



Republic of the Philippines
 Supreme Court
 Manila

SECOND DIVISION

IN THE MATTER OF THE
 PETITION TO APPROVE
 THE WILL OF GLORIA
 NOVELO VDA. DE CEA,

G.R. No. 197147

Present:

DIANA C. GOZUM,
 Petitioner,

PERLAS-BERNABE, S.A.J.,
 Chairperson,
 GISMUNDO,
 LAZARO-JAVIER,
 LOPEZ, and
 ROSARIO, JJ.

– versus –

NORMA C. PAPPAS,
 Respondent.

Promulgated:

FEB 03 2021

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R E S O L U T I O N

LOPEZ, J.:

This is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assailing the Decision² dated May 24, 2011 issued by the Court of Appeals (CA) in CA-G.R. SP No. 108341.

ANTECEDENTS

In December 1993, Edmundo Cea (Edmundo) died intestate. He was survived by his wife Gloria Novelo (Gloria) and their children – Diana Cea Gozum (Diana), who claimed to be a legitimate child, Norma Cea Pappas (Norma), who was incontestably a legitimate child.³ He was also survived by Edmundo Cea, Jr., (Edmundo, Jr.) who claimed to be an illegitimate son of Edmundo by Leonila Cristy Cortez.⁴ In July 1994, Edmundo, Jr. filed a petition for the settlement of the intestate estate of Edmundo with the Regional Trial Court (RTC) of Naga City.⁵ The petition was docketed as SP No. 1994-

¹ *Rollo*, pp. 38-66.

² *Id.* at 69-76; penned by Associate Justice Mario L. Guariña III, with the concurrence of Associate Justices Apolinario D. Bruselas, Jr. and Manuel M. Barrios.

³ *Id.* at 69-76.

⁴ *Id.* at 698.

⁵ *Id.* at 698-701.

510 and was raffled to Branch 20 and eventually to Branch 61. Gloria, joined by Diana, filed an opposition to the petition.⁶ Eventually, Diana was appointed as the administratrix of the estate as next of kin.⁷ Norma was left out as she was domiciled in the United States and was unaware of the settlement proceedings until years later.⁸

In October 2002, Gloria died testate. In her last will and testament,⁹ she named Salvio Fortuno (Salvio) as executor. Salvio then filed a petition for the probate of the will and the issuance of letters testamentary to himself likewise with the RTC of Naga City.¹⁰ He claimed to be the “loyal and most trusted employee and was treated as almost the son” of Edmundo and Gloria.¹¹ The petition was docketed as SP No. 2003-032 and raffled to Branch 25. Norma filed an opposition. She sought the disallowance of the will and his appointment as administrator. She also claimed that Diana was not Edmundo’s daughter, but a daughter of one named Prudencia Nocillado to an unknown father.¹²

On July 18, 2003, the two cases were consolidated.¹³

For Edmundo’s intestate estate, it appears that Diana was issued letters of administration.¹⁴ A year later, however, in an Order¹⁵ dated April 15, 2004, Diana was removed as administratrix and was replaced by Norma. Diana moved for reconsideration. In an Order¹⁶ dated August 1, 2005, penned by Judge Antonio C.A. Ayo, Jr. of Branch 62, this was partly granted such that Salvio, instead of Norma, was designated as administrator. The RTC found that Norma cannot be the administratrix since she is an American citizen and a non-resident of the Philippines.¹⁷ Salvio was held to be “the most suited to administer the estate of Edmundo B. Cea considering that it is him who has been considered as a protégé of the deceased and has his shares in the [Filipinas Broadcasting Network, Inc.], a part of the estate of Edmundo B. Cea. For Gloria’s testate estate, he was also appointed as special administrator in the meantime until the probate of her will.”¹⁸

On May 17, 2006, Edmundo, Jr. filed a motion in SP No. 1994-510 to remove Salvio as administrator.¹⁹ In an Order²⁰ dated September 17, 2007, penned by Judge Pablo Cabillan Formaran III of Branch 21, the motion was

⁶ *Id.* at 704-711.

⁷ *Id.* at 718.

⁸ *Id.* at 70-71.

⁹ *Id.* at 139-141.

¹⁰ *Id.* at 721-725.

¹¹ *Id.* at 722.

¹² *Id.* at 731-732.

¹³ *Id.* at 735.

¹⁴ *Id.* at 736-739.

¹⁵ *Id.* at 740.

¹⁶ *Id.* at 137-138.

¹⁷ *Id.* at 137.

¹⁸ *Id.* at 138.

¹⁹ *Id.* at 755-756.

²⁰ *Id.* at 801-807.

granted and Norma was restored to the position she took over from Diana. Without specifically touching on the issue of Norma's American citizenship and non-residency as raised in the earlier order, the court found that Salvio fell short of his duties as administrator and that Norma is the most suitable person to replace him, thus:

[A]s correctly pointed out by oppositor Norma Cea Pappas, it is apparent that the one in control of the administration of [Edmundo's] estate is Diana Gozum and not Administrator [Salvio]. Thus, for failure of Salvio Fortuno to substantially perform his duties as administrator of the estate, it behooves upon this Court to revoke the letters of administration issued herein.

Corollary to this, this Court finds that Norma Cea Pappas is the most suitable person to replace Administrator [Salvio] because not only that she is the next of kin to Spouses Edmundo and Gloria Cea Pappas but she has demonstrated familiarity with the various assets of the estate subject of this case.²¹

Salvio moved for reconsideration reviving the issue of Norma's American citizenship and non-residency in the Philippines, among others.²² For her part, Norma maintained that the Rules of Court merely require an administrator to be a resident, not necessarily a citizen, of the Philippines, without conceding her American citizenship.²³ In an Order²⁴ dated January 24, 2008, the RTC denied Salvio's motion for reconsideration and found Norma's contention with respect to the residency requirement meritorious, thus:

If only to stress that Norma Cea Pappas is qualified to act as regular administratrix of the estate, it must be pointed out that the records of this case indubitably show that she has been actually residing at Canaman, Camarines Sur since her return sometime in 2003. No less than administrator [Salvio] admitted in his motion that Norma Cea Pappas "started living within Nordia Complex" located at Canaman "since her return sometime in 2003 until this writing." The records of the proceedings of this case likewise show that in almost all hearings of this case, Norma Cea Pappas has been always present. While it is true that there are times that Norma Cea Pappas went to the United States, the fact remains that she always immediately return to the country and vowed in open court to stay in Canaman until the final resolution of this case. Needless to state, Norma Cea Papas has none of the disqualifications to act as regular administratrix of the estate, contrary to what [Salvio] wanted to portray.²⁵

Salvio and Diana appealed this order.²⁶ Nevertheless, in a Decision²⁷ dated February 14, 2012, the CA affirmed the RTC.

²¹ *Id.* at 805-806.

²² *Id.* at 808-825.

²³ *Id.* at 826-836.

²⁴ *Id.* at 840-842.

²⁵ *Id.* at 840-841.

²⁶ *Id.* at 843-845.

²⁷ *Id.* at 854-871. The CA Decision disposed as follows:

WHEREFORE, in view of the foregoing, the instant appeal is **DENIED**. The assailed Orders dated September 17, 2007 and January 24, 2008 issued by the Regional Trial Court of Naga City, Branch 21, are hereby **AFFIRMED**.



On February 15, 2008, Norma then filed an omnibus motion against Salvio and Diana to revoke the letters of special administration issued to Salvio for Gloria's estate, to issue new letters of special administration to her, to order Diana to cease and desist from discharging the duties and responsibilities of an administratrix.²⁸ Salvio and Diana opposed this motion.²⁹

In an Order³⁰ dated August 21, 2008, the RTC partly granted the motion. Salvio was thus removed as special administrator of Gloria's estate, new letters of special administration were issued to Norma upon posting of the required bond and until the probate of Gloria's will, and Salvio and Diana were ordered to cease and desist from discharging the duties and responsibilities of the administrator of the undivided estate of Edmundo and Gloria. Salvio was removed as special administrator of Gloria's estate for his continuous abandonment or neglect of duties.³¹ Salvio and Diana filed a motion for reconsideration,³² but the same was denied in an Order³³ dated February 12, 2009.

Salvio and Diana filed a petition for *certiorari*³⁴ dated April 16, 2009 with the Court of Appeals imputing to the RTC grave abuse of discretion in the issuance of Orders dated August 21, 2008 and February 12, 2009. On May 24, 2011, the CA dismissed the petition and held that the RTC has a greater

SO ORDERED.

²⁸ *Id.* at 407-419.

²⁹ *Id.* at 420-431.

³⁰ *Id.* at 108-116. The Order dated August 21, 2008 disposed as follows:

WHEREFORE, in the light of all the foregoing, the *Motion for Reconsideration* of the Order dated May 5, 2008 filed by Salvio Fortuno is hereby **DENIED** for lack of merit.

With regard to the *Omnibus Motion* filed by Norma Cea Pappas, the same is **PARTLY GRANTED** with the following dispositions:

1. **REVOKING** the letters of special administration issued in favor of Salvio Fortuno as special administrator of the estate of Gloria N. Cea and **ISSUING** new letters of special administration in favor of Norma Cea Pappas instead upon posting of the latter an administrator's bond of One Hundred Thousand Pesos (P100,000.00), which will be effective until the will of Gloria N. Cea has been probated;

2. **ORDERING** Salvio Fortuno and Diana Gozum to **CEASE** and **DESIST** from discharging any and all of the duties and responsibilities of the administrator of the undivided estate of the late spouses Edmundo and Gloria Cea immediately upon receipt of this Order;

3. **ORDERING** Salvio Fortuno, Diana Gozum and Atty. Myra San Buenaventura to **TURN OVER** to this Court within fifteen (15) days from receipt hereof the pertinent documents related to the undivided estate of spouses Edmundo and Gloria Cea needed by Norma Cea Pappas so that the latter can comply with the task mandated by this Court in its Order dated January 24, 2008 the soonest possible time; and

4. **DESIGNATING** Norma Cea Pappas as the new signatory to the checking account number 0007-3100170-2 held at the Allied Banking Corporation, Naga City Main Branch.

SO ORDERED.

³¹ *Id.* at 110.

³² *Id.* at 432-449.

³³ *Id.* at 117-118. The Order dated February 12, 2009 disposed as follows:

WHEREFORE, the instant Motion for Reconsideration filed by administrator Salvio Fortuno and oppositor Diana Cea-Gozum is hereby **DENIED** for lack of merit. The Order of this Court dated August 21, 2008 stands.

SO ORDERED.

³⁴ *Id.* at 77-107.

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leeway in considering what evidence or proof is necessary in disposing motions.³⁵

In this petition, Diana essentially questions the propriety of revoking the letters of special administration issued in favor of Salvio and the issuance of new letters of special administration in favor of Norma insofar as Gloria's estate is concerned.

RULING

Before delving into the merits, the Court first resolves the issue of legal standing of Diana to file the petition for *certiorari* assailing the Orders dated August 21, 2008 and February 12, 2009 removing Salvio as special administrator of Edmundo's estate and appointing Norma in his stead. On this point, the CA held that Diana does not appear to be adversely affected or aggrieved by the said orders since she is not the party being removed from the office of special administrator. As such, she cannot be considered a person aggrieved allowed to file a Petition for *Certiorari* under Rule 65.

As opposed to the view of the CA, Diana may be considered a person aggrieved permitted to initiate the special civil action for *certiorari* against the assailed RTC Orders.

A person aggrieved refers to one who was a party in the proceedings before the lower court.³⁶ To have the legal standing to avail of the remedy of *certiorari*, he must have a personal and substantial interest in the case such that he has sustained or will sustain direct injury as a result of the assailed act.³⁷

Here, Diana was an oppositor on record in the trial court proceedings. She actively participated in the hearings as shown by the numerous pleadings she filed, which were acted on by the RTC. She claimed to be a legitimate child of Edmundo and Gloria, at the very least. She is an heir of the decedent and has a material interest to the administration of their estate. Thus, it cannot be denied that she would suffer or sustain direct injury in the event the estate is dissipated.

We now discuss the propriety of the issuance of new letters of special administration in favor of Norma in lieu of Salvio involving Gloria's estate.

The appointment of a special administrator is warranted when there is delay in granting letters testamentary or of administration by any cause

³⁵ *Id.* at 69-76. The CA Decision disposed as follows:

IN VIEW OF THE FOREGOING, the petition is dismissed.
SO ORDERED.

³⁶ *Tang v. CA*, 382 Phil. 277, 287 (2000).

³⁷ *Id.* at 288.

including an appeal from the allowance or disallowance of a will.³⁸ In this case, the RTC deemed it necessary to appoint a special administrator for Gloria's estate as the probate of her will was still pending.

A special administrator is a representative of the decedent appointed by the probate court to care for and preserve the estate until the appointment of the executor or administrator.³⁹ He is considered an officer of the court who is in charge of the estate, not a representative of the agent of the parties recommending his appointment.⁴⁰ Hence, he is subject to the probate court's supervision and control and is expected to work for the best interests of the entire estate, particularly towards its smooth administration and earliest settlement.⁴¹

The rules in the selection or removal of regular administrators do not apply to special administrators.⁴² In appointing a special administrator, the probate court is not limited to the grounds for incompetence laid down in Rule 78, Section 1⁴³ and the order of preference provided in Rule 78, Section 6⁴⁴ pertinent to regular administrators.⁴⁵ The appointment of a special administrator rests on the sound discretion of the probate court.⁴⁶ As held in *Ocampo v. Ocampo*,⁴⁷ this discretion must be exercised with reason, guided by the directives of equity, justice and legal principles, thus:

While the RTC considered that respondents were the nearest of kin to their deceased parents in their appointment as joint special

³⁸ RULES OF COURT, Rule 80, Sec. 1.

³⁹ *Fule v. CA*, 165 Phil. 785, 799-800 (1976), citing *Jones v. Minnesota Transfer R. Co.*, 121 NW 606, cited in Jacinto, Special Proceedings, 1965 ed., at 106.

⁴⁰ *De Guzman v. Judge Guadiz, Jr.*, 185 Phil. 670, 677 (1980).

⁴¹ *Ocampo v. Ocampo*, 637 Phil. 545, 556 (2010).

⁴² *Co v. Rosario*, 576 Phil. 223, 225 (2008).

⁴³ RULES OF COURT, Rule 78, Section 1 provides:

Section 1. *Who are incompetent to serve as executors or administrators.* — No person in competent to serve as executor or administrator who:

(a) Is a minor;

(b) Is not a resident of the Philippines; and

(c) Is in the opinion of the court unfit to execute the duties of the trust by reason of drunkenness, improvidence, or want of understanding or integrity, or by reason of conviction of an offense involving moral turpitude.

⁴⁴ RULES OF COURT, Rule 78, Section 6 provides:

Section 6. *When and to whom letters of administration granted.* — If no executor is named in the will, or the executor or executors are incompetent, refuse the trust, or fail to give bond, or a person dies intestate, administration shall be granted:

(a) To the surviving husband or wife, as the case may be, or next of kin, or both, in the discretion of the court, or to such person as such surviving husband or wife, or next of kin, requests to have appointed, if competent and willing to serve;

(b) If such surviving husband or wife, as the case may be, or next of kin, or the person selected by them, be incompetent or unwilling, or if the husband or widow, or next of kin, neglects for thirty (30) days after the death of the person to apply for administration or to request that administration be granted to some other person, it may be granted to one or more of the principal creditors, if may be granted to one or more of the principal creditors, if competent and willing to serve;

(c) If there is no such creditor competent and willing to serve, it may be granted to such other person as the court may select.

⁴⁵ *Manungas v. Loreto*, 671 Phil. 495, 506-507 (2011).

⁴⁶ *Ozaeta v. Pecson*, 93 Phil. 416, 419 (1953).

⁴⁷ 637 Phil. 545 (2010).

administrators, this is not a mandatory requirement for the appointment. It has long been settled that the selection or removal of special administrators is not governed by the rules regarding the selection or removal of regular administrators. The probate court may appoint or remove special administrators based on grounds other than those enumerated in the Rules at its discretion, such that the need to first pass upon and resolve the issues of fitness or unfitness and the application of the order of preference under Section 6 of Rule 78, as would be proper in the case of a regular administrator, do not obtain. **As long as the discretion is exercised without grave abuse, and is based on reason, equity, justice, and legal principles, interference by higher courts is unwarranted.**⁴⁸ (Emphasis supplied.)

A perusal of the Order dated August 21, 2008 reveals that while it was Salvio who was named by Gloria in her will as executor, the RTC found it logical, practical, and economical to appoint Norma as special administratrix of Gloria's estate. After all, she was already appointed as administratrix of Edmundo's estate and that the conjugal properties of Edmundo and Gloria remained undivided. With this setup, she could facilitate the requisite division of the estates. As aptly observed by the RTC:

[T]he court finds merit to the proposition of Norma Cea Pappas that the letters of administration issued in favor of Salvio Fortuno as special administrator of the estate of Gloria N. Cea should be revoked and another letters of administration be issued in her favor instead. Indeed, since the conjugal property of the late spouses Edmundo and Gloria Cea remains undivided, it is not only logical but also practical and economical to vest the administration thereof altogether to Norma Cea Pappas, so she can work fast to its requisite division into their separate estate. Henceforth, Salvio Fortuno, including Diana Gozum, should cooperate, coordinate and seek the approval of Norma Cea Pappas of whatever their dealings and suggestions on the undivided estate.⁴⁹

Even the CA perceived the unfitness of Salvio to be a special administrator for Gloria's estate given his earlier abandonment of duties as an administrator of Edmundo's estate, thus:

The court notes, in particular, the testimonies of witnesses that prove one significant drawback to the continuation of [Salvio] as administrator. He has allowed [Diana] who was already removed as administrator to actually administer the estate and to control the funds to be spent for the estate. In effect, [Salvio] has abandoned his duties as administrator.⁵⁰

Indeed, Norma's American citizenship is not an obstacle for her appointment as a special administrator of Gloria's estate. The Rules of Court does not mention foreign citizenship as a ground for incompetence to be an administrator. We emphasize that Rule 78, Section 1, which may be applied to special administrators, requires **residency** in the Philippines, not Filipino

⁴⁸ *Id.* at 556-557 (2010).

⁴⁹ *Rollo*, pp. 114-115.

⁵⁰ *Id.* at 75.

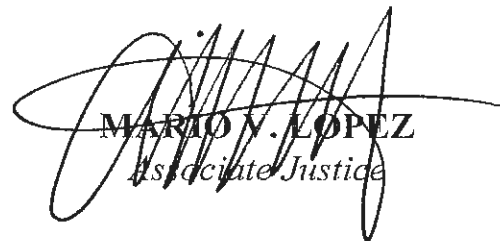


citizenship. To be sure, in *Guerrero v. Teran*,⁵¹ the appointment of an administrator was nullified on the ground that she was not a resident of the Philippines.⁵² Likewise, in *Lerious v. Longa*,⁵³ petitioners, being non-residents of the Philippines, were disqualified from administering the decedent's estate.

Norma has been residing in the Philippines since 2003. She is not disqualified to be appointed as special administrator. While there are instances that she goes to the United States, she always immediately returns to the country. She even vowed in open court to stay in Camarines Sur until the estate proceeding is finally resolved. Clearly, regardless of Norma's citizenship, we hold that she can effectively and reasonably discharge her duties as a special administrator and the RTC did not err in appointing her. Lest it be forgotten, her appointment is temporary and may be revoked anytime when she fails to perform her functions or her appointment is no longer necessary.


FOR THESE REASONS, the petition is **DENIED** and the assailed Decision dated May 24, 2011 issued by the Court of Appeals in CA-G.R. SP No. 108341 is **AFFIRMED**.

SO ORDERED.




MARIO V. LOPEZ
Associate Justice

WE CONCUR:



ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson



ALEXANDER G. GESMUNDO
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice

⁵¹ 13 Phil. 212 (1909).


⁵² *Id.* at 217.

⁵³ G.R. No. 203923, October 8, 2018.


RICARDO R. ROSARIO
Associate Justice

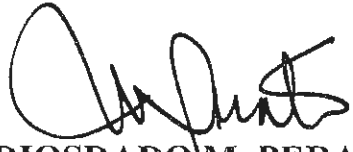
A T T E S T A T I O N

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson, Second Division

C E R T I F I C A T I O N

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


DIOSDADO M. PERALTA
Chief Justice