

TWELFTH DIVISION

[CA-G.R. SP No. 131996, February 23, 2015]

**DRA. EUFROCINA LLANES-GUANZON AND CARMENCITA
GUANZON-ARAMBULO, PETITIONERS, VS. HON. DANILO S. CRUZ,
IN HIS CAPACITY AS PRESIDING JUDGE OF PASIG CITY
REGIONAL TRIAL COURT, BRANCH 152, EDWIN S. CARINO, IN
HIS CAPACITY AS COURT SHERIFF IV, INTESTATE PETITIONERS
MA. SOCORRO E. GUANZON-YUCHENGCO, MARIO M. GUANZON
AND ARTURO M. GUANZON, JR., RESPONDENTS.**

D E C I S I O N

GALAPATE-LAGUILLES, J:

In this Petition for *Certiorari*,^[1] petitioners assail the July 24, 2013 Order^[2] of the Regional Trial Court of Pasig City denying their motion to quash the writ of execution and to suspend the writ's implementation.

The facts are of record.

After the death of Arturo Guanzon (Arturo) on July 21, 2001, intestate petitioners Ma. Socorro Guanzon-Yuchengco, Mario Guanzon, and Arturo Guanzon, Jr. (Arturo, Jr.), Arturo's illegitimate children, filed a case for the issuance of Letters of Administration docketed as Special Proceeding Case No. 11298. Ma. Socorro was appointed as special administratrix of the estate. Later, Dra. Eufrocina Llanes-Guanzon and Carmencita Guazon-Arambulo, Arturo's wife and legitimate daughter, respectively, instituted a case^[3] for the probate of Arturo's holographic will.^[4] The case was docketed as Special Proceeding Case No. 11311.

In an Order^[5] dated September 6, 2002, the RTC of Pasig City Branch 268, the court hearing Special Proceeding Case No. 11298, granted the prayer to give allowance *pendente lite* to the incapacitated child of Arturo, Arturo, Jr., in the amount of P75,923.13 per month and the sum of P128,000.00 as advance rental and security deposit for his residence. The Order further stated that these amounts would be taken from the mass of properties belonging to the decedent's estate.

On October 18, 2002, the court issued an Order^[6] consolidating the hearing of Special Proceeding Case Nos. 11298 and 11311 and denying the motion to suspend the implementation of the Order granting allowance *pendente lite* to Arturo, Jr.

Thereafter, to implement the Order dated September 6, 2002, another Order^[7] was issued directing the immediate implementation of the grant of allowance *pendente lite* to Arturo, Jr. by sourcing the allowance from the monthly rental collectible from the Tomas Morato property. Upon probate petitioners Eufrocina and Carmencita's motion, the court also granted^[8] a monthly support of P60,000.00 to Eufrocina.

The holographic will was later admitted to probate.^[9] On motion of Ma. Socorro and Mario, the court, in an Order^[10] dated August 10, 2004, also granted them monthly support *pendente lite* in the amount of P60,000.00 each computed from the filing of the intestate petition. Upon motion of the probate petitioners, in its September 14, 2004 Order^[11] Carmencita was also granted a monthly support of P60,000.00.

The cases were later re-raffled to RTC of Pasig City, Branch 152. The court appointed Carmencita as the estate's executrix and directed Ma. Socorro to stop exercising the powers of a special administrator and to deliver to Carmencita the properties of the decedent under her possession.^[12]

Upon motion of the intestate petitioners, the court issued the November 21, 2011 Order^[13] granting their prayer to implement the final and executory Orders dated September 6, 2002 and August 10, 2004. In the same Order, Carmencita was directed to immediately effectuate the release of the amounts necessary for the allowance *pendente lite* in favor of the intestate petitioners.

With the death of Eufrocina, the issue on the probability of the estate properties being conjugal surfaced; thus, the court issued an Order on October 8, 2012^[14] modifying the orders that granted support *pendente lite* to the heirs. It ruled that from then on, only Arturo, Jr., being incapacitated, would receive support in the amount of P75,000.00 which shall be deemed an advance from his future inheritance.

Thereafter, the intestate petitioners filed an Urgent Ex Parte Motion for Issuance of Writ of Execution^[15] asking the court to issue an order directing the issuance of a Writ of Execution to enforce the final and executory Orders dated September 6, 2002, August 10, 2004, and November 21, 2011. They insisted that their motion should be granted considering that the allowances *pendente lite* of the probate petitioners had been implemented the day it was granted while they have not received anything yet.

Subsequently, aiming to determine whether all the income of the decedent's properties have been properly recorded and the expenses properly accounted for, Carmencita filed a Motion for the Appointment of Auditor and for Disqualification of Intestate Petitioner's Counsel.^[16] This motion remains pending in the trial court.

On February 25, 2013, the court issued an Order^[17] granting intestate petitioners' Urgent Ex Parte Motion for Issuance of Writ of Execution. Carmencita then filed a Motion for Reconsideration of the February 25, 2013 Order. In resolving the motion, the court modified the Order^[18] by excluding the advance rental and security deposit for the residence of Arturo, Jr. in the computation of interests and reducing the interest due on the support *pendente lite* to 6%.

On May 14, 2013, the court issued a Writ of Execution^[19] commanding the sheriff to enforce the Orders dated September 6, 2002, August 10, 2004, November 21, 2011, and February 25, 2013:

You are hereby commanded to enforce the final and executory Orders dated September 6, 2002, August 10, 2004, November 21, 2011, respectively and Order dated February 25, 2013 in the manner required by the law and the Rules and You are hereby commanded to demand from the probate petitioners, the judgment obligors, the immediate compliance with the above-quoted Orders in full of the above-quoted judgment, together with your lawful fees for service of this execution which intestate petitioners, the judgment obligees, are lawfully entitled in the above-mentioned Orders dated September 6, 2002, August 10, 2004, November 21, 2011 [and] February 25, 2013. If the judgment obligors cannot comply all or part of the obligation in cash, certified bank check or other mode of payment acceptable to the judgment obligees, You shall levy upon the properties of the judgment obligors of every kind and nature whatsoever which may be disposed of for value and not otherwise exempt from execution, giving the latter the option to immediately choose which property may be levied upon, sufficient to satisfy the judgment. If the judgment obligors do not exercise the option, you shall first levy on the personal properties, if any, and then on the real properties, if personal properties are insufficient to answer for the judgment. You shall sell only so much of the personal or real property as is sufficient to satisfy the judgment and lawful fees.

x x x

A few days later, Carmencita filed an Urgent Motion to Quash Writ of Execution^[20] for being fatally defective. She argued that the writ does not specifically state the amount of the principal obligation and interest. Moreover, the referral to them as "judgment obligors" is incorrect. They are not liable in their personal capacities to the intestate petitioners.

On May 23, 2013, Carmencita filed a Supplemental Urgent Motion to Quash Writ of Execution with Very Urgent Motion to Suspend Implementation of Writ of Execution.^[21]

Meanwhile, the sheriff enforced the Writ of Execution. In his Partial Return,^[22] the sheriff stated that he served a Notice of Garnishment on several banks but only the Bank of Philippine Islands responded confirming that it has in its possession the amount of P4,198,946.55. The full amount was later given to Ma. Socorro in partial satisfaction of the judgment. On June 27, 2013, the sheriff served a Notice of Levy to the Register of Deeds of Quezon City.

In an Order dated July 24, 2013,^[23] the trial court found the motions to quash the Writ of Execution and to suspend the enforcement of the writ partially meritorious, thus:

x x x

The Writ of Execution suffers from flaws or defects as observed by the probate petitioners. However, the Court believes that such flaws are correctable and did not render the questioned Writ of Execution invalid.

x x x

Thus, the Writ of Execution should be corrected such that the exact amount on execution is specified therein pursuant to section 8, rule 39 of the rules of court.

x x x. It is correct that probate petitioner Carmencita Guanzon Arambulo is not a judgment obligor. She is ordered by the court to release the amounts necessary for the support *pendente lite*, to be taken from the future inheritance of the intestate petitioners, in her capacity as the court[-]appointed executrix[,], not a judgment obligor as erroneously stated in the Writ of Execution.

Anent the allegation that payment of support *pendente lite* can only be taken from the rentals or income of the estate, the Court finds the same incorrect. The Court had merely identified the sources where the support *pendente lite* for the intestate petitioners may be taken. The support *pendente lite* of the heirs is not made dependent upon said rentals or income of the estate. Suffice to say that the support *pendente lite* shall be taken from the estate of the decedent as in fact they are deductible from the heirs' future inheritance.

The rules of Court provide that if the adverse party fails to comply with an order granting support *pendente lite*, the court shall, *moto [sic]* proprio or upon motion, issue an order of execution against him, without prejudice to his liability for contempt. x x x.

x x x. Contrary to the allegation of the probate petitioners[,], the Notice of Garnishment issued by the court sheriff to different banks is not irregular. A perusal of the said notice shows that the deposits requested to be garnished pursuant to the Writ of Execution are *accounts in the name of the Intestate Estate of Arturo A. Guanzon and[/]or accounts of the Intestate Estate of Arturo Guanzon under the name of the executrix Carmencita Guanzon-Arambulo*. x x x. The court sheriff further reports that the amount garnished being insufficient, he proceeded to levy on certain real properties of the estate, situated in #61 Connecticut Street, Greenhills, San Juan City and the Tomas Morato property[,], the same to be auctioned/sold in satisfaction of the support *pendente lite* of the intestate petitioners.

Garnishment and levy on execution are but incidents in the execution of the judgments and/or orders.

In view of the foregoing, the court can no longer suspend the implementation of the said writ which is now *fait accompli* but amends the same to correct the flaws/defects and conform to the rules.

x x x.

Without filing a motion for reconsideration, Carmencita files this petition for *certiorari*^[24] ascribing grave abuse of discretion on the part of the public respondent in upholding the validity of the Writ of Execution and not suspending its implementation considering that it does not specifically specify the principal amount