

SECOND DIVISION

[G.R. No. 144230, September 30, 2003]

ARTURO G. MACKY, PETITIONER, VS. HON. ADORACION G. ANGELES, ACTING PRESIDING JUDGE, RTC, BRANCH 125, CALOOCAN CITY, AND ANTONIO G. MACKAY, RESPONDENTS.

RESOLUTION

QUISUMBING, J.:

Before us is a petition for review on certiorari under Rule 45 of the Rules of Court. It seeks to annul the Decision^[1] of the Court of Appeals dated April 14, 2000, in CA-G.R. SP No. 49219, denying petitioner Arturo G. Mackay's petition for certiorari and prohibition with preliminary injunction and/or restraining order, as well as its Resolution^[2] dated July 26, 2000 denying petitioner's motion for reconsideration. The appellate court affirmed the assailed Orders^[3] of the public respondent, Hon. Adoracion G. Angeles, Acting Presiding Judge of the Regional Trial Court of Caloocan City, Branch 125, in Special Proceeding No. C-1814 dated July 15, 1998^[4] and September 28, 1998.^[5]

In that special proceeding, petitioner was appointed as regular administrator of the intestate estate of deceased Eufrocina G. Mackay on March 20, 1996.^[6] After nearly twenty-four (24) months following his appointment, however, petitioner had not submitted the requisite inventory of estate assets and liabilities, nor had he paid the taxes due on the estate. This delay prompted private respondent Antonio G. Mackay to file an urgent motion on March 10, 1998 for the removal of petitioner as regular administrator.^[7]

On March 30, 1998, petitioner filed his opposition^[8] to the motion, which was duly set for hearing. Despite notices sent to him, petitioner failed to attend any of the scheduled dates of hearing. Consequently, an Order^[9] was issued by Judge Adoracion G. Angeles on July 15, 1998 relieving petitioner as administrator of the estate and appointing private respondent as his substitute:

WHEREFORE, premises considered, Arturo Mackay is hereby relieved as a regular administrator of the estate of the deceased Eufrocina Mackay and upon the filing of an administrator's bond in the amount of P20,000.00, let letters of administration be issued to Antonio G. Mackay.

SO ORDERED.

In an Order^[10] dated August 28, 1998, the court denied petitioner's motion for reconsideration for utter lack of merit. A copy of this Order was received by petitioner on September 7, 1998. Twenty-two (22) days later, or on September 29, 1998, petitioner filed a notice of appeal and a record on appeal.^[11] However, on

September 24, 1998, the trial court had already issued letters of administration in favor of private respondent.^[12]

To enjoin the implementation of public respondent's orders, petitioner filed on October 8, 1998, with the Court of Appeals a petition for certiorari and prohibition with preliminary injunction and/or restraining order.^[13] On October 12, 1998, petitioner filed an amended petition.^[14] The case was docketed as CA-G.R. SP No. 49219. On November 26, 1998,^[15] the CA denied petitioner's application for issuance of a temporary restraining order on the ground that petitioner had no clear legal right thereto.

Finding that public respondent did not commit grave abuse of discretion amounting to lack or excess of jurisdiction in removing petitioner as regular administrator of the intestate estate of Eufrocina G. Mackay for his failure to render an accounting of the assets and liabilities of said estate and in immediately issuing letters of administration to private respondent, the appellate court dismissed the petition on April 14, 2000. The dispositive portion of said decision reads—

WHEREFORE, the Petition for Certiorari and Prohibition with Preliminary Injunction and/or Restraining Order is **DENIED** and the assailed Orders dated July 15, 1998 and August 28, 1998 issued by Judge Adoracion Angeles are **AFFIRMED**.

SO ORDERED.^[16]

The Court of Appeals likewise denied petitioner's motion for reconsideration on July 26, 2000 for lack of merit. Hence, this petition, in which petitioner asserts that the Court of Appeals—

...COMMITTED ERRORS OF LAW AND GRAVELY ABUSED ITS DISCRETION IN NOT HOLDING THAT LETTERS OF ADMINISTRATION DATED SEPTEMBER 24, 1998 ISSUED TO PRIVATE RESPONDENT WAS PREMATURE.

...COMMITTED ERROR OF LAW IN APPLYING PRESUMPTION OF REGULARITY IN THE PERFORMANCE OF OFFICIAL DUTY DESPITE THE FACT THAT THE ISSUANCE OF THE LETTERS OF ADMINISTRATION WAS PREMATURE AND IN VIOLATION OF THE PROVISION OF THE REGLEMENTARY PERIOD ON APPEALS IN SPECIAL PROCEEDINGS.

...GRAVELY ABUSED ITS DISCRETION IN RESOLVING ISSUES WHICH ARE PROPER SUBJECT OF APPEAL (ORDINARY APPEAL) AND NOT RAISED IN THE PETITION.^[17]

Essentially, the main question refers to the propriety of the issuance by public respondent of the Order of September 24, 1998 directing the issuance of letters of administration to private respondent.

Petitioner argues that the Order appointing private respondent as administrator having been appealed, the same cannot be immediately executed by granting letters of administration to private respondent. It was erroneous for the Court of Appeals, said petitioner, to affirm public respondent's orders since they were issued in