Republic of the Philippines
Supreme Court
Baguio City

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **January 11, 2023** *which reads as follows:*

"G.R. No. 227965* ***(Jessie F. Ramos and Francis Emmanuel Rivera vs. Alvin Babista and Bernadette Lomotan, in their capacity as the Court-appointed Administrator of the Estate of Dra. Lourdes Pascual).*** —Petitioners appeal the Decision[1] and Resolution[2] of the Court of Appeals *(CA)* in CA-G.R. SP No. 135685, rendered on May 19, 2016 and October 21, 2016, respectively, affirming the September 26, 2013[3] and March 4, 2014[4] Orders[5] issued by the Regional Trial Court of Quezon City, Branch 95 *(RTC Branch 95)* in SP Proc. No. Q-11-68837[6] and SP Proc. No. Q-11-68543.[7] The CA upheld the dismissal of the petition for probate of the holographic will of Dr. Lourdes S. Pascual *(Dr. Pascual)* and disallowed petitioners to participate in the probate proceedings.

Antecedents

Respondent Alvin Babista (*Babista*) filed a Petition for Issuance of Letters of Administration of the intestate estate of Dr. Pascual after her death on October 20, 2010.[8] The petition was raffled to the RTC of Quezon City, Branch 76[9] (*RTC Branch 76*) and docketed as SP Proc. No. Q-11-68543.[10]

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* Part of the Supreme Court Decongestion Program.

1 *Rollo*, pp. 28-39; penned by Associate Justice Florito S. Macalino and concurred in by Associate Justices Priscilla J. Baltazar-Padilla (now a retired Member of the Court) and Zenaida T. Galapate-Laguilles.

2 Id. at 41-42.

3 Id. at 188-195.

4 Id. at 284-287.

5 Both penned by Acting Presiding Judge Jose G. Paneda.

6 Entitled "*In Re: Petition for Probate of the Holographic Will of Dra. Lourdes S. Pascual, Deceased and for Issuance of Letters of Administration.*" Also referred to as "SP. Proc. Case No. Q-11-68837" in some parts of the *rollo* (see *rollo*, p. 56).

7 Entitled "*In the Matter of the Instestate [Estate] of Dra. Lourdes S. Pascual y Sempio for Issuance of Letters of Administration.*" Also referred to as "SPEC. PROC. No. Q-11-68543" and "S.P. Case No. Q11-68543" in some parts of the *rollo* (see *rollo*, pp. 10 and 58).

8 *Rollo*, p. 51.

9 Id. at 29.

10 Id. at 10.

On March 3, 2011, petitioner Jessie F. Ramos (*Ramos*) filed a Petition,[11] in his capacity as operations manager of Rosemoor Mining and Development Corporation (*RMDC*), for the probate of the holographic will[12] of Dr. Pascual and the issuance of letters of administration in his favor. Ramos claimed that Dr. Pascual was president of RMDC at the time of her death. In order to fulfill the wishes of Dr. Pascual, RMDC authorized him to file the petition because the named executors Felicito Valte (*Valte*) had died, while Justice Buenaventura S. de la Fuente (*De la Fuente*) rejected the trust. The purported holographic will of Dr. Pascual reads:

> August 26, 1982
>
> x x x x
>
> Cognizant that death may come anytime and that I am going to travel, so I deemed it right to write this note as my voluntary will to all my material wealth. I would like that a trusteeship be formed to manage all my real estate, shares of stocks in Rosemoor Mining and [D]evelopment Corporation, Rosemoor Commercial, Inc., San Juan Macias Memorial Park, Baluarte Integrated Farms Systems, all to be headed by my [cousins] Buenaventura S. de la Fuente and Felicito Valte. All my personal properties will likewise be under trusteeship, cash, jewelries, which is deposited in my safety deposit box, Security Bank, España St. All income will be divided as follows for the maintenance of my beneficiaries: 1. Carmelite Nuns of Gilmore and Subic 2. Dominican Nuns of Cainta, Rizal – (The chapel should be [finished]) 3. Agustinian Order (Filipino) 4. Dominican Priests (Filipino) Sto. Domingo Church[,] Quezon Ave. 5. My cousins Justice B.S. de la Fuente and Felicito Valte 6. Focolare Movement through Miss Leonila Acasio and Mr. Emmanuel Ortencio.
>
> The image of Our Lady of Consolation should have her own chapel or church for veneration.
>
> All my blood brothers and sisters <u>should not have</u> any part of my properties because all throughout my life I have not felt nor known any love from them. I would like also neither of their children [shall] inherit nor benefit from this trusteeship. I owe no person or entity any amount. My inheritance from the estate of my mother will go to the children (Avelina and Rosa Belen) of my Inang Emiliana Silverio together with my collection in my estafa case against Mrs. Consuelo Diaz (under Judge Lazaro CFI Manila) and the collectible amount of more than nine thousand pesos from Atty. Sixto de Guzman (former Associate Commissioner of Security and Exchange Commission).
>
> I am requesting those who will read this letter "Will" of mine to follow it to the letter[,] otherwise, I will pray to God that He bestow the corresponding punishment even unto his children's children.

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[11] Id. at 45-48.
[12] Id. at 43-44.

> Lastly, I would like the trusteeship to extend my care for the support of my wards Alice Guerrero and Flordeliza Mostareza who is only 8 years old.
>
> May God Our Lord Jesus Christ bless me with whom I have tried to be in complete union. May He be praised, glorified, loved and adored forever and ever by all mankind and the glorious choirs of angels and saints. May my dearest Mother Mary meet and embrace us. May all my favorite Saints pray for you and me. May we love and remember each other in prayer because this is all that I will bring to the throne of God in heaven.
>
> | | |
> |---|---|
> | I wish to be buried inside the Chapel of San Juan Macias temporarily and to be transferred to the Chapel of the Dominican nuns.[13] | Lourdes S. Pascual, M.D.
Lourdes S. Pascual, M.D.
Lourdes S. Pascual, M.D. |

On March 11, 2011, the RTC of Quezon City, Branch 219 (*RTC Branch 219*) issued an Order[14] in SP Proc. No. Q-11-68837 giving due course to the petition. On June 13, 2011, the RTC Branch 76 issued an Order[15] in SP Proc. No. Q-11-68543 consolidating the intestate proceedings with the ongoing probate proceedings. Thereafter, RTC Branch 219 set the consolidated cases for hearing on August 31, 2011.[16] In the meantime, the Superior De La Corporacion Filipina de Padres Agustinos Recoletos, Inc., otherwise known as the Order of Augustinian Recollects (*OAR*) filed a Motion for Leave to Intervene[17] on July 6, 2011. The OAR alleged that Dr. Pascual commissioned them to restore two oil paintings of Fernando Amorsolo and Carlos Francisco, and that their services remained unpaid.[18]

On September 7, 2011, the RTC Branch 219 appointed Babista and Bernadette Lomotan (*Lomotan*; collectively, *respondents*) as Joint Special Administrators.[19] On November 24, 2011, Zenaida Pascual filed an Omnibus Motion (to Intervene and to Oppose and to Dismiss)[20] contending that RTC Branch 219 should have refrained from acting on any pending incidents in the intestacy case that would affect the probate proceedings. The presiding judge of RTC Branch 219, Judge Bayani Vargas, consequently inhibited himself from hearing the consolidated petitions.[21] The case was subsequently raffled to RTC Branch 95 presided by Judge Jose G. Paneda (*Judge Paneda*).[22]

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13 Id.
14 Id. at 56-57; penned by Judge Bayani V. Vargas.
15 Id. at 58; penned by Presiding Judge Alexander S. Balut.
16 Id. at 61; Order dated June 15, 2011.
17 Id. at 62-70.
18 Id. at 63.
19 Id. at 77 (no copy of the September 7, 2011 Order was attached to the *rollo*/records of this case).
20 Id. at 76-83.
21 Id. at 84-85; Order dated February 10, 2012.
22 Id. at 30.

On September 26, 2012, Babista filed an Opposition (to the Probate of the Holographic Will and Issuance of Letters of Administration to [Ramos]).[23] On November 29, 2012, herein petitioners filed an Opposition to [the] Entry of Appearance of Atty. Maria Rosa B. Rico-Sabado as Counsel for [RMDC].[24]

On December 4, 2012, RTC Branch 95 issued an Order[25] granting the motion to turn over custody of the paintings to the probate court/administrators of the estate filed by OAR.

On March 11, 2013, Ramos and Francis Emmanuel Rivera (*Rivera*; collectively, *petitioners*) filed their Reply[26] to the opposition filed by Babista, while the Dominican Priests (Pilipino)-Sto. Domingo Church, Quezon Avenue (*Dominican Priests*) filed a Comment/Opposition[27] to the opposition filed by Babista.

The RTC Ruling

On September 26, 2013, RTC Branch 95 issued an Order dismissing the petition for probate:

> WHEREFORE, the Court orders as follows:
>
> 1. The Urgent Motion for Voluntary Inhibition is DENIED;
>
> 2. The petition for probate (SP. Proc. No. Q-11-68837) is hereby DISMISSED;
>
> 3. The opposition to the representation by Atty. Maria Rosa B. Rico-Sabado as counsel of RMDC is DENIED. The participation of RMDC shall be only to protect its interest in the proceedings as may be allowed by the court; and
>
> 4. The participation of Jessie F. Ramos and Francis Emmanuel Rivera [in] the estate proceedings are hereby DISALLOWED.
>
> The proceedings in this court shall now continue on the basis of the Intestate case (SP. Proc. No. Q-11-68543).
>
> SO ORDERED.[28]

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23 Id. at 97-103.
24 Id. at 104-108.
25 Id. at 123-124.
26 Id. at 125-144.
27 Id. at 145-154.
28 Id. at 195.

The RTC Branch 95 ruled that petitioners failed to establish any qualifying interest in the estate of Dr. Pascual to enable them to participate in the proceedings. It found that their interests were limited only to RMDC, and not to the shares of stocks in RMDC owned by the deceased which are part the estate.[29] However, RMDC has an indirect interest in the outcome of the proceedings for which it may be allowed limited participation through its counsel.[30] The court had likewise denied the participation of the Dominican Priests because it is neither a natural nor juridical person which cannot directly and on its own be a party to the proceedings.[31]

In denying the petition for probate, the trial court held that the purported will did not distribute the estate to the instituted heirs, devisees, or legatees. Accordingly, the will only established a trust as to the income of the estate which shall be distributed to the named beneficiaries.[32] Moreover, the deceased appeared to have invalidly disinherited her siblings, nephews and nieces.[33] Since the supposed will did not institute an heir, the rule on intestacy shall apply.[34] It further ruled that the intrinsic validity of the will may be passed upon during probate proceedings based on exceptional circumstances, such as when separate or subsequent proceedings would be superfluous.[35]

Herein petitioners and the Dominican Priests moved for reconsideration,[36] but the RTC Branch 95 issued an Order on March 4, 2014, denying the same. The *fallo* of the said Order reads:

> WHEREFORE, the Motion for Partial Reconsideration of Dominican Priests-Pilipino, Sto. Domingo Church, Quezon Ave. dated November 4, 2013, and Motion for Reconsideration of Jessie F. Ramos and Francis Emmanuel Rivera dated November 4, 2013 are both DENIED for lack of merit.
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> SO ORDERED.[37]

Aggrieved, petitioners filed a Petition for *Certiorari*[38] with the CA arguing that RTC Branch 95 gravely abused its jurisdiction in holding that they lack interest in the estate, in prematurely declaring the will as invalid,

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29 Id. at 190, 194-195.
30 Id. at 194.
31 Id. at 191.
32 Id. at 192.
33 Id. at 194.
34 Id. at 192.
35 Id. at 191-192.
36 Id. at 196-214; 215-243.
37 Id. at 287.
38 Id. at 288-312.

and in allowing the special administrators to perform their duty without posting a bond, among others.[39]

The CA Ruling

On May 19, 2016, the CA promulgated the assailed Decision affirming the Orders of RTC Branch 95. The appellate court found that Ramos is not an interested party because he was not named as heir, executor, devisee or legatee, and was not even a creditor of the estate. It agreed with RTC Branch 95 that as operations manager of RMDC, his interest is confined only to RMDC which is not part of the decedent's estate. Similarly, Rivera is not an interested party in the intestate proceedings because his interest as corporate secretary is only limited to RMDC.[40]

The CA likewise held that the holographic will was void as it did not institute any heir and did not dispose of the estate. The said will only created a trust for the management of the estate for which the income shall be distributed to the named beneficiaries.[41] Following the ruling in *Orendain v. Trusteeship of the Estate of Doña Margarita Rodriguez*[42] (*Orendain*), the CA ruled that intestate succession shall take place.[43] As regards the alleged failure of RTC Branch 95 to require the special administrators to post a bond, the CA held that the assailed September 26, 2013 and March 4, 2014 Orders of RTC Branch 95 did not involve the appointment or the non-posting of a bond by the special administrators.[44]

Petitioners filed a Motion for Reconsideration,[45] however, the CA denied the same.[46] Hence, this petition.

Issues

Petitioners filed the instant petition ascribing the following errors on the part of the CA:

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39 Id. at 297-305.
40 Id. at 34-35.
41 Id. at 36.
42 609 Phil. 71 (2009). Referred to as *Hilarion, Jr. v. Trusteeship of the Estate of Doña Margarita Rodriguez* in the CA Decision (*rollo*, p. 37).
43 *Rollo*, pp. 37-38.
44 Id. at 38.
45 Id. at 316-331.
46 Id. at 41-42.

A

The Court of Appeals committed a grave error in passing upon the intrinsic validity of the holographic will of Dra. Pascual, in ruling that the holographic will is void and in holding that Petitioners are not persons interested in the will.

B

The Court of Appeals committed a grave error in not considering the clear bias and prejudice of the Acting Presiding Judge of the Regional Trial Court Branch 95.[47]

Petitioners contend that the CA erred in affirming the Orders of RTC Branch 95 because the latter, as a probate court, has no authority to rule on the intrinsic validity of the holographic will. Moreover, RTC Branch 95 erred in disallowing the probate because the non-institution of heirs is not a ground to disallow the probate of a will under Section 9, Rule 76 of the Rules of Court. Also, the CA erroneously applied the ruling in *Orendain*. Petitioners maintain that although the subject will in *Orendain* created a trust to manage the properties and distribute the income to the beneficiaries, the Court did not declare the same as void. They also assert their interest in the probate proceedings because their purpose in submitting the will for probate was to enable the wishes of the deceased to be heard.[48] Finally, petitioners lament that the CA did not consider the bias and prejudice of Judge Paneda in hearing the case, in view of the six pending motions that he failed to act upon and which resulted in damage and prejudice to the estate.[49]

On the other hand, respondents argue in their Comment[50] that petitioners should have filed an ordinary appeal under Rule 41 of the Rules of Court instead of a petition for *certiorari* in challenging the Orders of RTC Branch 95. Both petitioners are not interested parties in the estate, especially Ramos, because he is not one of those persons enumerated in Sec. 6, Rule 78 of the Rules of Court.[51]

As regards the CA's application of the ruling in *Orendain*, respondents also posit that the same is inapplicable because the holographic will did not dispose of the estate and there were no instituted heirs. They likewise argue that since the will had created an express trust, it should meet all the requirements namely, a competent trustor and trustee, an ascertainable trust *res*, and sufficiently certain beneficiaries. Accordingly, there must be a present and complete disposition of the trust property, and there must be some

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47 Id. at 14, 20.
48 Id. at 15-20.
49 Id. at 20-21.
50 Id. at 335-355.
51 Id. at 337-342.

power of administration other than a mere duty to perform a contract.[52] However, the holographic will of Dr. Pascual consisted of uncertainties and insufficient details. It also did not specify the kind, extent, and scope of "maintenance" that will be provided to the beneficiaries. Furthermore, the will directed the trustor to "manage" the properties, hence, the trustor shall only safekeep the property which is not the purpose of a trust. Finally, the major beneficiaries named in the will are not specific enough to be identifiable recipients.[53]

As regards the alleged bias and prejudice of Judge Paneda, respondents counter that the pending motions and other issues were still pending with RTC Branch 95 for resolution when petitioners filed the petition for *certiorari*. The resolution of this Court in A.M. No. RTJ-16-2459 holding Judge Paneda liable for undue delay in resolving the pending motions cannot be considered in this petition because the administrative case did not involve the propriety of the issuance of the Orders that petitioners are challenging.[54]

In their Reply,[55] petitioners maintain that the ruling in *Orendain* was erroneously applied; that they have an interest in the case; that Ramos filed the petition for probate because there was nobody willing to be the executor; that the petition for *certiorari* was an appropriate remedy because Judge Panera acted with grave abuse of discretion (1) in declaring the holographic will as void, (2) in declaring respondents as without interest in the proceedings, (3) in not requiring the posting of bond by the administrators, (4) in failing to address the issue of payment of proper docket fees in the petition filed by Babista, and (5) in failing to promptly rule on the pending motions. As such, the Court's Resolution in A.M. No. RTJ-16-2459 should be considered in this case because it supports the ground being raised in here that Judge Panera gravely abused his discretion.[56]

In view of the above positions taken by the parties, the issues confronting the Court may be summed as follows: Did the CA err in ruling that RTC Branch 95 did not commit grave abuse of discretion in ruling that (1) petitioners cannot participate in the proceedings because they did not have an interest in the estate, and (2) the purported holographic will of Dr. Pascual is void because it did not dispose of the estate and did not institute any heirs?

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52 Id. at 345-347.
53 Id. at 348-350.
54 Id. at 351.
55 Id. at 360-370.
56 Id. at 361-367.

The Court's Ruling

Before proceeding with the merits of this petition, the Court shall address the procedural matter raised by respondents that petitioners should have filed an ordinary appeal under Rule 41 of the Rules of Court, instead of a *certiorari* before the CA. Respondents posit that the September 26, 2013 Order of the trial court was a final order which dismissed the petition for probate, hence an appeal is the proper remedy.[57]

We need not belabor on this matter. Petitioners claimed before the CA that the probate court seriously erred in dismissing the probate petition by ruling on the intrinsic validity of the holographic will, and that it acted with bias in allowing the special administrators to perform their duties without posting any bond, among others. Evidently, these claims relate to the manner by which jurisdiction was exercised by the probate court, hence, *certiorari* is the proper remedy. It bears emphasis that "an act done by a probate court in excess of its jurisdiction may be corrected by *certiorari*."[58]

Having settled the procedural matter, the Court shall now resolve the substantive matters raised in this petition which appear to be partly meritorious.

Petitioners have no interest in the estate and cannot be appointed as executors or administrators of the estate.

Petitioners maintain their right to be appointed as executors or administrators of the estate of Dr. Pascual, but the CA found them to not have any interest in the estate.

The Court agrees with the CA.

Aside from the executor, heirs, legatees, or devisees, only interested persons in the estate may be allowed to participate in the proceedings for probate and be appointed as administrators. The pertinent provisions in the Rules of Court read as follows:

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[57] Id. at 338.

[58] *Sanchez v. Court of Appeals*, 345 Phil. 155, 181 (1997); *Maninang v. Court of Appeals*, 199 Phil. 640, 648 (1982).

> Rule 76
> Allowance or Disallowance of Will
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> Section 1. *Who may petition for the allowance of the will.* – Any executor, devisee, or legatee named in a will, or any other person interested in the estate, may, at any time after the death of the testator, petition the court having jurisdiction to have the will allowed, whether the same be in his possession or not, or is lost or destroyed.
>
> The testator himself, may, during his lifetime, petition the court for the allowance of his will.
>
> x x x x
>
> Rule 79
> Opposing Issuance of Letters Testamentary,
> Petition and Contest for Letters of Administration
>
> x x x x
>
> Section 2. *Contents of petition for letters of administration.* – A petition for letters of administration must be filed by an interested person[.]

An "interested person" refers to one who would be benefited by the estate, such as an heir, or one who has a claim against the estate, such as a creditor, and whose interest is material and direct, not merely incidental or contingent.[59] In *Suntay III v. Cojuangco-Suntay*[60] (*Suntay*), the Court expounded on the reason behind the requirement that administrators should have an interest in the estate, thus:

> The paramount consideration in the appointment of an administrator over the estate of a decedent is the prospective administrator's interest in the estate. This is the same consideration which Section 6, Rule 78 takes into account in establishing the order of preference in the appointment of administrator for the estate. The rationale behind the rule is that those who will reap the benefit of a wise, speedy and economical administration of the estate, or, in the alternative, suffer the consequences of waste, improvidence or mismanagement, have the highest interest and most influential motive to administer the estate correctly. In all, given that the rule speaks of an order of preference, **the person to be appointed administrator of a decedent's estate must demonstrate not only an interest in the estate, but an interest therein greater than any other candidate.**[61] (Emphasis supplied)

In here, the Court fails to appreciate the interest that petitioners, as representatives of RMDC, claim to have on the estate of Dr. Pascual. They were not named executors by the decedent. Neither were they instituted as

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[59] *Maloles II v. Phillips*, 381 Phil. 179, 195 (2000); *Vda. De Chua v. Court of Appeals*, 350 Phil. 465, 483 (1998).

[60] 697 Phil. 106 (2012).

[61] Id. at 116.

heirs, nor designated as devisees or legatees. RMDC also does not appear as a creditor of the estate. Both the RTC and the CA found that RMDC is not part of the subject estate. The only connection between the estate and RMDC is the alleged 76,000 shares of stocks in the said company owned by Dr. Pascual at the time of her death. Petitioners cannot solely depend on their right to be appointed as administrators by reason of the said shares. If at all, the interest that petitioners appears to be protecting is that of RMDC instead of the estate. Applying *Suntay*, petitioners failed to establish that the interest they seek to protect are far greater than those of the appointed administrators, namely, Babista and Lomotan.

Neither should Ramos be allowed to participate in the proceedings nor be appointed as administrator for the reason that he submitted the holographic will to the court, and that the named executors therein had either died or refused the appointment. As the custodian of the holographic will of Dr. Pascual, Ramos's participation in the proceedings is limited to submitting the said will to the court pursuant to Sec. 2,[62] Rule 75 of the Rules of Court. The incompetence or refusal of the designated executors in the will could not have accorded Ramos with the right to be appointed as administrator. Sec. 6,[63] Rule 78 of the Rules of Court provides for a preferential order in appointing an administrator in the event that the designated executor is unavailable to assume his or her duties. As explained in *Suntay*, only persons having an interest in the estate may be appointed as administrator. Ineluctably, Ramos failed to prove his right to participate in the proceedings below since RMDC does not stand to be benefited by the estate.

A holographic will is still valid despite the non-institution of an heir and the creation of a trust to manage the income of a portion of the estate for distribution to the beneficiaries.

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[62] Section 2. *Custodian of will to deliver.* — The person who has custody of a will shall, within twenty (20) days after he knows of the death of the testator, deliver the will to the court having jurisdiction, or to the executor named in the will.

[63] Section 6. *When and to whom letters of administration granted.* — If no executor is named in the will, or the executor or executors are incompetent, refuse the trust, or fail to give bond, or a person dies intestate, administration shall be granted:

(a) To the surviving husband or wife, as the case may be, or next of kin, or both, in the discretion of the court, or to such person as such surviving husband or wife, or next of kin, requests to have appointed, if competent and willing to serve;

(b) If such surviving husband or wife, as the case may be, or next of kin, or the person selected by them, be incompetent or unwilling, or if the husband or widow, or next of kin, neglects for thirty (30) days after the death of the person to apply for administration or to request that administration be granted to some other person, it may be granted to one or more of the principal creditors, if competent and willing to serve; [and]

(c) If there is no such creditor competent and willing to serve, it may be granted to such other person as the court may select.

The *crux* of the present controversy lies on whether the CA correctly found that RTC Branch 95 did not gravely abuse its discretion in disallowing the probate of the subject holographic will. The CA held that since the holographic will was void because it did not institute any heir and there was no disposition of the estate due to the establishment of a trust, intestate succession shall take place.[64]

The CA seriously erred in its conclusion.

On the failure of the testator to institute an heir, We refer to Article 841 of the Civil Code which reads:

> Article 841. **A will shall be valid even though it should not contain an institution of an heir**, or such institution should not comprise the entire estate, and even though the person so instituted should not accept the inheritance or should be incapacitated to succeed.
>
> **In such cases, the testamentary dispositions made in accordance with law shall be complied with and the remainder of the estate shall pass to the legal heirs**. (Emphases supplied)

Evidently, there is no legal support for declaring a will void for the simple reason that heirs were not instituted therein. Art. 841 is clear that the will shall still be valid and the wishes of the testator shall be respected. In such circumstance, the legal heirs shall inherit the remainder of the estate that has not been disposed by the testator.

Neither does Art. 960(2)[65] of the Civil Code on intestate succession consider a will as void for non-institution of an heir. Art. 960(2) merely provides that intestate succession shall take place when (1) the will does not institute an heir to, or (2) dispose of all the property belonging to the testator. It further provides that legal succession shall take place *only with respect to the property of which the testator has not disposed.* Accordingly, the will is still deemed valid, and the remainder of the dispositions which appear to be in accordance with law, shall be respected.

However, both the CA and the RTC Branch 95 share the view that the creation of a trust indicates that there was no intention to dispose of the estate which makes the will void. Both courts relied heavily on the case of *Orendain*

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64 *Rollo*, p. 38.

65 Art. 960. Legal or intestate succession takes place:
x x x x
(2) When the will does not institute an heir to, or dispose of all the property belonging to the testator. In such, case, legal succession shall take place only with respect to the property of which the testator has not disposed[.]

in declaring the subject holographic will as void because of the creation of a trust. Petitioners on the other hand, argue that the application of *Orendain* was misplaced.

Indeed, the CA had inaccurately applied *Orendain* in striking down the holographic will as void.

To gain proper perspective, We briefly lay down the facts and the ruling in *Orendain* and its progenitor case, *Rodriguez v. Court of Appeals*[66] (*Rodriguez*).

Both *Orendain* and *Rodriguez* involved the last will and testament of Doña Margarita Rodriguez who died without compulsory or forced heirs. Clause 10 of the will therein created a trust to manage the income from some of her properties for distribution to her intended beneficiaries.

Petitioners in *Rodriguez* questioned before the Court the January 8, 1968 Resolution of the CA which ruled that Clause 10 created a perpetual trust and thereby violated Arts. 867(2)[67] and 870[68] of the Civil Code. The CA also ruled that intestate succession shall apply with respect to the property covered by Clause 10. However, the Court reversed the CA and held that Clause 10, insofar as the first 20-year period is concerned, was in accordance with Art. 870 of the Civil Code. The Court only invalidated the testamentary disposition that perpetually prohibited the alienation of the property after the 20-year period. In so ruling, the Court respected the will of the testator which constituted as the inviolable law among the parties in interest.[69]

Four decades after *Rodriguez,* the heirs of Hilarion Orendain, Jr. came to this Court to question the denial by the trial court of their motion to dissolve the trusteeship of the estate of Doña Margarita Rodriguez. This paved the way for the ruling in *Orendain* which reversed the trial court and held that there should be no more prohibition against the dissolution of the trust created over the properties because the 20-year period had already expired. Thus, the Court held therein that the properties covered by the trust shall be disposed following the rules on intestate succession because the testator did not institute any heirs. For purposes of clarity, We quote in full Our disquisition in *Orendain*:

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66 137 Phil. 371 (1969).

67 Art. 867. The following shall not take effect:
x x x x
(2) Provisions which contain a perpetual prohibition to alienate, and even a temporary one, beyond the limit fixed in article 863[.]

68 Art. 870. The dispositions of the testator declaring all or part of the estate inalienable for more than twenty years are void.

69 *Rodriguez v. Court of Appeals*, supra at 376-377.

Quite categorical from the last will and testament of the decedent is the creation of a perpetual trust for the administration of her properties and the income accruing therefrom, for specified beneficiaries. The decedent, in Clause 10 of her will, listed a number of properties to be placed under perpetual administration of the trust. In fact, the decedent unequivocally forbade the alienation or mortgage of these properties. In all, the decedent did not contemplate the disposition of these properties, but only sought to bequeath the income derived therefrom to various sets of beneficiaries.

On this score, we held in *Rodriguez v. Court of Appeals* that the perpetual prohibition was valid only for twenty (20) years. We affirmed the CA's holding that the trust stipulated in the decedent's will prohibiting perpetual alienation or mortgage of the properties violated Articles 867 and 870 of the Civil Code. However, we reversed and set aside the CA's decision which declared that that portion of the decedent's estate, the properties listed in Clause 10 of the will, ought to be distributed based on intestate succession, there being no institution of heirs to the properties covered by the perpetual trust.

As previously quoted, **we reached a different conclusion and upheld the trust, only insofar as the first twenty-year period is concerned. We refrained from forthwith declaring the decedent's testamentary disposition as void and the properties enumerated in Clause 10 of the will as subject to intestate succession. We held that, *in the interim, since the twenty-year period was then still upon us*, the wishes of the testatrix ought to be respected.**

Thus, at present, there appears to be no more argument that the trust created over the properties of the decedent should be dissolved as the twenty-year period has, quite palpably, lapsed.

Notwithstanding the foregoing, the RTC ruled otherwise and held that: (a) only the perpetual prohibition to alienate or mortgage is declared void; (b) the trust over her properties stipulated by the testatrix in Clauses 12, 13 and 24 of the will remains valid; and (c) the trustees may dispose of these properties in order to carry out the latter's testamentary disposition.

We disagree.

Apparent from the decedent's last will and testament is the creation of a trust on a specific set of properties and the income accruing therefrom. Nowhere in the will can it be ascertained that the decedent intended any of the trust's designated beneficiaries to inherit these properties. The decedent's will did not institute any heir thereto, as clearly shown by the following:

1. Clause 2 instructed the creation of trust;

2. Clause 3 instructed that the remaining income from specified properties, after the necessary deductions for expenses, including the estate tax, be deposited in a fund with a bank;

3. Clause 10 enumerated the properties to be placed in trust for perpetual administration (*pangasiwaan sa habang panahon*);

4. Clauses 11 and 12 directed how the income from the properties ought to be divided among, and distributed to the different beneficiaries; and

5. Clause 24 instructed the administrators to provide medical support to certain beneficiaries, to be deducted from the fund deposits in the bank mentioned in Clauses 2 and 3.

Plainly, the RTC was mistaken in denying petitioners' motion to dissolve and ordering the disposition of the properties in Clause 10 according to the testatrix's wishes. As regards these properties, intestacy should apply as the decedent did not institute an heir therefor. Article 782, in relation to paragraph 2, Article 960 of the Civil Code, provides:

> Art. 782. An heir is a person called to the succession either by the provision of a will or by operation of law.
>
> [x x x x]
>
> Art. 960. Legal or intestate succession takes place:
>
> [x x x x]
>
> (2) When the will does not institute an heir to, or dispose of all the property belonging to the testator. In such case, legal succession shall take place only with respect to the property of which the testator has not disposed;
>
> [x x x x]

We find as erroneous the RTC's holding that paragraph 4, Article 1013 of the same code specifically allows a perpetual trust, because this provision of law is inapplicable. Suffice it to state that the article is among the Civil Code provisions on intestate succession, specifically on the State inheriting from a decedent, in default of persons entitled to succeed. Under this article, the allowance for a permanent trust, approved by a court of law, covers property inherited by the State by virtue of intestate succession. The article does not cure a void testamentary provision which did not institute an heir. Accordingly, the article cannot be applied to dispose of herein decedent's properties.

We are not unmindful of our ruling in *Palad, et al. v. Governor of Quezon Province, et al.* where we declared, thus:

> Article 870 of the New Civil Code, which regards as void any disposition of the testator declaring all or part of the estate inalienable for more than 20 years, is not violated by

> the trust constituted by the late Luis Palad; because the will of the testator does not interdict the alienation of the parcels devised. The will merely directs that the income of said two parcels be utilized for the establishment, maintenance and operation of the high school.
>
> Said Article 870 was designed "to give more impetus to the socialization of the ownership of property and to prevent the perpetuation of large holdings which give rise to agrarian troubles." The trust herein involved covers only two lots, which have not been shown to be a large landholding. And the income derived therefrom is being devoted to a public and social purpose – the education of the youth of the land. The use of said parcels therefore is in a sense socialized. There is no hint in the record that the trust has spawned agrarian conflicts.
>
> In this case, however, **we reach a different conclusion as the testatrix specifically prohibited the alienation or mortgage of her properties which were definitely more than the two (2) properties in the aforecited case. The herein testatrix's large landholdings cannot be subjected indefinitely to a trust because the ownership thereof would then effectively remain with her even in the afterlife.**[70] (Emphases supplied; italics in the original; citations omitted)

Clearly, *Orendain* did not invalidate the will that contained a clause creating a trust nor did it nullify the same because the testator failed to dispose her properties. The Court, in deference to the wishes of the testator and pursuant to existing laws, allowed the creation of a trusteeship over the properties mentioned in Clause 10 of the will, for a period of 20 years pursuant to Arts. 867 and 870 of the Civil Code, and thereafter, authorized the dissolution of the said trust after the lapse of the 20-year period in order to avoid perpetual ownership of the decedent.

Thus, both the CA and the RTC Branch 95 had mistakenly ruled that a will that creates a trusteeship over the estate is void. Based on *Rodriguez* and *Orendain*, the trusteeship may be upheld to respect the wishes and intention of the testator, but only for a period of 20 years pursuant to Art. 870 of the Civil Code.

Respondents, however, take issue on the creation of the trust because of its alleged vagueness. They contend that the trustor had to "invent" in order to implement the trust. They likewise contend that the named beneficiaries were not specific.

Respondents are grievously mistaken.

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[70] *Orendain v. Trusteeship of the Estate of Doña Margarita Rodriguez*, supra note 42, at 79-82.

The matters being raised by respondents relate to the intrinsic validity of the will which RTC Branch 95 should not have entertained in the probate proceedings. It is a basic rule that probate proceedings are only concerned with the extrinsic validity of the will, thus:

> It should be emphasized that in probate proceedings, the court's area of inquiry is limited to an examination and resolution of the extrinsic validity of the will. By extrinsic validity, the testamentary capacity and the compliance with the formal requisites or solemnities prescribed by law are the only questions presented for the resolution of the court. Due execution of the will or its extrinsic validity pertains to whether the testator, being of sound mind, freely executed the will in accordance with the formalities prescribed by Articles 805 and 806 of the New Civil Code. x x x After all, the probate of a will is mandatory and cannot be left to the discretion of the persons interested in the estate of the deceased.[71]

The rule, however, is not absolute. We have said that it is not beyond the probate court's jurisdiction to pass upon the intrinsic validity of the will when so warranted by *exceptional circumstances*.[72] Thus, in *Nuguid v. Nuguid*,[73] *Acain v. Intermediate Appellate Court*,[74] and *Morales v. Olondriz*,[75] the Court permitted an inquiry into the intrinsic validity of the will when preterition appears on its face. In *Nepomuceno v. Court of Appeals*,[76] the Court affirmed the denial of the probate because of the invalid testamentary disposition of bequeathing the free portion of the estate to the testator's concubine.

Notable herein that instead of questioning the extrinsic validity of the subject will, respondents opposed the probate solely on the ground that the will does not contain any disposition of the properties and the creation of a trust based on vague terms.[77] These matters do not constitute exceptional circumstances which merit the attention of the probate court. Respondents do not claim preterition, or that the testamentary provisions are evidently unlawful.

A plain reading of the subject will creates an impression that the beneficiaries can be readily identified. Even if majority of the beneficiaries are religious orders or institutions, they can still be known by the location indicated by Dr. Pascual in her will (*i.e.*, Carmelite Nuns of Gilmore and Subic; Dominican Nuns of Cainta, Rizal, etc.). The personal relationship of Dr. Pascual with the said beneficiaries may also be taken into account in the

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71 *Racca v. Echague*, G.R. No. 237133, January 20, 2021.
72 *Morales v. Olondriz*, 780 Phil. 317, 324 (2016).
73 123 Phil 1305 (1966).
74 239 Phil. 96 (1987).
75 Supra.
76 223 Phil. 418 (1985).
77 *Rollo*, p. 100.

event that the religious orders or institutions cannot be immediately discovered. Art. 789 of the Civil Code finds application in such instance, *viz.*:

> Article 789. When there is an imperfect description, or when no person or property exactly answers the description, mistakes and omissions must be corrected, if the error appears from the context of the will or from extrinsic evidence, excluding the oral declarations of the testator as to his intention; and when an uncertainty arises upon the face of the will, as to the application of any of its provisions, the testator's intention is to be ascertained from the words of the will, taking into consideration the circumstances under which it was made, excluding such oral declarations.

Moreover, even if these entities cannot be ascertained either by their location or other circumstances related to Dr. Pascual, non-specificity cannot nullify the will since there are other individuals namely, De la Fuente, Valte, Alice Guerrero, and Flordeliza Mostareza, who were identified as beneficiaries. It is a basic rule that the invalidity of one of several dispositions in a will does not invalidate the others unless the testator intended it to be so.[78]

Respondents likewise cannot validly claim that the will is void because the trustor had to "invent" ways to implement the trusteeship. Verily, We cannot expect a testator to provide every detail on how his or her estate is to be disposed. Relevant herein is Art. 786[79] of the Civil Code which allows the testator to entrust to third persons the distribution of specific property or sums or money that may be left in general to specified classes or causes, as well as the designation of persons, institutions, or establishments to which they are to be given.

In sum, the CA seriously erred in not finding the probate court to have gravely abused its discretion when it declared the will as void based on its intrinsic validity. To reiterate, inquiring into the intrinsic validity of the will or the manner in which properties were apportioned is not within the purview of the probate court. The court's area of inquiry is bound to an examination of, and resolution on, the extrinsic validity of the will. The due execution thereof, the testatrix's testamentary capacity, and the acquiescence with the requisites or solemnities by law prescribed, are the questions solely to be presented, and to be acted upon, by the court.[80] Since these matters involving the extrinsic validity of the purported will of Dr. Pascual had not yet been

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[78] CIVIL CODE, Art. 792, provides:
Art. 792. The invalidity of one of several dispositions contained in a will does not result in the invalidity of the other dispositions, unless it is to be presumed that the testator would not have made such other dispositions if the first invalid disposition had not been made.

[79] Art. 786. The testator may entrust to a third person the distribution of specific property or sums of money that he may leave in general to specified classes or causes, and also the designation of the persons, institutions or establishments to which such property or sums are to be given or applied.

[80] *Tanchanco v. Santos*, G.R. No. 204793, June 8, 2020, 936 SCRA 414, 451-452.

passed upon by the probate court, it is only proper that this case be remanded for the appropriate proceedings.

WHEREFORE, the Petition is **PARTLY GRANTED**. The May 19, 2016 Decision and the October 21, 2016 Resolution of the Court of Appeals in CA-G.R. SP No. 135685 are **AFFIRMED** with **MODIFICATION**. The portion in the September 26, 2013 Order of the Regional Trial Court of Quezon City, Branch 95 in SP Proc. No. Q-11-68837 and SP Proc. No. Q-11-68543 dismissing the petition for probate docketed as SP Proc. No. Q-11-68837, as affirmed by the Court of Appeals, is **REVERSED** and **SET ASIDE**. The petition for probate entitled "*In Re: Petition for Probate of the Holographic Will of Dra. Lourdes S. Pascual, Deceased and for Issuance of Letters of Administration*," docketed as SP Proc. No. Q-11-68837, is hereby **REINSTATED**.

Let the records of this case be **REMANDED** to the Regional Trial Court of Quezon City, Branch 95 to conduct the appropriate proceedings in SP Proc. No. Q-11-68837.

SO ORDERED." ***Hernando, J.****, on leave.*

By authority of the Court:

LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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