

TWENTY-SECOND DIVISION

[CA-G.R. CV NO. 02502-MIN, February 04, 2015]

**IN THE MATTER OF THE APPOINTMENT OF AN ADMINISTRATOR
TO THE INTESTATE ESTATE OF HENRY L. POOLE, DECEASED,**

ALFREDO C. SEBASTIAN, PETITIONER-APPELLEE,

**JEFFREY C. WEE, APPELLEE, VS. LODELINA G. POOLE,
OPPOSITOR-APPELLANT.**

D E C I S I O N

PEREZ, J.:

This appeal raises in issue the validity of the issuance of a writ of possession in favor of a purchaser of real property belonging to the estate of a deceased person.

Lodelina G. Poole, widow of the late Henry L. Poole, appeals the August 3, 2010^[1] and October 4, 2010^[2] Orders of the Regional Trial Court of Zamboanga City, Branch 12 (court *a quo*) in Special Proceedings No. 3773 entitled "*In the Matter of the Appointment of an Administrator to the Intestate Estate of Henry Poole, deceased Alfredo C. Sebastian, petitioner.*" The fallo of the August 3, 2010 Order, reads:

WHEREFORE, premises considered, the Motion for Issuance of a Writ of Possession dated June 25, 2010 is hereby GRANTED. Let therefore a writ of possession be issued in the herein case directing the Sheriff of this Court to place the movant, Jeffrey C. Wee in physical possession of that property known as Lot No. 583-A-1 situated at barangay Sta. Maria covered by Transfer Certificate of Title No. T-218, 498 registered in his name, including the improvements found and existing thereon and to eject the oppositor, Lodelina G. Poole, and all those other persons claiming rights under her therefrom.

The appearance of Atty. Quirino G. Esguerra, Jr., for the oppositor is hereby NOTED.

SO ORDERED.^[3]

The Facts:

Appellant is the surviving spouse of the late Henry Poole (Henry), an American national engaged in logging and lumber business in the Philippines in the 1990's.

The controversy in the instant case began when Henry died intestate on May 6,

1991 allegedly leaving unpaid obligations to his creditors. One of the creditors claiming payment is appellee Alfredo S. Sebastian (Sebastian), who earlier filed an ordinary civil action against the surviving spouse Lodelina in Civil Case No. 360 (3980) before the RTC, Zamboanga City, Branch 16. That action was however dismissed after the court where the action was filed ruled that Sebastian's claims should be made in the settlement of Henry's estate. [4]

On August 2, 1993, Sebastian initiated a petition^[5] before the court *a quo* for his appointment as administrator of the estate of Henry docketed as Special Proceedings No. 3773. The petition substantially alleged: that he is of legal age, married, a businessman and a resident of General Vicente Alvarez St., Zamboanga City; that as a businessman, he had done business with Henry L. Poole, an American businessman, from December 4, 1990 up to April 13, 1991; that in the course thereof, petitioner extended cash credits to said Henry L. Poole in the amount of Php 869,865.00; that said Henry L. Poole died on May 6, 1991 in the City of Zamboanga without leaving any will and last testament nor paying or settling his obligation to petitioner; that Henry's surviving spouse Lodelina G. Poole and his son James L. Poole have not filed a petition for the administration of Henry's estate although he learned that Lodelina sold some equipments of the estate worth P1,000,000.00 to one Wee Dee Ping; that he tried to recover payment from Lodelina for recovery of a sum of money with preliminary attachment but the same was dismissed by the court; that Henry left six (6) parcels of land all situated in Zamboanga City which are all conjugal properties of the late Henry and herein appellant Lodelina; that he is willing, competent, and able to serve the trust as administrator of the estate of Henry; that he is ready and willing to post the bond as the Court may require him.

On September 28, 1993, the court *a quo* issued an Order^[6] finding the petition sufficient in form and substance. The initial hearing was set on November 5, 1983. The court *a quo* directed Sebastian to publish the order in a newspaper of general circulation once a week for three (3) consecutive weeks and directed the court's sheriff to cause the notice to be served on appellant and to be posted in three (3) conspicuous public places.

At the initial hearing, only Sebastian appeared despite due notice to appellant. Consequently, after complying with the jurisdictional requirements of publication and notice,^[7] on February 16, 1994, the court *a quo* issued an Order^[8] appointing Sebastian as regular administrator of the estate of the late Henry Poole. The validity of Sebastian's appointment as administrator is the subject of a separate case pending before this Court.^[9]

On April 29, 1994, Sebastian submitted to the court *a quo* an Inventory of the Estate of Henry Poole^[10] consisting of real and personal properties. The inventory included Lot 583-A-1 covered by TCT No. T-91,470 of the Register of Deeds of Zamboanga City registered in the name of "*Lodelina G. Poole, Filipino, of legal age, married to Henry L. Poole, an American citizen*". The possession of this property is the subject of this appeal.

On January 14, 1998, the court *a quo* issued an Order granting Sebastian authority to sell certain properties under his administration including the property covered by TCT No. T-91740 for the satisfaction of his unpaid claims amounting to Php869,865.00 and the unpaid labor claims of Henry's employees pursuant to the

final decision of the National Labor Relations Commission (NLRC) in NLRC Case Nos. 09-06-00164, 09-06-00166-91, 09-06-00172-91 and 09-06-00176-91, RAB No. 91, Zamboanga City.^[11]

On May 3, 1999, or after six (6) years from the time Sebastian was appointed administrator of the estate of Henry, appellant appeared for the first time before the court *a quo* opposing the appointment of Sebastian as administrator.^[12] She also averred that the properties included in the inventory submitted by Sebastian are her paraphernal properties. As such, Sebastian has no right to place them under his administration.

Sebastian maintains that his appointment as administrator was done in conformity with Section 2, Rule 79 of the Rules of Court. He argues that it has been six (6) years before appellant came to court to oppose his appointment. Sebastian avers that the Notice of Hearing of the petition was duly published in a paper of general circulation as mandated by Section 3, Rule 76 of the Rules of Court and said publication is a notice in *rem* or one addressed to the whole world. Further, while it is true that the properties are registered in the name of appellant married to Henry Poole, these properties were acquired during the marriage and as such are presumed to be conjugal properties of the spouses.^[13]

A hearing was set to hear the respective positions of the parties.

On January 18, 2000, the court *a quo* issued an Order maintaining that the appointment of Sebastian as administrator was in order.^[14] The court *a quo* noted that the petition complied with the jurisdictional facts, and Sebastian complied with the publication requirement when he caused the notice of hearing to be published in a newspaper of general circulation. Moreover, notice thereof was served on appellant at her known address per Receipt No. 0107. The court *a quo* agreed that compliance with the publication requirement is a notice in *rem*, one which is addressed to the whole world including appellant, but despite such notice, no opposition oral or written was filed by appellant until after six (6) years after the notice was published. Hence, the opposition filed by appellant after the period within which to file the same had long lapsed. Furthermore, the court *a quo* held that the claim of appellant that the properties subject of the petition for administration are her paraphernal properties have not been substantiated.

No motion for reconsideration was filed by appellant from the January 18, 2000 Order.

Consequently, Sebastian proceeded to cause the publication in a newspaper of general circulation in Zamboanga City for sale to interested buyers five (5) parcels of land belonging to the estate of Henry L. Poole including improvements. Appellee Jeffrey C. Wee (Wee) offered to buy the property subject of this case, to wit:

Lot No. 583-A-1, PSD 56412, being a portion of Lot 583-A-1, ZT, located at Sta. Maria, Zamboanga City, residential, containing an area of 1,923 square meters covered by TCT No. T-91,470^[15] for the sum of Php2,401,855.13.

On July 15, 2008, Sebastian as administrator executed a Deed of Absolute Sale of Registered Land^[16] in favor of appellee Wee over the subject property. On March 20, 2009, the court *a quo* issued an Order approving the sale of the subject property in favor of Wee for the amount of Php2,401,855.13 representing the judgment claim in NLRC Case Nos. 09-06-00164, 09-06-00166-91, 09-06-00172-91 and 09-06-00176-91, RAB No. 91, Zamboanga City in the amount of Php231,365.00 and Sebastian's claim in the total amount of Php1,674,490.13.^[17]

On September 24, 2009, the court *a quo* issued an Order directing the Office of the Register of Deeds of Zamboanga City to cause the registration of subject property in the name of appellee Wee pursuant to Section 7, paragraph (f) of the 1997 Revised Rules on Civil Procedure, and the cancellation of TCT No. T-91,470 registered in the name of Henry L. Poole covering Lot No. 583-A-1, PSD 56412.

On October 30, 2009, the above Order became final and executory.^[18] As a result, on November 13, 2009, appellee Wee successfully caused the cancellation of TCT No. T-91470 and a new one (TCT T-218,498)^[19] was issued in the name of Jeffrey C. Wee married to Susanne Go Wee.

Now claiming ownership, Wee, on June 24, 2010, filed a motion for the issuance of a writ of possession to place him in physical possession of the subject property.^[20]

A hearing was conducted on July 2, 2010, but only appellees Wee and Sebastian appeared. A copy of the motion was served on appellant, but no opposition or objection was filed by appellant. Hence, appellee's motion was submitted for the court's resolution.^[21]

On July 6, 2010, after the motion was submitted for resolution, a new counsel for the appellant entered his appearance and filed an Opposition for the Issuance of a Writ of Possession,^[22] reiterating his previous objection that the parcel of land subject of the case is the paraphernal property of appellant alone.

Appellees commented that the claim of appellant that the subject property is paraphernal is not supported by evidence.^[23]

After due proceedings, the court *a quo* on August 3, 2010, issued the first assailed Order in favor of appellee Wee directing the Sheriff to place appellee Jeffrey C. Wee in physical possession of the property known as Lot No. 583-A-1 situated at barangay Sta. Maria covered by Transfer Certificate of Title No. T-218, 498, including the improvements found and existing thereon and to eject appellant and all those other persons claiming rights under her therefrom. ^[24]

Thereafter, a Notice To Vacate was issued by the Sheriff to appellant Lodelina and all persons claiming right under her to vacate and surrender possession of the property covered by TCT T-218,498 (formerly TCT No. T-91470).^[25]

In issuing the writ of possession the court *a quo* held –

xxx the records will show that the movant Jeffrey C. Wee is the purchaser of the Court approved sale of a parcel of land belonging to the Estate of

the Deceased, Henry L. Poole which sale was conducted for the purpose of settling legitimate monetary claims against the said estate. It would appear that the oppositor herein, Lodelina G. Poole was duly notified of the proceedings undertaken herein from the start as she in fact filed a written opposition to the appointment of petition, Alfredo C. Sebastian as administrator hereof on July 14, 1999. Worthy of note is that, the said written opposition was filed after the Court issued the Order of January 14, 1998, authorizing the Court Appointed, Alfredo C. Sebastian to sell the properties or portions thereof under his administration, to include the property sold to the movant, Jeffrey C. Wee and now registered in the latter's name, for the purpose of satisfying the said claims against the estate. As rightfully raised by the movant in its comment to the opposition of the oppositor, Leodelina G. Poole to his motion for writ of opposition, the Court had, in its Order dated January 18, 2000 denying the said oppositor's opposition, already ruled that no evidence has been presented by the oppositor herein that the properties being made subject of the administration is truly paraphernal in nature. No motion for reconsideration or appeal on the same ruling of this Court appears to have been filed by the oppositor, thus, the same became final. This Court at this time therefore, could no longer entertain the reiterated opposition of oppositor that the property in contention is her paraphernal property on the simple ground that the same has been already previously passed upon by this Court in its Order dated January 18, 2000.

All in all therefore, this Court finds no convincing and justifying reasons why it should not grant the movant, Jeffrey C. Wee's motion for the issuance of a writ of possession in his favor. Having parted with a substantial amount of money to pay for the purchase price of the property sold to him pursuant to this Court's Order for the purpose of satisfying the legitimate monetary claims against the Estate of the late Henry L. Poole, with apparent notice to the oppositor herein and the sale thereof having been approved by this Court, equity dictates that he be granted immediate possession thereof.^[26]

The subsequent motion for reconsideration of appellant was denied in the second assailed Order dated October 4, 2010.

On October 22, 2010, appellant filed a notice of appeal before the court *a quo*.^[27] Consequently, the entire records of the case was transmitted to the Court on November 5, 2010.

This Court in the Resolution dated 4 July 2012 denied appellant's prayer for provisional injunctive relief^[28], and the Supreme Court dismissed a petition on the same issue.^[29]

Assignment of Errors:

In her appeal, appellant raised a lone assigned error, thus:

THE HONORABLE COURT A QUO ERRED WHEN IT ISSUED ITS OCTOBER 4, 2010 ORDER MAINTAINING ITS ORDER OF ENFORCING THE WRIT OF POSSESSION OVER THE PARCEL OF LAND COVERED BY TRANSFER