



SUPREME COURT OF THE PHILIPPINES

KL JUL 29 2025
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Republic of the Philippines
Supreme Court
Baguio City

SECOND DIVISION

RIZALINO B. ABELLA,
TEODORO C. ABELLA, and
ROMILDA S. AMAGO,
Petitioners,

G.R. No. 269598

Present:

LEONEN, *SAJ.*, Chairperson,
LAZARO-JAVIER,
LOPEZ, M.,
LOPEZ, J., and
KHO, JR., *JJ.*

- versus -

ATTY. SERGIO C. SUMAYOD,
JANE A. PICA, ANNALIZA YU,
and PETRON CORP., INC.,
Respondents.

Promulgated:

APR 02 2025

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DECISION

LOPEZ, J., *J.*:

This Court resolves the Petition for Review on *Certiorari*¹ filed by Rizalino B. Abella (Rizalino), Teodoro C. Abella (Teodoro), and Romilda S. Amago (Romilda) (collectively, Rizalino et al.), seeking to reverse the Decision² and Resolution³ of the Court of Appeals (CA). The CA affirmed the Orders⁴ of the Regional Trial Court (RTC) denying Rizalino et al.'s Motion to Appoint Special Executor and Execute the Last Will and Testament

¹ *Rollo*, pp. 3–203.

² *Id.* at 51–64. The February 28, 2023 Decision in CA-G.R. SP No. 15027 was penned by Associate Justice Mercedita G. Dadole-Ygnacio and concurred in by Associate Justices Bautista G. Corpin, Jr. and Eleuterio L. Bathan of the Twentieth Division, Court of Appeals, Cebu City.

³ *Id.* at 66–72. The August 31, 2023 Resolution in CA-G.R. SP No. 15027 was penned by Associate Justice Mercedita G. Dadole-Ygnacio and concurred in by Associate Justices Bautista G. Corpin, Jr. and Eleuterio L. Bathan of the Twentieth Division, Court of Appeals, Cebu City.

⁴ *Id.* at 113–126. The January 12, 2022 Order in Civil Case No. 99-12-181 (SP. Proc. No. 98-06-28) was penned by Presiding Judge Leonito S. Sabandal of Branch 9, Regional Trial Court, Tacloban City.

Id. at 127–128. The March 21, 2022 Order in Civil Case No. 99-12-181 (SP. Proc. No. 98-06-28) was penned by Presiding Judge Leonito S. Sabandal of Branch 9, Regional Trial Court, Tacloban City.

of Josefina Escosora Abella (Motion to Appoint Special Executor and Execute Will).⁵

In a last will and testament, Josefina devised her share in several properties, namely, Lot No. 2685-A, Lot No. 2741-C, Lot No. 2440 part B-2, and the Pawing, Palo Properties. The latter property consists of: (1) Lot No. 9760 covered by Transfer Certificate of Title (TCT) No. TP-13206 in the names of Cecilia E. Abella (Cecilia), Crispina T. Abella, Sylvia P. Abella, Jane A. Pica (Jane), and Annalita A. Salbao; and (2) a parcel of land covered by Original Certificate of Title (OCT) No. P-36770 in the name of Heirs of Jose Abella, represented by Josefina Abella, located in Pawing, Palo, Leyte. In Paragraph 5 of the last will and testament, these were bequeathed in favor of Cecilia, Soledad Amago (Soledad), Conrada C. Abella (Conrada), and Anesia Abella (Anesia), and Anesia's sisters as follows:

5. I devise and bequeath to CECILIA E. ABELLA, my land containing an area of ONE THOUSAND & FIFTY-FIVE (1,055 [SQ.] M.) SQUARE METERS, covered by TCT No. T-4561, with Tax Decl. No. 47901, located at Sagkan II, Brgy. 59, under Lot 2685-A in my name; this will also include my share in Lot 12054 of MAURO ABELLA and JOSE O. ABELLA, under Title No. 1567, Lot 2741-C, and my just share in Lot 2440 part B-2, including my just share from the Pawing, Palo, Properties in the name of Jose O. Abella will go to CECILIA E. ABELLA, the share of IRENE ABELLA will go to SOLEDAD AMAGO and the share of TEODORO O. ABELLA will go to CONRADA C. ABELLA who did all the legal preparation and typing of documents are researcher of Cecilia E. Abella and as my secretary, and the share of LEON ABELLA will go to ANESIA ABELLA & sisters.⁶

Romilda is the daughter of Soledad and Filomeno Amago; Teodoro is the son of Conrada and Wenceslao Abella; and Rizalino is the nephew of Anesia, who died without a husband and children.⁷

As the surviving heirs of Soledad, Conrada, and Anesia, Rizalino et al. alleged that sometime in April 2017, they came into possession of a copy of the RTC Decision that allowed and admitted the probate of Josefina's will. The dispositive portion of the RTC Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered declaring that the last will and testament of Josefina Escosora Abella, which is the subject of the present probate proceeding, is that of the decedent Josefina Escosora Abella and the same is hereby admitted for probate.

Let a letter testamentary, without bond, be issued to the executor, Atty. Sergio C. Sumayod.

⁵ *Id.* at 39–45.

⁶ *Id.* at 52–53.

⁷ *Id.* at 40, 53, 114.

SO ORDERED.⁸

From 2017 to 2019, Rizalino et al. contacted Atty. Sergio C. Sumayod (Atty. Sumayod) and Jane, the caretaker of the properties, to proceed with the distribution of the Pawing, Palo Properties in favor of their predecessors-in-interest, Soledad, Conrada, and Anesia, in accordance with Paragraph 5 of Josefina's will. However, both Atty. Sumayod and Jane refused to heed Rizalino et al.'s requests. Further, Rizalino et al. discovered that the Pawing, Palo Properties were being leased to Annaliza Yu (Yu) and Petron Corporation (Petron).⁹

With their failure to reach an agreement with Atty. Sumayod and Jane, Rizalino et al. filed a Motion to Appoint Special Executor and Execute Last Will and Testament¹⁰ before the RTC. The Motion sought the following reliefs from the RTC: (1) the disqualification of Atty. Sumayod as special executor of Josefina's last will and testament and the appointment of Rizalino or Teodoro as special executor to replace Atty. Sumayod; (2) the execution of Paragraph 5 of Josefina's will; and (3) the issuance of an order enjoining Petron and Yu from paying rentals over the property to Jane.¹¹

On October 24, 2019, Atty. Sumayod and Jane filed their Comment/Opposition to the Motion. Atty. Sumayod clarified that, although he was named as executor in the RTC Decision allowing the last will and testament of Josefina, he never assumed the role, considering that he did not take his oath and no letters of administration were issued to him. He also argued that Rizalino et al., not being parties to the case which allowed Josefina's will, lacked the standing to move for its execution.¹²

Meanwhile, Yu sought the dismissal of the Motion with respect to its prayer for the issuance of an order enjoining her from paying rentals. She explained that she and Petron are merely lessees renting the properties from Jane without any claim of ownership, thus making them uninvolved in the "inheritance intramurals."¹³

Later, Rizalino et al. filed their Movant's Omnibus Reply and Counter Arguments.¹⁴ Then, Petron filed an *Ex-Parte* Motion to Consignate Rentals¹⁵ with the probate court pending final resolution on the issues. In its Omnibus

⁸ *Id.* at 49.

⁹ *Id.* at 39–45.

¹⁰ *Id.* at 39.

¹¹ *Id.* at 39, 41–42, 43–44, 53, 115.

¹² *Id.* at 54, 115.

¹³ *Id.*

¹⁴ *Id.* at 344–352.

¹⁵ *Id.* at 339–341.

Order,¹⁶ the RTC denied Petron's Motion and directed it to keep the *status quo*.

Eventually, the RTC issued an Order¹⁷ denying Rizalino et al.'s Motion to Appoint Special Executor and Execute Will, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing discussion, the "Motion to Appoint Special Executor and Execute the Last Will and Testament" is DENIED because these particular testamentary provisions found in paragraph (5) of the "Last will and Testament" of Josefina E. Abella pertaining to the "Pawing, [Palo] Properties" is intrinsically void. These properties therefore have to be distributed in accordance with the laws on intestate succession. All the other prayers in the Motion are likewise denied.

The counterclaims of the oppositors are also DENIED.

SO ORDERED.¹⁸

The RTC held that Josefina did not own the Pawing, Palo Properties. Consequently, she had no right to dispose of them to the ascendants of Rizalino et al. by will.¹⁹ Further, the RTC identified the Pawing, Palo Properties as two parcels of land, namely: (1) Lot No. 9760 covered by TCT No. TP-13206²⁰ in the names of Cecilia E. Abella, Crispina T. Abella, Sylvia P. Abella, Jane A. Pica, and Annalita A. Salbao; and (2) a parcel of land covered by OCT No. P-36770²¹ in the name of Heirs of Jose Abella, represented by Josefina Abella, located in Pawing, Palo, Leyte. Thus, the RTC ruled that Paragraph 5 of the last will and testament of Josefina is intrinsically void with respect to the Pawing, Palo Properties as Josefina could not validly dispose of properties she did not own.²²

Rizalino et al. filed a Motion for Reconsideration, which the RTC denied in an Order.²³

Aggrieved, Rizalino et al. brought a Petition for *Certiorari* to the CA.

In its Decision,²⁴ the CA dismissed the Petition and ruled as follows:

¹⁶ *Id.* at 342-343.

¹⁷ *Id.* at 113-126.

¹⁸ *Id.* at 125-126.

¹⁹ *Id.* at 55, 123, 125.

²⁰ *Id.* at 102.

²¹ *Id.* at 103.

²² *Id.* at 55, 123-125.

²³ *Id.* at 127-128.

²⁴ *Id.* at 51-64.

WHEREFORE, premises considered, the instant petition is DISMISSED. The Order dated [January 12, 2022] and the Order dated [March 21, 2022], issued by the Regional Trial Court (RTC), 8th Judicial Region, Branch 9, Tacloban City, in Civil Case No. 99-12-181 (SP. PROC. NO. 98-06-28) are hereby AFFIRMED[.]

Further, the prayer for the issuance of the Writ of Preliminary Mandatory Injunction is consequently DENIED.

SO ORDERED.²⁵

The CA upheld the RTC's jurisdiction in the probate proceedings. It also affirmed the trial court's ruling on the intrinsic validity of Josefina's will, concurring with its finding that the testator, Josefina, was not the owner of the Pawing, Palo Properties and, therefore, could not freely dispose of them in her will.²⁶

Notably, the CA observed that in their Petition, Rizalino et al. acknowledged that Josefina was not the owner of the Pawing, Palo Properties. According to the CA, the following statement constituted a judicial admission that is both conclusive and binding on Rizalino et al.:

89. Foregoing dissertations bring us closer to the right of testator to legally dispose subject properties to the devisees. *In the instant Petition, there is no dispute that the testator is not the owner of these properties.* Subject certificates of title covering both properties are originally registered in the name of "HRS. OF JOSE ABELLA, REP. BY JOSEFINA ABELLA". This phrase eloquently speaks that the equitable or beneficial ownership of the property belongs to the heirs of Jose Abella et al. The testator (Josefina E. Abella) holds the subject properties in trust for the co-owners and co-heirs of Jose Abella et al.²⁷ (Emphasis supplied)

Subsequently, Rizalino et al. filed a Motion for Reconsideration,²⁸ which the CA denied in a Resolution.²⁹

Hence, Rizalino et al. filed the instant Petition.

In their Petition, Rizalino et al. invoke *Dorotheo v. Court of Appeals*³⁰ in differentiating between the extrinsic validity and intrinsic validity of wills. They contend that, since the last will and testament of Josefina was admitted for probate, the issue on the will's extrinsic validity is already conclusive against the whole world. While Rizalino et al. admit that the issue of intrinsic

²⁵ *Id.* at 63.

²⁶ *Id.* at 57–63.

²⁷ *Id.* at 61, 175.

²⁸ *Id.* at 73–87. Dated April 3, 2023.

²⁹ *Id.* at 66–72.

³⁰ 377 Phil. 851 (1999) [Per J. Ynares-Santiago, First Division].

validity may still be raised, they argue that this may not be attacked through a motion, especially if the decision admitting the will to probate has reached finality. Relying on *Heirs of the Late Jesus Fran v. Hon. Salas*,³¹ Rizalino et al. maintain that a challenge against the intrinsic validity of the testamentary disposition may only be done in a separate and independent action or proceeding. Rizalino et al. further argue that Josefina, the testator, was a trustee, thus giving her the capacity to dispose of the Pawing, Palo Properties through a will.³²

Then, Atty. Sumayod and Jane filed their Comment³³ before this Court. They reiterate that extrinsic validity and intrinsic validity are different matters; thus, the conclusiveness of the will's extrinsic validity does not affect the intrinsic validity. Yu and Petron also filed their respective Comments,³⁴ arguing in common that as lessees to the property, there is no cause of action against them as they are not privy to the internal dispute of the heirs.

This Court resolves the following issues:

First, whether a last will and testament admitted to probate can be declared intrinsically void in an order arising from the same proceedings; and

Second, whether Josefina Abella can dispose of the Pawing, Palo Properties in accordance with Paragraph 5 of her last will and testament.

This Court's Ruling

The Petition is denied.

*Extrinsic validity versus
intrinsic validity of wills*

Prefatorily, it must be emphasized that the extrinsic validity of wills is different from the intrinsic validity of wills. In *Gaspi v. Judge Pacis-Trinidad*,³⁵ this Court differentiated the two concepts as follows:

The extrinsic validity of a will, that is, that the document purporting to be a will is determined to be authentic and duly executed by the decedent, is different from its intrinsic validity.

³¹ 285 Phil. 789 (1992) [Per J. Davide, Jr., Third Division].

³² *Id.* at 19–27.

³³ *Id.* at 217–246.

³⁴ *Id.* at 269–282, 295–298.

³⁵ 890 Phil. 819 (2020) [Per J. Leonen, Third Division].

The intrinsic validity of the will “or the manner in which the properties were apportioned,” refers to whether the order and allocation of successional rights are in accordance with law. It can also refer to whether an heir has not been disqualified from inheriting from the decedent.³⁶ (Citation omitted)

Further, as cited by petitioners, the case of *Dorotheo* elaborates on the extrinsic validity of wills:

It should be noted that probate proceedings deals generally with the extrinsic validity of the will sought to be probated, particularly on [four] aspects:

- whether the will submitted is indeed, the decedent’s last will and testament;
- compliance with the prescribed formalities for the execution of wills;
- the testamentary capacity of the testator;
- and the due execution of the last will and testament.³⁷ (Citation omitted)

It is a well-settled rule that probate proceedings deal generally with the extrinsic validity of wills.³⁸ The main issue which this Court must determine in a probate proceeding is the due execution or the extrinsic validity of the will as provided by Rule 75,³⁹ Section 1 of the Rules of Court.⁴⁰ Thus, the probate court’s area of inquiry is limited to an examination of, and resolution on, the extrinsic validity of the will; the court is not yet called upon to rule on the intrinsic validity or efficacy of the provisions of the will, and the legality of any devise or legacy therein.⁴¹

However, this rule—that probate proceedings deal generally with the extrinsic validity of wills—is not inflexible and absolute.⁴² In exceptional instances, courts are not powerless to do what the situation constrains them to do, and pass upon certain provisions of the will, even as it upholds the extrinsic validity of the will.⁴³ When practical considerations demand that the intrinsic validity of the will be passed upon, the issue should be addressed, especially when the conduct of separate proceedings to determine the intrinsic

³⁶ *Id.* at 832–833.

³⁷ *Dorotheo v. Court of Appeals*, 377 Phil. 851, 855 (1999) [Per J. Ynares-Santiago, First Division].

³⁸ *In re Akana*, G.R. No. 269883, May 13, 2024 [Per. J. J. Lopez, Second Division] at 8. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website.

³⁹ Section 1. *Allowance necessary. Conclusive as to execution.* — No will shall pass either real or personal estate unless it is proved and allowed in the proper court. Subject to the right of appeal, such allowance of the will shall be conclusive as to its due execution.

⁴⁰ *In the Matter of the Petition for the Probate of the Will of Consuelo Santiago Garcia*, 873 Phil. 371, 398 (2020) [Per J. Hernando, Second Division].

⁴¹ *Id.* at 407.

⁴² *Nepomuceno v. Court of Appeals*, 223 Phil. 418, 424 (1985) [Per J. Gutierrez, Jr., First Division].

⁴³ *Spouses Ajero v. Court of Appeals*, 306 Phil. 500, 509 (1994) [Per J. Puno, Second Division], *citing* *Nepomuceno v. Court of Appeals*, 223 Phil. 418, 424 (1985) [Per J. Gutierrez, Jr., First Division].

validity of its testamentary provisions would be superfluous. Indeed, it is well within the jurisdiction of the probate court to pass upon the intrinsic validity of the will if probate proceedings might become an idle ceremony due to the nullity of the will.⁴⁴

In the instant Petition, there is no dispute as to the extrinsic validity of Josefina's will. Petitioners⁴⁵ and respondents Atty. Sumayod and Jane⁴⁶ acknowledge that its extrinsic validity is already conclusive. The disputed issue is whether it was appropriate for the probate court to pass upon the intrinsic validity of the will.

Petitioners are mistaken in their assertion that a separate and independent action is needed in order for the trial court to invalidate testamentary provisions based on its intrinsic validity or lack thereof. In fact, their reliance on *Dorotheo* seems to be misplaced. In *Dorotheo*, the trial court admitted the testator's will for probate. The private respondents in that case did not appeal from the trial court's order. Instead, two years later, they moved to declare the will intrinsically void after the probated will had already become final and executory. Despite the final and executory Order admitting the will to probate, the trial court still granted their motion and invalidated the testamentary provisions of the will based on its intrinsic invalidity.⁴⁷

In the instant case, the last will and testament of Josefina had already been admitted for probate. There was no appeal from the decision of the RTC admitting the will for probate. After 17 years, petitioners filed a Motion to Appoint Special Executor and Execute the Last Will to enforce Paragraph 5 of the will. Only then did respondents Atty. Sumayod and Jane contest the intrinsic validity in their Comment/Opposition. The RTC, through an Order, then invalidated Paragraph 5 of the will since Josefina, the testator, was not the owner of the Pawing, Palo Properties subject of the provision, as admitted by petitioners.⁴⁸

Moreover, petitioners' reliance on *Heirs of Fran* is erroneous. The paragraphs cited do not even support their position, thus:

The probate judgment of [November 13, 1972], long final and undistributed by any attempt to unsettle it, had inevitably passed beyond the reach of the court below to annul or set the same aside, by mere motion, on the ground that the will is a forgery. Settled is the rule that *the decree of probate is conclusive with respect to the due execution of the will and it cannot be impugned* on any of the grounds authorized by law, except that of

⁴⁴ *Morales v. Olondriz*, 780 Phil. 317, 325 (2016) [Per J. Brion, Second Division].

⁴⁵ *Rollo*, p. 14.

⁴⁶ *Id.* at 222.

⁴⁷ *Dorotheo v. Court of Appeals*, 377 Phil. 851, 855 (1999) [Per J. Ynares-Santiago, First Division].

⁴⁸ *Rollo*, p. 366.

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fraud, *in any separate or independent action or proceeding*].⁴⁹ (Emphasis supplied, citation omitted)

It is crucial to emphasize that extrinsic validity and intrinsic validity are distinct matters. The case of *Heirs of Fran* supports the rule that the extrinsic validity of a will is conclusive against the whole world, therefore, it cannot be collaterally attacked. However, it does not support the petitioners' claim that a separate and independent action or proceeding is required when addressing the intrinsic validity of a will. Further, the Motion to Execute Last Will and Testament necessarily includes the determination of the will's intrinsic validity because this already goes into the execution stage. Under the Rules of Court, it is a person's "estate"⁵⁰ that is administered. Imperative to note is what constitutes a person's "estate." Correspondingly, Articles 774 and 776 of the Civil Code provides what constitutes inheritance or estate, thus:

ARTICLE 774. Succession is a mode of acquisition by virtue of which the property, rights and obligations to the extent of the value of the *inheritance, of a person are transmitted through his death* to another or others either by his will or by operation of law.

ARTICLE 776. The *inheritance includes all the property, rights and obligations of a person which are not extinguished by his death*. (Emphasis supplied)

Hence, only the property owned by the decedent at the time of his/her death forms part of his/her estate. Necessarily, it is the estate of that decedent that shall be the subject of estate proceedings to be ruled by the RTC.

Since it has been established that extrinsic validity differs from intrinsic validity in the case of a will, and the RTC Decision that permitted and accepted the probate of Josefina's will was based solely on the extrinsic validity of the will, the challenged RTC Orders, which addressed the intrinsic validity of a portion of the will, did not contradict the final RTC Decision, that allowed the probate of the will.

Henceforth, what evolved to be the crux of the issue is the intrinsic validity of Paragraph 5 of Josefina's last will and testament. Due to the presence of practical and exceptional circumstances, it was only proper for the trial court to meet the issue and pass upon the intrinsic validity of the testamentary provision. Otherwise, the probate proceedings will be a mere "idle ceremony" as the very same issue will certainly arise at a later stage in the execution of the will.⁵¹

⁴⁹ *Heirs of the Late Jesus Fran v. Hon. Salas*, 285 Phil. 789, 812 (1992) [Per J. Davide, Jr., Third Division].

⁵⁰ See RULES OF COURT, Rules 72-90.

⁵¹ RULES OF COURT, Rules 72-90.

A portion of Paragraph 5 of the will is intrinsically void

On the second issue, it is imperative to clarify the pertinent portion of Paragraph 5 of the will:

[I]ncluding my just share from the Pawing, Palo Properties in the name of Jose O. Abella will go to CECILIA E. ABELLA, the share of IRENE ABELLA will go to SOLEDAD AMAGO and the share of TEODORO O. ABELLA will go to CONRADA C. ABELLA who did all the legal preparation and typing of documents are researcher of Cecilia E. Abella and as my secretary, and the share of LEON ABELLA will go to ANESIA ABELLA & sisters.⁵²

It is clear on the face of the will that the dispositions in favor of Soledad, Conrada, and Anesia, the predecessors-in-interest of petitioners in this case, are not the properties of the testator, Josefina. It states in clear terms that those portions distribute the shares of other persons in the Pawing, Palo Properties composed of: (1) Lot No. 9760 covered by TCT No. TP-13206 in the name of Cecilia E. Abella, Crispina T. Abella, Sylvia P. Abella, Jane and Annalita A. Salbao; and (2) a parcel of land covered by OCT No. P-36770 in the name of Heirs of Jose Abella, represented by Josefina Abella. These shares belong to Irene Abella, Teodoro O. Abella, and Leon Abella. Pertinent to this finding are the words “my just share” as compared to the phrase used for other persons, “the share of.”

Consequently, Josefina cannot dispose the subject properties in favor of the devisees in her will. Since only the property and the transmissible rights and obligations existing at the time of a decedent’s death, and also those which have accrued thereto since the opening of the succession, are considered part of the inheritance,⁵³ Josefina could not have donated the shares of other persons in the Pawing, Palo Properties to petitioners through her will.⁵⁴ This is premised on the principle of *nemo dat quod non habet*—one cannot give what one does not have.⁵⁵

This is the same factual milieu in *Spouses Ajero v. Court of Appeals*⁵⁶ where this Court likewise invalidated the disposition of the house and lot in probate proceedings, due to the testator’s admission that she did not own the said property:

⁵² Rollo, p. 122.

⁵³ CIVIL CODE, art. 781.

⁵⁴ *Trinidad v. Trinidad*, 949 Phil. 1051, 1059 (2023) [Per J. Gaerlan, Third Division].

⁵⁵ *Id.*

⁵⁶ 306 Phil. 500 (1994) [Per J. Puno, Second Division].

As a general rule, courts in probate proceedings are limited to pass only upon the extrinsic validity of the will sought to be probated. However, in exceptional instances, courts are not powerless to do what the situation constrains them to do, and pass upon certain provisions of the will. In the case at bench, *decedent herself indubitably stated* in her holographic will that *the Cabadbaran property is in the name of her late father, John H. Sand* (which led oppositor Dr. Jose Ajero to question her conveyance of the same in its entirety.). Thus, as correctly held by respondent court, *she cannot validly dispose of the whole property, which she shares with her father's other heirs.*⁵⁷ (Emphasis supplied, citation omitted)

In *Dorotheo*, this Court invalidated the testamentary provisions of the will based on its intrinsic invalidity, thus:

Furthermore, Alejandro's disposition in his will of the alleged share in the conjugal properties of his late spouse, whom he described as his "only beloved wife," is not a valid reason to reverse a final and executory order. *Testamentary dispositions of properties not belonging exclusively to the testator or properties which are part of the conjugal regime cannot be given effect[.]*⁵⁸ (Emphasis supplied)

Given that Josefina, by her own admission in the will, does not own the shares of Irene, Teodoro, and Leon in the Pawing, Palo Properties, her testamentary disposition regarding these properties is invalid. There is no longer any dispute that will entail further proceedings, else it will be an idle ceremony.

However, regarding the holding of the RTC and the CA that Josefina is not the owner of the Pawing, Palo Properties, We find that there is a misunderstanding and misapprehension of the relevant information.

According to the Civil Code, the principle of severability serves as the default when invalidating testamentary dispositions:

ARTICLE 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.

This provision makes the principle of severability or separability in statutory construction applicable to wills.⁵⁹ Further, "the law favors testacy over intestacy,"⁶⁰ hence, the invalidity of certain dispositions must not

⁵⁷ *Id.* at 509–510.

⁵⁸ *Dorotheo v. Court of Appeals*, 377 Phil. 851, 862 (1999) [Per J. Ynares-Santiago, First Division].

⁵⁹ RUBEN F. BALANE, JOTTINGS AND JURISPRUDENCE IN CIVIL LAW (SUCCESSION) 48 (2016).

⁶⁰ *In the Matter of the Petition for the Probate of the Will of Consuelo Santiago Garcia v. Santos*, 873 Phil. 371, 397 (2020) [Per J. Hernando, Second Division].

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automatically affect the validity of other dispositions. Additionally, important to note are Articles 790 and 791 of the Civil Code:

ARTICLE 790. The words of a will are to be taken in their ordinary and grammatical sense, unless a clear intention to use them in another sense can be gathered, and that other can be ascertained.

Technical words in a will are to be taken in their technical sense, unless the context clearly indicates a contrary intention, or unless it satisfactorily appears that the will was drawn solely by the testator, and that he was unacquainted with such technical sense.

ARTICLE 791. The words of a will are to receive an interpretation which will give to every expression some effect, rather than one which will render any of the expressions inoperative; and of two modes of interpreting a will, that is to be preferred which will prevent intestacy.

It is true that Josefina is not the sole owner of the Pawing, Palo Properties. In the parcel of land covered by OCT No. P-36770, the OCT states that it is in the name of "Heirs of Jose Abella, represented by Josefina Abella."⁶¹ The words in the will are also clear: the Pawing, Palo Properties are "in the name of Jose O. Abella."⁶² However, to invalidate the entire portion of Paragraph 5 that proceeds from the Pawing, Palo Properties is incorrect.

Josefina, in her will, uses the words "my just share" followed by "from the Pawing, Palo Properties in the name of Jose O. Abella." Thus, an ordinary reading of the provision is an admission from the testator that the property is not solely hers, considering that the property is in the name of a certain Jose Abella. However, Josefina did not state she is disposing of the entirety of the Pawing, Palo Properties. She stated in her will that she is disposing of a "share" in the properties.

As held in *Reyes v. Spouses Garcia*,⁶³ "[w]hat a co-owner may dispose of is only his undivided aliquot share, which shall be limited to the portion that may be allotted to him upon partition."⁶⁴ Thus, if Josefina indeed has a share in the Pawing, Palo Properties, then she may freely dispose of her aliquot, *pro-indiviso* share in those properties.

Importantly, according to the testimony of Cecilia, the petitioner in the petition for probate of Josefina's Will, Josefina is her sister, and that Jose Abella is their father.⁶⁵ Thus, on a cursory analysis, it appears that Josefina

⁶¹ *Rollo*, p. 103.

⁶² *Id.* at 52.

⁶³ 921 Phil. 323 (2022) [Per J. Hernando, Second Division].

⁶⁴ *Id.* at 332. (Citation omitted)

⁶⁵ *Rollo*, pp. 46-47.

may be an heir of Jose Abella, making her a co-owner of the parcel of land covered by OCT No. P-36770. In such a case, then she would have a share in the Pawing, Palo Properties that she may freely dispose of in her will. This makes it improper to declare that specific portion as intrinsically invalid at the outset.

Further, the CA was incorrect in finding that petitioners' admission that Josefina was not the owner of the Pawing, Palo Properties constituted a judicial admission.⁶⁶ Judicial admissions may be made: (a) in the pleadings filed by the parties; (b) in the course of the trial either by verbal or written manifestations or stipulations; or (c) in other stages of judicial proceedings, as in the pre-trial of the case.⁶⁷ Judicial admissions are legally binding on the parties making them.⁶⁸

However, Rule 130, Section 29 of the Rules of Court, as amended, clarifies the applicability of admissions:

SECTION 29. Admission by third party. — The rights of a party cannot be prejudiced by an act, declaration, or omission of another, except as hereinafter provided.

This is the *res inter alios acta* rule. As explained in *Republic v. Sandiganbayan (5th Division)*,⁶⁹ this Court explained the rationale behind the *res inter alios acta* rule:

On a principle of good faith and mutual convenience, a man's own acts are binding upon himself, and are evidence against him. So are his conduct and declarations. Yet it would not only be rightly inconvenient, but also manifestly unjust, that a man should be bound by the acts of mere unauthorized strangers; and if a party ought not to be bound by the acts of strangers, neither ought their acts or conduct be used as evidence against him.⁷⁰

Thus, to conclude that because petitioners "admitted" that Josefina was not the owner of the Pawing, Palo Properties justifies the invalidity of the dispositions is an error. Josefina, the testator, did not make such an admission. To invalidate her portions of the will based on the declarations of others does not respect the intentions of the testator. Notably, neither Cecilia nor any of her heirs are petitioners in this case. They did not make an admission that petitioners made here. Further, Josefina is not disposing of the Pawing, Palo Properties in their entirety. She is only disposing of *her share* in the subject

⁶⁶ *Id.* at 62.

⁶⁷ *Republic v. Sandiganbayan*, 830 Phil. 423, 455 (2018) [Per J. Leonardo-de Castro, First Division].

⁶⁸ *Serna v. Dela Cruz*, 895 Phil. 167, 175 (2021) [Per J. Delos Santos, Third Division].

⁶⁹ 947 Phil. 157 (2023) [Per J. Zalameda, *En Banc*].

⁷⁰ *Id.* at 212, citing *Salappudin v. Court of Appeals*, 704 Phil. 577, 601 (2013) [Per J. Velasco, Jr., Third Division].

properties. Hence, it was incorrect for the RTC and the CA to invalidate the testamentary provisions flowing from the Pawing, Palo Properties in their entirety.

Lastly, petitioners bring up the issue of trusteeship. As correctly determined by the RTC, the probate court has limited jurisdiction.⁷¹ The general rule is that the jurisdiction of the trial court, as a probate court, relates only to matters having to do with the probate of the will and/or settlement of the estate of deceased persons, but does not extend to the determination of questions of ownership that arise during the proceedings.⁷² Thus, if there is a dispute as to the ownership, then the opposing parties have to resort to an ordinary action for a final determination of the conflicting claims of title because the probate court cannot do so.⁷³

Hence, while the issues of trusteeship and co-ownership are better addressed and ventilated in a separate action, what is evident at this moment is that Josefina, the testator, does not own the shares of other persons, namely the shares of Irene, Teodoro, and Leon, in the Pawing, Palo Properties and, therefore, she cannot dispose of them as per Paragraph 5 of her will. Therefore, the RTC was correct in denying petitioners' Motion to Appoint Special Executor and Execute Will.

To recall, petitioners are heirs of Soledad Amago, Conrada Abella, and Anesia Abella. These persons stood to benefit from the shares of Irene Abella, Teodoro O. Abella, and Leon Abella in the Pawing, Palo Properties, as disposed of in Josefina's will. Nonetheless, as these shares are not owned by Josefina, she cannot dispose them in her will. Consequently, the dispositions in favor of Soledad, Conrada, and Anesia in Josefina's will that petitioners move to be executed are intrinsically void. Hence, the Motion to Appoint Special Executor and Execute the Last Will and Testament of Josefina Escosora Abella, which only sought for the execution of specific portion of Paragraph 5 of Josefina's will pertaining to the shares of Irene, Teodoro, and Leon in the Pawing, Palo Properties must be denied.

In view of the denial of the present Petition for lack of merit, We deem it unnecessary to address petitioner's prayer for the issuance of a writ of preliminary injunction.

ACCORDINGLY, the Petition for Review on *Certiorari* is **DENIED**. The February 28, 2023 Decision and August 31, 2023 Resolution of the Court

⁷¹ Rollo, pp. 367–368. See also *In the Matter of the Petition for the Probate of the Last Will and Testament of Cecilia Esguerra Cosico*, 902 Phil. 194, 215 (2021) [Per J. Lázaro-Javier, Second Division], citing *Aranas v. Mercado*, 724 Phil. 174, 190 (2014) [Per J. Bersamin, First Division], citing *Agtarap v. Agtarap*, 666 Phil. 452, 468 (2011) [Per J. Nachura, Second Division].

⁷² *Aranas v. Mercado*, 724 Phil. 174, 190 (2014) [Per J. Bersamin, First Division], citing *Agtarap v. Agtarap*, 666 Phil. 452, 468 (2011) [Per J. Nachura, Second Division].


⁷³ *Aranas v. Mercado*, 724 Phil. 174, 190 (2014) [Per J. Bersamin, First Division].

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of Appeals in CA-G.R. SP No. 15027 are **AFFIRMED with MODIFICATIONS**. Likewise, the January 12, 2022 and March 21, 2022 Orders of the Regional Trial Court in Civil Case No. 99-12-181 (SP. Proc. No. 98-06-28) are **AFFIRMED with MODIFICATIONS**. The Motion to Appoint Special Executor and Execute the Last Will and Testament of Josefina Escosora Abella is **DENIED** as to Paragraph 5 of the "Last Will and Testament" of Josefina E. Abella.

Further, the Prayer for the Issuance of a Writ of Preliminary Mandatory Injunction is **DENIED**.

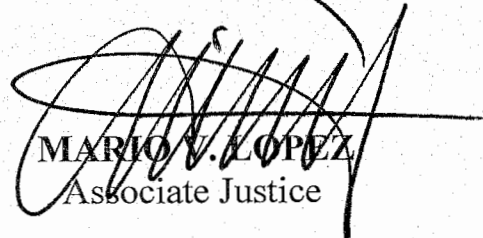
SO ORDERED.

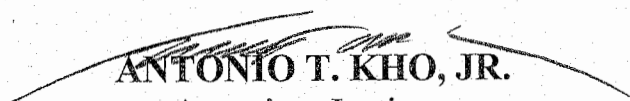

JHOSEP V. LOPEZ
Associate Justice

WE CONCUR:


MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson, Second Division



AMY C. LAZARO-JAVIER
Associate Justice


MARIO V. LOPEZ
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION

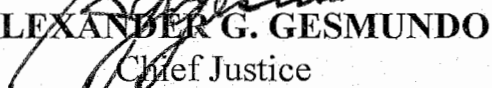
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of this Court's Division.


MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson, Second Division

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CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of this Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice