

## **SPECIAL THIRTEENTH DIVISION**

**[ CA-G.R. SP NO. 92377, August 18, 2006 ]**

**ROSARIO G. LASERNA, PETITIONER, VS. HON. JOSE G. PANEDA  
(IN HIS CAPACITY AS THE PRESIDING JUDGE OF RTC-QUEZON  
CITY, BRANCH 220) AND MARIETTA G. HOLMGREN,  
RESPONDENTS.**

### **D E C I S I O N**

**SABIO, JR., J.:**

An order of the trial court appointing a regular administrator of a deceased person's estate is a final determination of the rights of the parties thereunder and is thus appealable (Testate Estate of Maria Manuel Vda. De Biascan vs. Biascan, 347 SCRA 621).

Challenged in this petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure is the January 7, 2005 order of public respondent Regional Trial Court Judge of Branch 220, Quezon City, appointing private respondent as co-administratrix with one Mrs. Pilar Pena, and the July 15, 2005 order of said court denying petitioner's motion for reconsideration on the earlier order.

The material antecedents as instructively portrayed in petitioner's petition, thus:

#### **"STATEMENTS OF FACTS AND OF THE CASE**

1. On October 31, 1990, the late Anita Guidote Vda. De Guanzon, petitioner's and private respondent's mother, died leaving a will (with amendment and addendum) in which a certain Ceferino S. Gaddi was named as the executor of the estate. A copy of the will, including the amendment and addendum thereto, is attached hereto as Annex "D".
2. The deceased was survived by the following compulsory heirs, her daughters: Rosalinda Antiporda, Teresita G. Velasco, Concepcion G. Garcia, Marietta Homgren (herein private respondent), and Rosario Laserna (herein petitioner).
3. On February 21, 2005, after the compulsory heirs had failed to implement the wishes of their mother without the need for court proceedings, petitioner filed a petition to prove the will of the decedent and to settle her estate. The petition was docketed as SP Proc, Case No. Q-94-19178, entitled "In the Matter of the Probate of the Will of the Deceased Anita Guidote Vda. De Guanzon; Rosario

G. Laserna", and assigned to Branch 220 of the Regional Trial Court of Quezon City. Private respondent later appeared as an oppositor. A copy of the petition is attached hereto as Annex "E".

4. Since the named executor in the will refused to assume his post and in order to avoid protracted controversy in the appointment of the special administrator, the parties filed a joint motion to appoint Land Bank of the Philippines as the special administrator of the estate, which motion was approved by the probate court in its Order dated June 28, 1999. Copies of the joint motion and the order are attached hereto as Annexes "F" and "G", respectively.
5. Subsequently, petitioner proceeded with the proving of the will. After due proceedings, petitioner formally offered her evidence. A copy of the petitioner's formal offer of evidence is attached hereto as Annex "H".
6. In its Order dated August 26, 2002, the respondent trial judge admitted all the evidence for the purposes for which they had been offered. A copy of the said order is attached hereto as Annex "I".
7. Thereafter, petitioner filed a motion to appoint Land Bank of the Philippines as the regular administrator of the estate, a copy of which is attached hereto as Annex "J".
8. In its Manifestation and Omnibus Motion dated November 6, 2002, the Land Bank of the Philippines declined the proposed appointment, a copy of which is attached hereto as Annex "K".
9. In its Order dated December 10, 2002, the respondent trial judge noted the Manifestation and Motion of the Land Bank of the Philippines and ordered the parties to mutually nominate a regular administrator. A copy of said order is attached hereto as Annex "L".
10. Petitioner nominated Pilar B. Pena as the regular administratrix, while private respondent, through a formal motion, nominated Cecilia Guidote-Alvarez or Filomena Guidote-Boclabos. Petitioner opposed private respondent's nominees. A copy of the private respondent's motion is attached hereto as Annex "M", while petitioner's Opposition is attached hereto as Annex "N".
11. In his Order dated March 3, 2004, the respondent trial judge appointed Cecilia Guidote-Alvarez and Pilar Pena as co-administratrixes of the estate, subject to the

posting of P1 Million bond. A copy of the order is attached hereto as Annex "O".

12. Then private respondent filed a Manifestation and Motion with the probate court, alleging that the appointed administratrixes had not yet posted the required bond, and asking that she be appointed as the sole administratrix. A copy of the Manifestation and Motion is attached hereto as Annex "P".
13. Petitioner filed a Comment/Opposition to the motion of private respondent, to which she replied. Copies of the petitioner's Opposition and private respondent's Reply are attached hereto as Annexes "Q" and "R", respectively.
14. In his Order dated January 7, 2005, the respondent trial judge withdrew the appointment of Cecilia Guidote-Alvarez and appointed in her stead the private respondent (Annex "A" of this Petition)."

(Rollo, pp. 12-15)

Unconvinced, petitioner filed a motion for reconsideration with manifestation that private respondent is wanting of integrity to act as administratrix. Because of several pending cases before the SEC and the City Prosecutor's Office in Manila, private respondent's character and moral fitness have been seriously tarnished petitioner pointed out.

Petitioner's motion for reconsideration was denied by public respondent in an order which stated, thus:

"The Court, after considering the arguments raised in the Motion for reconsideration, filed by petitioner, through counsel, on February 22, 2005, as well as the Motion for Partial Reconsideration, filed by oppositor, through counsel, on February 24, 2005, finds no cogent reason to reverse or modify the Order of this Court, dated January 7, 2005, the Court finds that oppositor Marietta Guanzon Holmgren is not legally disqualified to be appointed as co-administratrix of the estate of the deceased.

On the other hand, Ms. Pilar Pena has already posted the necessary bond and have already taken her oath of office.

Considering that Marietta Guanzon Holmgren has already posted the necessary bond, the same is hereby APPROVED. Marietta Guanzon Holmgren is hereby directed to take her oath before the Branch Clerk of this Court.

SO ORDERED.

Quezon City, Philippines, July 15, 2005."