Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

JESUSA DUJALI BUOT, Petitioner,	**G.R. No. 199885**
	Present:
-versus-	SERENO, *CJ.*, *Chairperson*, LEONARDO-DE CASTRO, DEL CASTILLO, JARDELEZA, and TIJAM, *JJ.*
ROQUE RASAY DUJALI, Respondent.	Promulgated: **OCT 02 2017**

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DECISION

JARDELEZA, *J.*:

This is a petition for review on *certiorari*[1] under Rule 45 of the Rules of Court. Petitioner Jesusa Dujali Buot (Buot) challenged the Orders of Branch 34 of the Regional Trial Court (RTC), Panabo City, dated September 19, 2011[2] and December 8, 2011,[3] dismissing her petition and denying her subsequent motion for reconsideration, respectively.

Buot filed before the RTC a petition[4] for letters of administration of the estate of deceased Gregorio Dujali (Gregorio). In her petition, Buot alleged that she was a surviving heir, along with Roque Dujali, Constancia Dujali-Tiongson, Concepcion Dujali-Satiembre, Marilou Sales-Dujali, Marietonete Dujali, Georgeton Dujali, Jr. and Geomar Dujali, of Gregorio who died intestate.[5] Buot annexed[6] to her petition a list of Gregorio's properties that are allegedly publicly known. She claimed that since Gregorio's death, there had been no effort to settle his estate. Roque Dujali (Dujali) purportedly continued to manage and control the properties to the exclusion of all the other heirs. Buot further alleged that Dujali for no justifiable reason denied her request to settle the estate.[7] Thus, Buot asked

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[1] *Rollo*, pp. 13-34.
[2] *Id.* at 35-36.
[3] *Id.* at 37-38.
[4] *Id.* at 48-54.
[5] *Id.* at 49-50. ("Marietonete" was also referred to as "Marrietonete" in some parts of the record.)
[6] *Id.* at 50, 56.
[7] *Id.* at 51.

that: (1) an administrator be appointed to preserve Gregorio's estate; (2) a final inventory of the properties be made; (3) the heirs be established; and (4) the net estate be ordered distributed in accordance with law among the legal heirs.[8]

Dujali filed an opposition with motion to dismiss,[9] arguing that Buot had no legal capacity to institute the proceedings. He asserted that despite Buot's claim that she was Gregorio's child with his first wife Sitjar Escalona, she failed to attach any document, such as a certificate of live birth or a marriage certificate, to prove her filiation. Dujali, on the other hand, attached a certificate of marriage between Gregorio and his mother Yolanda Rasay. This certificate also indicated that Gregorio had never been previously married to a certain Sitjar Escalona. Thus, as Buot failed to prove that she is an heir, Dujali prayed that her petition be dismissed outright.

Buot filed her comment[10] to Dujali's opposition with motion to dismiss. She argued that under the Rules of Court, only ultimate facts should be included in an initiatory pleading. The marriage certificate and certificate of live birth which Dujali demands are evidentiary matters that ought to be tackled during trial. Nevertheless, to answer Dujali's allegations, Buot attached to her comment a copy of the necrological services program[11] where she was listed as one of Gregorio's heirs, a certification[12] from the municipal mayor that she is Gregorio's child, and a copy of the Amended Extrajudicial Settlement[13] dated July 4, 2001 which includes both Buot and Dujali as Gregorio's heirs. Notably, this Amended Extrajudicial Settlement pertained to parcels of land not included in the list of properties annexed in Buot's petition.

On May 3, 2011, the RTC denied Dujali's motion to dismiss. It agreed with Buot that the issues raised by Dujali are evidentiary matters that should be addressed during trial.[14]

Dujali filed a motion for reconsideration.[15] He argued that under the Rules of Court and prevailing jurisprudence, a party's lack of legal capacity to sue should be raised in a motion to dismiss. Further, he took issue with the existence of the Amended Extrajudicial Settlement. According to him, when an estate has no debts, recourse to administration proceedings is allowed only when there are good and compelling reasons. Where an action for partition (whether in or out of court) is possible, the estate should not be burdened with an administration proceeding.

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8 *Id.* at 52.
9 *Id.* at 66-69.
10 *Id.* at 72-74.
11 *Id.* at 82-83.
12 *Id.* at 84.
13 *Id.* at 75-81.
14 *Id.* at 85-86.
15 *Id.* at 90-94.

The RTC, in its Order dated September 19, 2011, granted Dujali's motion for reconsideration. It held that under the law, there are only two exceptions to the requirement that the settlement of a deceased's estate should be judicially administered—extrajudicial settlement and summary settlement of an estate of small value.[16] According to the RTC, in the case of Buot's petition, administration has been barred by the fact that Gregorio's estate has already been settled extrajudicially as evidenced by the Amended Extrajudicial Settlement. It also noted that Gregorio had no creditors since Buot failed to allege it in her petition.[17] Since recourse to judicial administration of an estate that has no debt is allowed only when there are good reasons for not resorting to extrajudicial settlement or action for partition, the RTC dismissed Buot's petition. Buot filed a motion for reconsideration which the RTC denied in its Order dated December 8, 2011. According to the RTC, not only was Buot's motion a second motion for reconsideration prohibited under the Rules, there was also no sufficient reason to reverse its earlier dismissal of the petition.[18]

Buot filed this petition for review on *certiorari* under Rule 45 of the Rules of Court challenging the RTC's Orders on pure questions of law. In her petition, Buot argues that her motion for reconsideration is not a prohibited second motion for reconsideration. Section 2 of Rule 52 of the Rules of Court states that a prohibited second motion for reconsideration is one filed by the *same* party. In this case, Buot's motion for reconsideration was her first, since the motion for reconsideration subject of the Order dated September 19, 2011 was filed by Dujali. She also argued that the Amended Extrajudicial Settlement did not cover all of Gregorio's properties.[19]

Further, Buot maintains that heirs are not precluded from instituting a petition for administration if they do not, for good reason, wish to pursue an ordinary action for partition. In her case, she claims that there are good reasons justifying her recourse to administration proceedings: (1) the Amended Extrajudicial Settlement did not cover the entire estate; (2) there has been no effort to partition the property; (3) Dujali seeks to challenge Buot's status as an heir; (4) other heirs have been deprived of the properties of the estate; and (5) other heirs, particularly Constancia Dujali and Marilou Dujali, have already manifested that they are amenable to the appointment of an administrator.[20]

In his comment,[21] Dujali argues that Buot is not an interested person allowed to file a petition for administration of the estate. While she claims to be Gregorio's heir, public documents, such as Buot's certificate of live birth and the certificate of marriage between Gregorio and Yolanda Rasay, reveal

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16 *Id.* at 35-36.
17 *Id.* at 36.
18 *Id.* at 37-38.
19 *Id.* at 26.
20 *Id.* at 102-103.
21 *Id.* at 145-157.

otherwise. Dujali also attached to his comment certain documents that appear to show that there has been an extrajudicial settlement of some of the properties of the estate and that Buot has already received her share from the proceeds of the sale of these properties by the true heirs.[22] Further, he explains that Buot was only allowed to participate in the Amended Extrajudicial Settlement by Gregorio's legitimate heirs out of humanitarian considerations, not because she is a true heir. All these, Dujali argues, clearly indicate that there is no good and compelling reason to grant Buot's petition for administration.[23]

In her reply,[24] Buot contends that the issue of whether she is a person interested in the estate is a matter that should be raised during the trial by the RTC of her petition for administration.

We deny the petition.

First, we must emphasize that this is a petition for review on *certiorari* under Rule 45 of the Rules of Court. This recourse to the Court covers only a review of questions of law. In this case, the question of law presented before us is whether the RTC properly dismissed the petition for administration on the ground that there has already been an extrajudicial settlement of certain properties of the estate. An additional question of procedure raised here is whether the RTC was correct in holding that Buot's motion for reconsideration should be denied as it is a prohibited second motion for reconsideration.

All other issues raised in the pleadings before us are questions of fact that we cannot resolve at this time. As we shall shortly explain in this Decision, these questions of fact ought to be resolved by a trial court in the appropriate proceeding.

We will first rule on the procedural issue raised in the petition. In its Order dated September 19, 2011, the RTC held that Buot's motion for reconsideration is a second motion for reconsideration prohibited under the Rules of Court. Thus, the motion was denied. We reviewed the motions filed by the parties before the RTC and rule that the RTC erred in its finding.

When Buot filed her petition for administration, Dujali filed an opposition with a motion to dismiss. When the RTC denied his motion to dismiss, Dujali filed a motion for reconsideration. This led to the RTC's issuance of the Order of September 19, 2011 granting Dujali's motion for reconsideration and holding that Buot's petition for administration should be dismissed. It was only at this point that Buot filed, for the first time, a motion seeking for reconsideration of the Order which declared the dismissal of her petition for administration. Clearly, this is not the motion

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22 *Id.* at 168-195.
23 *Id.* at 150-152.
24 *Id.* at 206-209.

for reconsideration contemplated in Section 2 of Rule 52 of the Rules of Court which states:

> Sec. 2. *Second motion for reconsideration.* – No second motion for reconsideration of a judgment or final resolution by the same party shall be entertained.

Section 2 of Rule 52 is clear and leaves no room for interpretation. What it prohibits is a second motion for reconsideration filed by the *same* party involving the *same* judgment or final resolution. In the present case, Buot's motion for reconsideration was only her first motion challenging the Order dismissing her petition for administration of Gregorio's estate. The RTC clearly erred in denying her motion on the ground that it is a second motion for reconsideration prohibited under the Rules.

Nevertheless, we rule that the RTC properly ordered the dismissal of Buot's petition for administration.

When a person dies intestate, his or her estate may generally be subject to judicial administration proceedings.[25] There are, however, several exceptions. One such exception is provided for in Section 1 of Rule 74 of the Rules of Court. This Section states:

> Sec. 1. *Extrajudicial settlement by agreement between heirs.* – If the decedent left no will and no debts and the heirs are all of age, or the minors are represented by their judicial or legal representatives duly authorized for the purpose, the parties may, without securing letters of administration, divide the estate among themselves as they see fit by means of a public instrument filed in the office of the register of deeds, and should they disagree, they may do so in an ordinary action of partition. If there is only one heir, he may adjudicate to himself the entire estate by means of an affidavit filed in the office of the register of deeds. The parties to an extrajudicial settlement, whether by public instrument or by stipulation in a pending action for partition, or the sole heir who adjudicates the entire estate to himself by means of an affidavit shall file, simultaneously with and as a condition precedent to the filing of the public instrument, or stipulation in the action for partition, or of the affidavit in the office of the register of deeds, a bond with the said register of deeds, in an amount equivalent to the value of the personal property involved as certified to under oath by the parties concerned and conditioned upon the payment of any just claim that may be filed under Section 4 of this rule. It shall be presumed that the decedent left no debts if no creditor files a petition for letters of administration within two (2) years after the death of the decedent.

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[25] RULES OF COURT, Rule 73, Sec. 1 & Rule 78, Sec. 6.

> The fact of the extrajudicial settlement or administration shall be published in a newspaper of general circulation in the manner provided in the next succeeding section; but no extrajudicial settlement shall be binding upon any person who has not participated therein or had no notice thereof.

According to this provision, when the deceased left no will and no debts and the heirs are all of age, the heirs may divide the estate among themselves without judicial administration. The heirs may do so extrajudicially through a public instrument filed in the office of the Register of Deeds. In case of disagreement, they also have the option to file an action for partition.

Section 1 of Rule 74, however, does not prevent the heirs from instituting administration proceedings if they have good reasons for choosing not to file an action for partition. In *Rodriguez, et al. v. Tan, etc. and Rodriguez*,[26] we said:

> [S]ection 1 [of Rule 74] does not preclude the heirs from instituting administration proceedings, even if the estate has no debts or obligation, if they do not desire to resort for good reasons to an ordinary action of partition. While section 1 allows the heirs to divide the estate among themselves as they may see fit, or to resort to an ordinary action of partition, it does not compel them to do so if they have good reasons to take a different course of action. Said section is not mandatory or compulsory as may be gleaned from the use made therein of the word *may*. If the intention were otherwise the framer of the rule would have employed the word *shall* as was done in other provisions that are mandatory in character. x x x[27] (Italics in the original.)

Since such proceedings are always "long," "costly," "superfluous and unnecessary,"[28] resort to judicial administration of cases falling under Section 1, Rule 74 appears to have become the exception rather than the rule. Cases subsequent to *Rodriguez* emphasized that "[w]here partition is possible, either in or out of court, the estate should not be burdened with an administration proceeding without good and compelling reasons."[29]

In *Pereira v. Court of Appeals*,[30] we had the opportunity to explain what the "good reason exception" means. What constitutes good reason depends on the circumstances of each case. We said:

> "Again the petitioner argues that 'only when the heirs do not have any dispute as to the bulk of the hereditary estate but only in the manner of partition

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26 92 Phil. 273 (1952).

27 *Id.* at 276-277.

28 *Pereira v. Court of Appeals*, G.R. No. 81147, June 20, 1989, 174 SCRA 154, 159-160.

29 *Id.* at 159. Citation omitted.

30 *Supra.*

> does section 1, Rule 74 of the Rules of Court apply and that in this case the parties are at loggerheads as to the corpus of the hereditary estate because respondents succeeded in sequestering some assets of the intestate. The argument is unconvincing, because, as the respondent judge has indicated, questions as to what property belonged to the deceased (and therefore to the heirs) may properly be ventilated in the partition proceedings, especially where such property is in the hands of one heir."
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> In another case, We held that if the reason for seeking an appointment as administrator is merely to avoid a multiplicity of suits since the heir seeking such appointment wants to ask for the annulment of certain transfers of property, that same objective could be achieved in an action for partition and the trial court is not justified in issuing letters of administration. In still another case, We did not find so powerful a reason the argument that the appointment of the husband, a usufructuary forced heir of his deceased wife, as judicial administrator is necessary in order for him to have legal capacity to appear in the intestate proceedings of his wife's deceased mother, since he may just adduce proof of his being a forced heir in 2 intestate proceedings of the latter.[31] (Citations omitted.)

Thus, in *Pereira*, we refused to allow administration proceedings where the only reason why the appointment of an administrator was sought so that one heir can take possession of the estate from the other heir. We held that this was not a compelling reason to order judicial administration. We added that in cases like this, "the claims of both parties as to the properties left by the deceased may be properly ventilated in simple partition proceedings where the creditors, should there be any, are protected in any event."[32]

We have reviewed the reasons which Buot proffers to warrant the grant of her petition for letters of administration and rule that these do not suffice to warrant the submission of Gregorio's estate to administration proceedings. That the extrajudicial settlement in this case did not cover Gregorio's entire estate is, by no means, a sufficient reason to order the administration of the estate. Whether the extrajudicial settlement did in fact cover the entire estate and whether an extrajudicial settlement that does not cover the entire estate may be considered valid do not automatically create a compelling reason to order the administration of the estate. Parties seeking to challenge an extrajudicial settlement of estate possess sufficient remedies under the law and procedural rules.

As to Buot's other allegations that: (1) there has been no effort to partition the estate; (2) that Dujali challenges her status as an heir; (3) that other heirs have been deprived of the estate; and (4) these heirs are amenable

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[31] *Id.* at 160-161.
[32] *Id.* at 161.

to the appointment of an administrator, we find that none of these allegations actually prevent the filing of an ordinary action for partition. In fact, if it is indeed true that there has been no effort to partition Gregorio's entire estate, the filing of an action for partition before the proper court will leave his heirs with no choice but to proceed. An action for partition is also the proper venue to ascertain Buot's entitlement to participate in the proceedings as an heir.[33] Not only would it allow for the full ventilation of the issues as to the properties that ought to be included in the partition and the true heirs entitled to receive their portions of the estate, it is also the appropriate forum to litigate questions of fact that may be necessary to ascertain if partition is proper and who may participate in the proceedings.

WHEREFORE, this petition for review on *certiorari* is **DENIED.** The Orders of Branch 34 of the Regional Trial Court, Panabo City, dated September 19, 2011 and December 8, 2011 are **AFFIRMED** insofar as they ordered the dismissal of the petition for letters of administration.

SO ORDERED.

FRANCIS H. JARDELEZA
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

NOEL GIMENEZ TIJAM
Associate Justice

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[33] *Butiong v. Plazo*, G.R. No. 187524, August 5, 2015, 765 SCRA 227.

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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 the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice