the Court of Appeals are as follows:

Spouses Dolores Sebastian and Rufino Carreon died on March 7, 1974 and August 21, 1974, in Quezon City and Manila, respectively, leaving an adopted daughter Aurora Carreon, private respondent herein. On October 21, 1974, Fausta Carreon Herrera, sister of the deceased Rufino Carreon instituted Sp. Proc. No. Q-19378 entitled "In the Matter of the Intestate Estate of the Deceased Spouses Rufino B. Carreon and Dolores Sebastian - Petition for Letters of Administration" before the then CFI, Branch XXXI, Quezon City. On November 7, 1974, the said court appointed Fausta Carreon Herrera as Special Administratrix only for the purpose of receiving and collecting all sums of money due and payable to the estate, in addition to the powers and duties provided for under Section 2, Rule 80 of the Rules of Court.

On October 3, 1975, private respondent executed an Extra-Judicial Settlement of the Estate of the deceased spouses, adjudicating to herself all the real properties of the said spouses.

On October 14, 1975, private respondent filed a motion to revoke the letters of administration issued to Fausta Carreon Herrera. Accordingly, the lower court, on March 31, 1976, granted the motion and allowed private respondent to administer the properties of the estate. Thereafter, private respondent acted as administratrix of the estate although it was only on June 27, 1980 that the appointment of private respondent was formalized and she was granted letters of administration on July 1, 1980.

Meanwhile, on November 8, 1978, private respondent, while being the administratrix of the estate, executed an extra-judicial adjudication of the three (3) fishpond properties of the deceased spouses in Hagonoy, Bulacan. By virtue of said extra-judicial adjudication, Transfer Certificates of Title Nos. 140243, 140244 and 140245 in the names of the deceased spouses were cancelled and in lieu thereof, Transfer Certificates of Title were issued in the name of private respondent.

On November 13, 1978, private respondent sold in favor of petitioner the three fishponds in question without the

knowledge and approval of the probate court. Prior to the sale, petitioner had been leasing these fishponds for several years. As a result of the sale, transfer certificates of title over the said properties were issued in favor of petitioner.

Aside from the aforesaid sale, petitioner previously sold real properties of the estate to Luisa S. Rodriguez on July 19, 1977 and to the Starlight Industrial Co., Inc. on December 7, 1977. Both sales were likewise made without the approval of the probate court. The said court, having learned of the aforesaid transfers of the real properties without its approval, issued an order dated September 22, 1981 requiring the three vendees to appear on October 23, 1981 and to explain why the deeds of sale, as well as the transfer certificates of title issued as a consequence thereof, should not be cancelled for having been executed without court approval.

The aforesaid vendees were duly furnished with copies of the order dated September 22, 1981. Only Starlight Industries, Co. Inc. appeared on October 23, 1981. Again, the vendees were required to submit their respective explanations and the hearing on the incident was re-set to November 11, 1981. Petitioner was again duly served with a copy of said order.

At the scheduled hearing, Starlight Industries Co., Inc. submitted an explanation, thus, the sale in its favor was approved and confirmed by the probate court. However, vendees Luisa S. Rodriguez and petitioner Eladio Dillena neither appeared at the scheduled hearing nor submitted their explanations as to why the sales in their favor should not be cancelled for having been executed without court approval.

On August 10, 1984, acting on the claim of Atty. Eugenio Balatbat for attorney's fees on account of his legal services rendered to private respondent and to the estate, the probate court approved the payment of said fees to be paid out of the properties of the estate. The same was ordered annotated as a lien on the transfer certificates of title of the real properties of the estate, including those properties transferred by private respondent without court approval.

On September 13, 1984, the lower court, on motion of Atty. Balatbat for a definitive ruling as to the validity of the sale made by administratrix-private respondent to Luisa S. Rodriguez and petitioner, declared that the transfers in favor of the aforesaid vendees are null and void and without force and effect for having been made without court authority and approval. Petitioner was served with a copy of the said order on December 13, 1984.

On July 25, 1985, or after seven (7) months from the time the order of September 13, 1984 was received by petitioner, the latter filed a petition before the probate court in the same Sp. Proc. No. Q-19378 by way of special appearance alleging that said court, in view of its limited jurisdiction as a probate court, has no power to annul the sale of the fishponds in question; that the orders annulling the sale are void because he is not a party to Sp. Proc. No. Q-19378; that the lower court has no jurisdiction over the res, which are located in Bulacan province.

After hearing the petition and the opposition therein, the lower court, on October 28, 1985, denied the petition and ordered petitioner to return physical possession of the fishponds to private respondent. Petitioner sought reconsideration of the aforesaid order which was denied.

On February 20, 1986, a petition for certiorari was instituted by petitioner before the respondent Court of Appeals and as earlier mentioned, the said court, on November 14, 1986, dismissed the petition. Petitioner's motion for reconsideration was likewise denied on March 2, 1987; hence, this petition.

In the present petition, petitioner sets forth as issues the following: 1) that the Court of Appeals in upholding the order of the trial court, deprived him of his property without due process of law because he was not a proper party in the court a quo; 2) that the Court of Appeals violated the rule that the jurisdiction of a court, when acting in the settlement of the estate, is limited and cannot encroach upon questions of ownership; and 3) that the nullification

and revocation of the transfer certificates of title were brought about by the dictate of the probate court to annotate an attorney's lien thereon, an order which is discordant with law and jurisprudence.

After a careful examination of the entire record of the case, We find the instant Petition devoid of merit.

Anent the first issue, petitioner postulates that he was deprived of the questioned fishponds without due process; and that not being an original party before the probate court, he was not summoned thereto.

We are not persuaded. The probate court in its order dated September 22, 1981 issued in the exercise of its probate jurisdiction (Sec. 3, Rule 73), required petitioner to appear before it on October 23, 1981 to explain why the deed of sale in favor of petitioner, as well as the transfer certificates of title issued as a consequence thereof should not be cancelled for having been executed without authority from and approval of the court. Petitioner, despite receipt of the afore-said order, failed to appear on the scheduled date. However, the probate court still gave him fifteen (15) days to submit the required explanation and the case was re-set to November 11, 1981. But then again, petitioner, despite receipt of the second notice requiring his appearance, chose not to appear and totally ignored the order of the probate court to submit the explanation. One who was given full opportunity to present his evidence and who failed to do so cannot complain that he was denied due process when the court rendered its decision (*Ganadin vs. Ramos*, 99 SCRA 613).

As found out by the Court of Appeals, petitioner was afforded every opportunity to present his explanation but he repeatedly failed to appear on the two scheduled hearings for the purpose. As said in *Municipality of Daet vs. Hidalgo Enterprises*, 138 SCRA 265, and re-echoed in *Divine Word High School vs. NLRC*, 143 SCRA 346, there is no denial of due process where petitioner was afforded an opportunity to present his case.

Moreover, petitioner, on July 25, 1985, filed a petition before the probate court, by way of special appearance, precisely questioning the power of the said court to declare null and void the sale of the fishponds involved herein. As has been stated, the lower court after hearing the petition and the opposition thereto denied the same.

Clearly, petitioner was given full opportunity to present his case. Thus, We give no credence to petitioner's assertion that he was denied due process of law.

On the second issue, petitioner asseverates that the probate court, in view of its limited jurisdiction, cannot declare as null and void, the sale of the questioned properties.

At the outset, it must be emphasized that the questioned properties (fishponds) were included in the inventory of properties of the estate submitted by then administratrix Fausta Carreon Herrera on November 14, 1974. Private respondent was appointed as administratrix of the estate on March 31, 1976 in lieu of Fausta Carreon Herrera. On November 13, 1978, the questioned deed of sale of the fishponds was executed between petitioner and private respondent without notice to and approval of the probate court. Even after the said sale, administratrix Aurora Carreon still included the three fishponds as among the real properties of the estate in her inventory submitted on August 13, 1981. In fact, as stated by the Court of Appeals, petitioner, at the time of the sale of the fishponds in question, knew that the same were part of the estate under administration. Said the Court of Appeals:

"Moreover, Dillena himself had knowledge that the fishponds are included in the inventory of properties in the estate of the deceased spouses and that they are under special proceedings, hence, no singular act of Aurora Carreon could bind these fishponds more so as Dillena had been leasing these fishponds for years." (Court of Appeals Decision, p. 7).

The evidence shows that when the questioned properties were sold without court approval by private respondent to petitioner, the same were under administration. The subject properties therefore are under the jurisdiction of the probate court which according to our settled jurisprudence has the authority to approve any disposition

regarding properties under administration.

An administratrix of an estate already subject of a special proceeding pending before the probate court cannot enjoy blanket authority to dispose of real properties as she pleases. More emphatic is the declaration We made in *Estate of Olave vs. Reyes* (123 SCRA 767) wherein We stated that when the estate of the deceased person is already the subject of a testate or intestate proceeding, the administrator cannot enter into any transaction involving it without prior approval of the probate court.

Only recently, in *Manotok Realty, Inc. vs. Court of Appeals* (149 SCRA 174), We held that the sale of an immovable property belonging to an estate of a decedent, in a special proceeding, needs court approval, thus:

"Although the Rules of Court do not specifically state that the sale of an immovable property belonging to an estate of a decedent, in a special proceeding, should be made with the approval of the court, this authority is necessarily included in its capacity as a probate court."

This pronouncement finds support in the previous case of *Dolores Vda. de Gil vs. Agustin Cancio* (14 SCRA 797) wherein We emphasized that it is within the jurisdiction of a probate court to approve the sale of properties of a deceased person by his prospective heirs before final adjudication. Consequently, it is error to say that this matter should be threshed out in a separate action.

It being settled that property under administration needs the approval of the probate court before it can be disposed of, any unauthorized disposition does not bind the estate and is null and void. As early as 1921 in the case of *Godoy vs. Orellano* (42 Phil. 347), We laid down the rule that a sale by an administrator of property of the deceased, which is not authorized by the probate court is null and void and title does not pass to the purchaser.

There is hardly any doubt that the probate court can declare null and void the disposition of the property under administration, made by private respondent, the same having been effected without authority from the said court. It is the probate court that has the power to authorize and/or approve the sale (Sections 4 and 7, Rule 89), hence, a fortiori, it is said court that can declare it null and void for as long as the proceedings had not been closed or terminated. To uphold petitioner's contention that the probate court cannot annul the unauthorized sale, would render meaningless the power pertaining to the said court. Sales of properties under administration which do not comply with the requisites under sections 4 and 7 of Rule 89 are null and void (*Bonaga vs. Soler*, 2 SCRA 755).

On the third issue, petitioner questions the order of the probate court allowing the annotation of an attorney's lien on the transfer certificate of title of the estate subject of the special proceedings. Again, the issue raised does not deserve any consideration because it is already settled that the application to fix attorney's fees may be made before and passed upon by the probate court in the same proceedings where attorney's services were rendered (*Palanca vs. Pecson, et al.*, 94 Phil. 419).

Finally, it may not be amiss to point out that the order dated September 13, 1984 of the probate court nullifying the deed of sale between petitioner and private respondent was received by the former on December 17, 1984. However, petitioner did not appeal from said order to the appellate court. Instead, on July 25, 1985 or about seven (7) months thereafter, petitioner filed a petition before the probate court questioning the power of the said court to nullify the deed of sale which petition was likewise denied on October 25, 1985.

In view thereof, the order dated September 13, 1984, nullifying the deed of sale had long become final and executory for failure of petitioner to appeal therefrom within the reglementary period. On this score alone, the petition for certiorari which was belatedly filed by petitioner before the Court of Appeals on February 20, 1986 should have been dismissed outright because the remedy of certiorari does not lie where appeal has been lost. Certiorari cannot take the place of an appeal (*Santos, Jr. vs. Court of Appeals*, 152 SCRA 378; *De la Cruz vs.*

Intermediate Appellate Court, 134 SCRA 417; Santiago vs. Castro, 128 SCRA 545).

WHEREFORE, the petition is DISMISSED and the assailed decision is hereby AFFIRMED.

Fernan, C.J., (Chairman), Gutierrez, Jr., Feliciano, and Cortes, JJ., concur.

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.