

SECOND DIVISION

[G. R. No. 156842, December 10, 2004]

SOTERO A. PUNONGBAYAN, PETITIONER, VS. DANILO G. PUNONGBAYAN, RESPONDENT.

DECISION

PUNO, J.:

Assailed in this petition for review is the Decision dated August 9, 2002^[1] of the Court of Appeals (CA) in CA-G.R. SP No. 63002^[2] which granted the special civil action for *certiorari* and *mandamus* filed by herein respondent, as well as its Resolution dated January 14, 2003^[3] which denied petitioner's motion for reconsideration.

The antecedent facts are as follows:

On July 31, 1969, Escolastica Punongbayan-Paguio died intestate leaving behind considerable properties in Misamis Oriental, Iligan City, and Bulacan. She was survived by her husband, Miguel Paguio; brothers Nicolas (now deceased) and SOTERO (herein petitioner), sisters Leonila and Leonora (both now deceased), all surnamed Punongbayan; nephews DANILO (herein respondent), Restituto, Perfecto, and Alfredo, and nieces Brigida, Lilia, Marilou, Adeluisa, and Grace, who were the children of Escolastica's brother, Perfecto Punongbayan, Sr., who predeceased her. Proceedings for the settlement of her estate were initiated in the then Court of First Instance of Misamis Oriental, docketed as Special Proceedings No. 1053.^[4] Miguel Paguio was appointed administrator and later, DANILO, as co-administrator to represent the interests of the Punongbayan family.

On September 30, 1974, the above-mentioned heirs executed a compromise agreement distributing among themselves the estate of the decedent consisting of forty-one (41) parcels of land in Misamis Oriental, Iligan City, and Bulacan. They likewise authorized the administrator to sell five (5) parcels of land to pay the liabilities of the estate. The intestate court approved the agreement on June 7, 1976. Intestate proceedings, however, were left dormant from 1976 to 1993. On August 4, 1994, SOTERO, Leonila and Leonora (both now deceased) moved for the immediate distribution of the estate in accordance with the Compromise Agreement of 1974. They asked that DANILO be ordered to deposit the proceeds from the sales of estate properties with the Clerk of Court and to render an accounting of his administration for the past twenty (20) years. ^[5]

The intestate court granted the motion in an Order dated February 1, 1995 and directed DANILO to –

1. Effect the immediate distribution of the Estate in accordance with the Compromise Agreement dated September 30, 1974 approved by this

Honorable Court in its Order of June 7, 1976;

2. Deposit with the Clerk of Court the proceeds of the sale of whatever properties [were] already sold; and
3. Render an accounting of his administration of the estate for the last twenty (20) years or from the time he assumed as administrator up to the present, within sixty (60) days from receipt of this Order.

DANILO assailed^[6] the order in a special civil action for *certiorari* with the CA^[7] which, however, dismissed the same. We affirmed the dismissal in G. R. No. 128928, ^[8] there being no reversible error on the part of the CA.^[9] After the decision became final and executory, the corresponding writ of execution was issued by the intestate court on March 30, 1998. The writ was served upon DANILO's wife but not upon DANILO himself as he was always absent from his residence and place of work whenever the sheriff came to serve the writ. A warrant of arrest was issued against him. DANILO filed an urgent motion to recall the warrant which was denied. Consequently, he assailed the order in a petition for *certiorari* before the CA, docketed as CA-G.R. SP No. 57754.^[10] During the pendency of the petition, DANILO was arrested but was later on released from custody by the CA upon his manifestation that he will comply with the intestate court's writ of execution, copy of which was served upon him in open court, and that he will attend the next hearing to submit the certificates of placement of the proceeds from the sales of a substantial portion of the estate under his administration. Respondent did not appear during said hearing which prompted the CA to recall his release order and to direct the National Bureau of Investigation to arrest him. On October 19, 2000, the CA dismissed the petition for utter lack of merit, ruling that DANILO's clear and contumacious refusal to obey the intestate court's writ of execution for several years should no longer be countenanced.^[11]

Meanwhile, SOTERO moved for his appointment as co-administrator of the estate in June 2000 on the grounds that DANILO failed to discharge his duties as administrator, to render an accounting of his administration, and to turn over P25,000,000.00 in proceeds from the sales of a substantial portion of the estate, as required in the Order dated February 1, 1995. The motion was granted and SOTERO took his oath as co-administrator of the estate on August 30, 2000.

On September 1, 2000, DANILO filed a "Motion to Order Sotero Punongbayan to Render an Accounting"^[12] alleging that SOTERO appropriated five (5) lots of the estate to the exclusion of the other heirs; that two (2) of the five lots were illegally sold to third persons while two (2) others were illegally transferred in his own name; and, that the fifth lot was leased to a third person without turning over lease rentals to the estate. DANILO alleged that he encountered difficulties in rendering an accounting of estate income and properties because of the illegal sales and lease made by SOTERO. Hence, DANILO alleged that SOTERO should be made to account first for the income derived from such illegal transfers and lease before he (DANILO) could render the full accounting required by the intestate court.

The motion was denied in an Order dated September 15, 2000^[13] as well as a subsequent motion for reconsideration thereof.^[14] DANILO again filed a special civil

action for *certiorari* and *mandamus* with the CA to assail the order.^[15]

On August 9, 2002, the CA rendered its decision, the dispositive portion of which reads –

WHEREFORE, there being grave abuse of discretion in the issuance of the Orders dated September 15, 2000 and November 10, 2000, this petition is **GRANTED** and said Orders are hereby **NULLIFIED** and **SET ASIDE** and in lieu thereof, an Order is hereby issued ordering private respondent Sotero Punongbayan to render an accounting of all the properties and monies belonging to the estate that came into his possession and to deposit with the probate (sic) court the proceeds of the sale of the estate properties.

SO ORDERED.^[16]

SOTERO's motion for reconsideration was denied.^[17] Hence, this petition for review.

Respondent raised certain procedural infirmities in his comment which allegedly warrant the outright dismissal of the petition.^[18] We find no merit in them, ^[19] hence, proceed to resolve this petition on the merits.

Two substantial issues confront us: First, whether the intestate court's Order dated September 15, 2000 was a final order which should have been appealed by respondent, or an interlocutory one which was properly assailed in a petition for *certiorari* with the CA on the ground of grave abuse of discretion. Second, whether the CA erred in granting the writ of *certiorari*.

A court order is final in character if it puts an end to the particular matter resolved, or settles definitely the matter therein disposed of, such that no further questions can come before the court except the execution of the order.^[20] On the other hand, a court order is merely interlocutory if it is provisional and leaves substantial proceeding to be had in connection with its subject.^[21]

In the instant case, the Order dated September 15, 2000, which denied respondent's motion for petitioner to render an accounting was an interlocutory order. The motion was filed under Section 8, Rule 85 of the Rules of Court, which provides –

Every executor or administrator shall render an account of his administration within one (1) year from the time of receiving letters testamentary or of administration, unless the court otherwise directs because of extensions of time for presenting claims against, or paying the debts of, the estate, or of disposing of the estate; and he shall render such further accounts as the court may require until the estate is wholly settled.

and Sec. 7, Rule 87, of the same Rules, which provides –

The court, on complaint of an executor or administrator, may cite a person entrusted by an executor or administrator with any part of the estate of the deceased to appear before it, and may require such person