

## FIRST DIVISION

[ G.R. No. 144881, October 16, 2003 ]

**BETTY T. CHUA, JENNIFER T. CHUA-LOCSIN, BENISON T. CHUA,  
AND BALDWIN T. CHUA, PETITIONERS, V. ABSOLUTE  
MANAGEMENT CORPORATION AND COURT OF APPEALS,  
RESPONDENTS.**

### D E C I S I O N

**CARPIO, J.:**

#### The Case

This is a petition for review on *certiorari*<sup>[1]</sup> to annul the Decision<sup>[2]</sup> dated 9 May 2000 of the Court of Appeals in CA-G.R. SP No. 57421, as well as the Resolution dated 5 September 2000 denying the motion for reconsideration. The Court of Appeals set aside the Order<sup>[3]</sup> dated 7 February 2000 issued by Branch 112 of the Regional Trial Court of Pasay City which denied the petitioners' "Motion for the Examination of the Administratrix and Others" ("Motion").

#### Antecedent Facts

The facts are not in dispute. As found by the Court of Appeals, the essential antecedents are as follows:

Sometime in 1999, upon a petition for letters of administration filed by [herein petitioners] Jennifer T. Chua-Locsin, Benison T. Chua, and Baldwin T. Chua with the Regional Trial Court, Branch 112, Pasay City, presided by [Judge Manuel P. Dumatol], xxx Betty T. Chua was appointed as administratrix of the intestate estate of the deceased Jose L. Chua. Thereafter, she submitted to the trial court an inventory of all the real and personal properties of the deceased.

One of the creditors of the deceased, [herein respondent] Absolute Management Corporation, filed a claim on [sic] the estate in the amount of P63,699,437.74. As administratrix, Betty T. Chua tentatively accepted said amount as correct, with a statement that it shall be reduced or adjusted as additional evidences [sic] may warrant.

In the interim, Absolute Management Corporation noticed that the deceased's shares of stocks with Ayala Sales Corporation and Ayala Construction Supply, Inc. were not included in the inventory of assets. As a consequence, it filed a motion to require Betty T. Chua to explain why she did not report these shares of stocks in the inventory. Through a reply, Betty T. Chua alleged that these shares had already been assigned and transferred to other parties prior to the death of her husband, Jose L.

Chua. She attached to her reply the deeds of assignment which allegedly constituted proofs of transfer. Judge Dumatol accepted the explanation as meritorious.

Absolute Management Corporation, suspecting that the documents attached to Betty T. Chua's reply were spurious and simulated, filed a motion for the examination of the supposed transferees. xxx It premised its motion on Section 6, Rule 87, Revised Rules of Court, *infra*, which states that when a person is suspected of having concealed, embezzled, or conveyed away any of the properties of the deceased, a creditor may file a complaint with the trial court and the trial court may cite the suspected person to appear before it and be examined under oath on the matter of such complaint. Private respondents opposed the motion on the ground that this provision bears no application to the case. On February 7, 2000, Judge Dumatol issued the assailed order.<sup>[4]</sup>

### **The Ruling of the Trial Court**

The trial court's order denying Absolute Management Corporation's ("Absolute") Motion reads:

This resolves the undated Motion for the Examination of the Administratrix and Others, filed on January 11, 2000 by claimant Absolute Management Corporation, to which petitioners, through counsel filed their opposition, and claimant Absolute Management Corporation in turn filed its reply.

Finding no merit in the motion filed by claimant Absolute Management Corporation, as it in effect seeks to engage in a fishing expedition for evidence to be used against the administratrix and others whom it seeks to examine, it being the consensus of the Court that the Rules of Procedure does [sic] not allow the fishing of evidence to use [sic] against the adverse party, claimant Absolute Management Corporation's motion is hereby DENIED.

SO ORDERED.<sup>[5]</sup>

Aggrieved, Absolute filed a petition for certiorari and mandamus with the Court of Appeals.

### **The Ruling of the Court of Appeals**

In its petition for certiorari and mandamus before the Court of Appeals, Absolute claimed that the trial court committed grave abuse of discretion in denying its Motion and in failing to act on its claim. Absolute alleged that the trial court deprived it of the right to show that the documents presented by petitioners were fictitious to the prejudice of Absolute.

During the hearing<sup>[6]</sup> conducted on 9 August 2000 before the members of the Special Sixth Division of the Court of Appeals, counsel for Absolute presented the following evidence to support its assertion that the transfers of the shares were spurious:

1. Exhibit "A"<sup>[7]</sup> - Certification from the Office of the Clerk of Court of the Regional Trial Court of Pasay City that Atty. Hilarion A.D. Maagad (the notary public who notarized the questioned Secretary's Certificate<sup>[8]</sup> and Deeds of Assignment of Shares of Stock<sup>[9]</sup>) is not listed in the Roll of Notaries Public for the City of Pasay particularly for the period of 1993-1994, 1994-1995, 1998-1999 and 1999-2000.
2. Exhibit "B"<sup>[10]</sup> - Certification from the Clerk of Court of the Regional Trial Court of Makati City that the questioned Secretary's Certificate<sup>[11]</sup> was not included in the Notarial Report of Atty. Lope M. Velasco for the years 1998-1999.
3. Exhibits "B-1," "B-2," and "B-3"<sup>[12]</sup> - Certification from the Clerk of Court of the Regional Trial Court of Makati City that the questioned Deeds of Assignment of Shares of Stock<sup>[13]</sup> were not included in the Notarial Report of Atty. Lope M. Velasco for the years 1998-1999.

In setting aside the trial court's order, the Court of Appeals pointed out that the presentation of the deeds of assignment executed by the decedent in petitioners' favor does not automatically negate the existence of concealment. The appellate court stated that it is a common occurrence in estate proceedings for heirs to execute simulated deeds of transfer which conceal and place properties of the decedent beyond the reach of creditors.

The dispositive portion of the decision of the Court of Appeals reads:

WHEREFORE, the petition is GRANTED. The order dated February 7, 2000 of respondent Judge Manuel P. Dumatol is hereby SET ASIDE. He is hereby ORDERED to give due course to petitioner's "Motion for the Examination of the Administratrix and Others" and thereafter, to dispose of the claim accordingly.

SO ORDERED.<sup>[14]</sup>

Hence, this petition.

### **Issue**

Petitioners would like this Court to rule whether Section 6, Rule 87 of the Rules of Court, which is the principal basis of Absolute's Motion, is mandatory or merely directory on the trial court. This perspective misses the point. The issue in this case is whether the Court of Appeals correctly ordered the trial court to give due course to the Motion for Examination.

Petitioners also point out that the Court of Appeals should have dismissed Absolute's petition because of these procedural infirmities:

1. Counsel for Absolute, not the proper officers of Absolute, filed the Certification against Forum Shopping;
2. Absolute attached only a duplicate original copy of the challenged order of the trial court to the petition submitted to the Court of Appeals; and

3. No proper proof of service accompanied the petition submitted to the Court of Appeals.<sup>[15]</sup>

### **The Ruling of the Court**

The petition has no merit.

#### ***Whether the Court of Appeals correctly ordered the Trial Court to give due course to Absolute's Motion for Examination***

Section 6, Rule 87 of the Rules of Court provides:

*SEC. 6. Proceedings when property concealed, embezzled, or fraudulently conveyed.* -- If an executor or administrator, heir, legatee, creditor, or other individual interested in the estate of the deceased, complains to the court having jurisdiction of the estate that a person is suspected of having concealed, embezzled, or conveyed away any of the money, goods, or chattels of the deceased, or that such person has in his possession or has knowledge of any deed, conveyance, bond, contract, or other writing which contains evidence of or tends to disclose the right, title, interest, or claim of the deceased, the court may cite such suspected person to appear before it and may examine him on oath on the matter of such complaint; and if the person so cited refuses to appear, or to answer on such examination or such interrogatories as are put to him, the court may punish him for contempt, and may commit him to prison until he submits to the order of the court. The interrogatories put to any such person, and his answers thereto, shall be in writing and shall be filed in the clerk's office.

Section 6 of Rule 87 seeks to secure evidence from persons suspected of having possession or knowledge of the properties left by a deceased person, or of having concealed, embezzled or conveyed any of the properties of the deceased.<sup>[16]</sup>

The court which acquires jurisdiction over the properties of a deceased person through the filing of the corresponding proceedings has supervision and control over these properties. The trial court has the inherent duty to see to it that the inventory of the administrator lists all the properties, rights and credits which the law requires the administrator to include in his inventory. In compliance with this duty, the court also has the inherent power to determine what properties, rights and credits of the deceased the administrator should include or exclude in the inventory. An heir or person interested in the properties of a deceased may call the court's attention that certain properties, rights or credits are left out from the inventory. In such a case, it is likewise the court's duty to hear the observations of such party. The court has the power to determine if such observations deserve attention and if such properties belong *prima facie* to the estate.<sup>[17]</sup>

However, in such proceedings the trial court has no authority to decide whether the properties, real or personal, belong to the estate or to the persons examined. If after such examination there is good reason to believe that the person examined is keeping properties belonging to the estate, then the administrator should file an ordinary action in court to recover the same.<sup>[18]</sup> Inclusion of certain shares of stock