441 Phil. 226

SECOND DIVISION

[G.R. No. 150164, November 26, 2002]

GLORIOSA V. VALARAO, PETITIONER, VS. CONRADO C. PASCUAL AND MANUEL C. DIAZ,[1]

RESPONDENTS.

D E C I S I O N

BELLOSILLO, J.:

FELICIDAD C. PASCUAL died at seventy-one (71) years, *femme sole*, leaving a substantial inheritance for her querulous collateral relatives who all appear disagreeable to any sensible partition of their windfall.

To divide the disputed estate are five (5) groups of legal heirs which include respondents Conrado C. Pascual, a brother of the deceased, and Manuel C. Diaz, a nephew, son of her sister Carmen P. Diaz, and petitioner Gloriosa V. Valarao who is the decedent's niece. The bloodlines marking the groups of heirs are: (a) the legitimate children of her late sister Leoncia P. Villanueva, including petitioner Gloriosa V. Valarao; (b) the legitimate children of her late sister Carmen P. Diaz including respondent Manuel C. Diaz; (c) the legitimate children of her late brother Macario Pascual; (d) the legitimate children of her late sister Milagros P. de Leon; and, (e) the decedent's surviving sister Augustia C. Pascual and brothers Leonardo C. Pascual and Conrado C. Pascual, the latter being one of respondents herein.

On 27 May 1998 petitioner Gloriosa V. Valarao initiated before the Regional Trial Court of Parañaque City special proceedings docketed as SP No. 98-061 for the issuance of letters of administration in her favor over the estate of Felicidad C. Pascual. On 29 September 1998 respondent Conrado C. Pascual and some of his co-heirs, including respondent Diaz, filed with the same probate court a petition for probate, docketed as SP No. 98-0124, of an alleged holographic will of Felicidad C. Pascual. The two (2) special proceedings were consolidated.

On 26 January 1999, by agreement of the parties in the proceedings *a quo*, petitioner Valarao and respondent Diaz were appointed joint administrators of the estate of Felicidad C. Pascual. On 8 February 2000, RTC-Br. 260 of Parañaque City rendered a *Decision* which dismissed SP No. 98-0124, denying probate of the alleged holographic will of the decedent and giving due course to the intestate settlement of the estate.[2] On 22 March 2000 respondent Pascual appealed the *Decision* to the Court of Appeals by notice of appeal.

On 2 May 2000, in view of the appeal taken from the disallowance of the holographic will, petitioner Valarao moved in the probate court for her appointment as special administratrix of the estate. On 9 May 2000 respondent Diaz also asked for his designation as special co-administrator of the estate alongside petitioner. On 10 May 2000 the motions were heard wherein petitioner opposed the request of

respondent Diaz on the ground that he had allegedly neglected his previous assignment as co-administrator of the estate.

On 7 June 2000 the probate court issued an *Order* appointing petitioner Valarao as special administratrix based on this observation -

> Weighing the pros and cons of the situation, considering the unanimity of choice by the heirs, of Mrs. Valarao as special administratrix, and the vigorous objection to Mr. Diaz as co-administrator, not to mention the fact that the heirs on the side of Mrs. Valarao represent a numerical majority of the legal heirs of the deceased, the Court believes that it will be to the best interest of the estate and the heirs themselves if Mrs. Gloriosa Valarao is appointed special administratrix.[3]

On 29 June 2000 the probate court approved petitioner's bond of ₱500,000.00, and on 6 July 2000 she took her oath of office as special administratrix.

On 19 July 2000 respondent Diaz moved for reconsideration of his rejection as special co-administrator of the estate. He contested the allegation of petitioner Valarao that he had been remiss in his duties as co-administrator. He cited as examples of his services the collection of rentals for properties included in the estate, the payment of estate taxes and the deposit of about ₱4,000,000.00 in a joint bank account held in trust for the estate by him and petitioner as co-administrators. Respondent Diaz further alleged that justice and equity demanded that his group of heirs be also represented in the management of the estate.

On the other hand, petitioner reiterated the alleged uncooperative conduct of respondent Diaz in discharging his tasks as co-administrator, and at the same time moved that he and his group of sympathetic heirs be compelled to surrender to her as special administratrix the books and records of a corporation where the estate owned substantial interests.

On 11 September 2000 the probate court denied the motion for reconsideration and ordered respondent Diaz and all the heirs to respect the authority of petitioner Valarao as special administratrix, especially by furnishing her with copies of documents pertinent to the properties comprising the estate. Anent the charges of nonfeasance in his tasks as co-administrator, the probate court found -

> x x x [respondent] Diaz has not disputed these charges beyond making a mere general denial, stating that he had been diligent and regular in the performance of his duties when he was still the estate’s co-administrator. Considering the allegations of both Manuel Diaz and Gloriosa Valarao and assessing the circumstances surrounding the case, this Court is of the considered view that the best interest of the estate will be best protected if only one administrator is appointed for, in that way, conflicting interests which might work to the detriment of the estate may be avoided.[4]

On 25 September 2000 respondents Pascual and Diaz along with other heirs moved for reconsideration of the 11 September 2000 *Order* on the ground that petitioner Valarao as special administratrix was not authorized to dispossess the heirs of their rightful custody of properties in the absence of proof that the same properties were being dissipated by them, and that the possessory right of petitioner as special administratrix had already been exercised by her "*constructively*" when the heirs on

her side took possession of the estate supposedly in her behalf. Respondents further alleged that the motion was pending resolution by the probate court.

On 10 October 2000, while the motion for reconsideration was pending resolution, respondents filed a petition for certiorari under Rule 65 of the *1997 Rules of Civil Procedure* with the Court of Appeals, docketed as CA-G.R. SP No. 61193, to reverse and set aside the *Orders* dated 7 June 2000 and 11 September 2000 insofar as the probate court appointed only petitioner Valarao as special administratrix, and to order the appointment of respondent Diaz as special co-administrator of the estate.

On 15 May 2001 the probate court upon motion cited respondents for indirect contempt of court for refusing to turn over to petitioner Valarao documents covering properties belonging to the estate and ordered them arrested until compliance with the order to hand over the documents. The warrant of arrest was subsequently lifted by the probate court after respondents promised to deliver the documents.

On 13 June 2001 respondents filed their supplemental petition for certiorari in CA-G.R. SP No. 61193 seeking permanent injunction against the enforcement of the *Orders* of 7 June 2000 and 11 September 2000 also as they mandated the turn over of documents to petitioner Valarao.

On 28 September 2001 the Court of Appeals promulgated its *Decision* reversing and setting aside the *Order* of 7 June 2000 of RTC-Br. 260, Parañaque City, appointing petitioner Valarao as lone special administratrix although the *fallo* of the CA *Decision* was silent on whether the probate court should also appoint respondent Diaz as special co-administrator of the estate of Felicidad C. Pascual.[5] The appellate court explained that since the heirs were divided into two (2) scrappy factions, justice and equity demanded that both factions be represented in the management of the estate of the deceased, citing *Matias v. Gonzales*,[6] *Corona v. Court of Appeals*,[7] and *Vda. de Dayrit v. Ramolete*.[8] Hence, this petition for review on certiorari.

Petitioner Valarao claims that the probate court did not commit grave abuse of discretion when it rejected the application of respondent Diaz for appointment as special co-administrator of the estate because of his indubitable uncooperative attitude towards effective administration of the estate. She also argues that diverse interests among different groups of heirs do not give each of them the absolute right to secure the appointment of a co-administrator from within their ranks since it remains the discretion of the probate court to designate the administrators of an estate. She further asserts that as special administratrix of the estate she possesses the authority to demand the surrender of documents pertinent to the estate insofar as necessary to fulfill her mandate.

On 26 February 2002 respondents filed their *Comment* on the petition alleging the absence of special reasons to justify a review of the assailed *Decision* and of the partiality of the trial judge in favor of petitioner.

We grant the petition. To begin with, the probate court had ample jurisdiction to appoint petitioner Valarao as special administratrix and to assist her in the discharge of her functions, even after respondents had filed a notice of appeal from the *Decision* disallowing probate of the holographic will of Felicidad C. Pascual. This is because the appeal is one where multiple appeals are allowed and a record on appeal is required.[9] In this mode of appeal, the probate court loses jurisdiction only over the subject matter of the appeal but retains jurisdiction over the special

proceeding from which the appeal was taken for purposes of further remedies which the parties may avail of, including the appointment of a special administrator.[10]

Moreover, there is nothing whimsical nor capricious in the action of the probate court not to appoint respondent Diaz as special co-administrator since the *Orders* of 7 June 2000 and 11 September 2000 clearly stipulate the grounds for the rejection. The records also manifest that the probate court weighed the evidence of the applicants for special administrator before concluding not to designate respondent Diaz because the latter was found to have been remiss in his previous duty as co-administrator of the estate in the early part of his administration. Verily, the process of decision-making observed by the probate court evinces reason, equity, justice and legal principle unmistakably opposite the core of abusive discretion correctible by the special civil action of certiorari under which the appellate court was bound to act. Finally, the extraordinary writ does not operate to reverse factual findings where evidence was assessed in the ordinary course of the proceedings since perceived errors in the appreciation of evidence do not embroil jurisdictional issues.[11]

Respondents cannot take comfort in the cases of *Matias v. Gonzales*,[12] *Corona v. Court of Appeals*[13] and *Vda. de Dayrit v. Ramolete*,[14] cited in the assailed *Decision*. Contrary to their claim, these cases do not establish an absolute right demandable from the probate court to appoint special co-administrators who would represent the respective interests of squabbling heirs. Rather, the cases constitute precedents for the authority of the probate court to designate not just one but also two or more special co-administrators for a single estate. Now whether the probate court exercises such prerogative when the heirs are fighting among themselves is a matter left entirely to its sound discretion.[15]

Furthermore, the cases of *Matias*, *Corona* and *Vda. de Dayrit* hinge upon factual circumstances other than the incompatible interests of the heirs which are glaringly absent from the instant case. In *Matias* this Court ordered the appointment of a special co-administrator because of the applicant's status as the universal heir and executrix designated in the will, which we considered to be a "*special interest*" deserving protection during the pendency of the appeal. Quite significantly, since the lower court in *Matias* had already deemed it best to appoint more than one special administrator, we found grave abuse of discretion in the act of the lower court in ignoring the applicant's distinctive status in the selection of another special administrator.

In *Corona* we gave "highest consideration" to the "executrix's choice of Special Administrator, considering her own inability to serve and the wide latitude of discretion given her by the testatrix in her will,"[16] for this Court to compel her appointment as special co-administrator. It is also manifest from the decision in *Corona* that the presence of conflicting interests among the heirs therein was not *per se* the key factor in the designation of a second special administrator as this fact was taken into account only to disregard or, in the words of *Corona*, to "overshadow" the objections to the appointment on grounds of "impracticality and lack of kinship."[17]

Finally in *Vda. de Dayrit* we justified the designation of the wife of the decedent as special co-administrator because it was "our considered opinion that inasmuch as petitioner-wife owns one-half of the conjugal properties and that she, too, is a compulsory heir of her husband, to deprive her of any hand in the administration of