

THIRD DIVISION

[G.R. No. 160671, April 30, 2008]

LUIS L. CO, PETITIONER, VS. HON. RICARDO R. ROSARIO, IN HIS CAPACITY AS THE PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, BRANCH 66, MAKATI CITY, ELIZABETH RACHEL CO, ASTRID MELODY CO-LIM, GENEVIEVE CO-CHUN, CAROL CO, KEVIN CO, EDWARD CO AND THE ESTATE OF LIM SEE TE, RESPONDENTS.

DECISION

NACHURA, J.:

For the resolution of the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court questioning the October 28, 2003 Decision^[1] of the Court of Appeals (CA) in CA-G.R. SP No. 72055.

The relevant facts and proceedings follow.

On March 4, 1998, the Regional Trial Court (RTC) OF Makati City, Branch 66, in Sp. Proc. No. M-4615, appointed petitioner and Vicente O. Yu, Sr. as the special administrators of the estate of the petitioner's father, Co Bun Chun.^[2] However, on motion of the other heirs, the trial court set aside petitioner's appointment as special co-administrator.^[3] Petitioner consequently, nominated his son, Alvin Milton Co (Alvin, for brevity), for appointment as co-administrator of the estate.^[4] On August 31, 1998, the RTC appointed Alvin as special co-administrator.^[5]

Almost four years thereafter, the RTC, acting on a motion^[6] filed by one of the heirs, issued its January 22, 2002 Order^[7] revoking and setting aside the appointment of Alvin. The trial court reasoned that Alvin had become unsuitable to discharge the trust given to him as special co-administrator because his capacity, ability or competence to perform the functions of co-administrator had been beclouded by the filing of several criminal cases against him, which, even if there was no conviction yet, had provided the heirs ample reason to doubt his fitness to handle the subject estate with utmost fidelity, trust and confidence.

Aggrieved, petitioner moved for the reconsideration of the said Order, but this was denied in the RTC Order^[8] of May 14, 2002.

Subsequently, petitioner brought the matter to the CA on petition for *certiorari* under Rule 65. In the aforesaid challenged October 28, 2003 Decision,^[9] the appellate court affirmed the revocation of the appointment and dismissed the petition. Thus, the instant petition for review on *certiorari* under Rule 45.

The petition is bereft of merit.

We affirm the appellate court's ruling that the trial court did not act with grave abuse of discretion in revoking Alvin's appointment as special co-administrator. Settled is the rule that the selection or removal of *special* administrators is not governed by the rules regarding the selection or removal of *regular* administrators.

[10] Courts may appoint or remove *special* administrators based on grounds other than those enumerated in the Rules, at their discretion.[11] As long as the said discretion is exercised without grave abuse, higher courts will not interfere with it.

[12] This, however, is no authority for the judge to become partial, or to make his personal likes and dislikes prevail over, or his passions to rule, his judgment. The exercise of such discretion must be based on reason, equity, justice and legal principles.[13]

Thus, even if a special administrator had already been appointed, once the court finds the appointee no longer entitled to its confidence, it is justified in withdrawing the appointment and giving no valid effect thereto.[14] The special administrator is an officer of the court who is subject to its supervision and control and who is expected to work for the best interest of the entire estate, especially with respect to its smooth administration and earliest settlement. [15]

In this case, we find that the trial court's judgment on the issue of Alvin's removal as special co-administrator is grounded on reason, equity, justice and legal principle. It is not characterized by patent and gross capriciousness, pure whim and abuse, arbitrariness or despotism, as to be correctible by the writ of *certiorari*. [16] In fact, the appellate court correctly observed that:

In ruling to revoke the appointment of Alvin Milton Co, the lower court took into consideration the fiduciary nature of the office of a special administrator which demands a high degree of trust and confidence in the person to be appointed. The court a quo observed that, burdened with the criminal charges of falsification of commercial documents leveled against him (sic), and the corresponding profound duty to defend himself in these proceedings, Alvin Milton Co's ability and qualification to act as special co-administrator of the estate of the decedent are beclouded, and the recall of his appointment is only proper under the attendant circumstances. Such reasoning by the court a quo finds basis in actual logic and probability. Without condemning the accused man (sic) as guilty before he is found such by the appropriate tribunal, the court merely declared that it is more consistent with the demands of justice and orderly processes that the petitioner's son, who is already bidden to defend himself against criminal charges for falsification in other fora be relieved of his duties and functions as special administrator, to avoid conflicts and possible abuse.

The Court finds no grave abuse of discretion attending such ruling, as it was reached based on the court a quo's own fair assessment of the circumstances attending the case below, and the applicable laws.[17]

As a final note, the Court observes that this prolonged litigation on the simple issue of the removal of a special co-administrator could have been avoided if the trial court promptly appointed a regular administrator. We, therefore, direct the trial