Republic of the Philippines
Supreme Court
Manila

SPECIAL SECOND DIVISION

EMILIO A.M. SUNTAY III,
Petitioner,

- *versus* -

ISABEL COJUANGCO-SUNTAY,
Respondent.

G.R. No. 183053

Present:

SERENO,*
Chief Justice,
CARPIO, *J.*,
Chairperson,,
PERALTA,
ABAD, and
PEREZ, *JJ.*

Promulgated:

OCT 10 2012

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RESOLUTION

PEREZ, *J.*:

The now overly prolonged, all-too familiar and too-much-stretched imbroglio over the estate of Cristina Aguinaldo-Suntay has continued. We issued a Decision in the dispute as in *Inter Caetera*.[1] We now find a need to replace the decision.

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* Per raffle dated 4 July 2011.

1 The Papal Bull mentioned in our Decision of 16 June 2010 (*Suntay III v. Conjuangco-Suntay*, G.R. No. 183053, 16 June 2010, 621 SCRA 142, 144).

Before us is a Motion for Reconsideration filed by respondent Isabel Cojuangco-Suntay (respondent Isabel) of our Decision[2] in G.R. No. 183053 dated 16 June 2010, directing the issuance of joint letters of administration to both petitioner Emilio A.M. Suntay III (Emilio III) and respondent. The dispositive portion thereof reads:

> **WHEREFORE**, the petition is **GRANTED**. The Decision of the Court of Appeals in CA-G.R. CV No. 74949 is **REVERSED** and **SET ASIDE**. Letters of Administration over the estate of decedent Cristina Aguinaldo-Suntay shall issue to both petitioner Emilio A.M. Suntay III and respondent Isabel Cojuangco-Suntay upon payment by each of a bond to be set by the Regional Trial Court, Branch 78, Malolos, Bulacan, in Special Proceeding Case No. 117-M-95. The Regional Trial Court, Branch 78, Malolos, Bulacan is likewise directed to make a determination and to declare the heirs of decedent Cristina Aguinaldo-Suntay according to the actual factual milieu as proven by the parties, and all other persons with legal interest in the subject estate. It is further directed to settle the estate of decedent Cristina Aguinaldo-Suntay with dispatch. No costs.[3]

We are moved to trace to its roots the controversy between the parties.

The decedent Cristina Aguinaldo-Suntay (Cristina) died intestate on 4 June 1990. Cristina was survived by her spouse, Dr. Federico Suntay (Federico) and five grandchildren: three legitimate grandchildren, including herein respondent, Isabel; and two illegitimate grandchildren, including petitioner Emilio III, all by Federico's and Cristina's only child, Emilio A. Suntay (Emilio I), who predeceased his parents.

The illegitimate grandchildren, Emilio III and Nenita, were both reared from infancy by the spouses Federico and Cristina. Their legitimate

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2 Penned by Associate Justice Antonio Eduardo B. Nachura (now retired) with Associate Justices Antonio T. Carpio (Chairperson), Diosdado M. Peralta, Roberto A. Abad and Jose Portugal Perez of the Second Division, concurring. *Rollo*, pp. 231-246.

3 Id. at 244-245.

grandchildren, Isabel and her siblings, Margarita and Emilio II, lived with their mother Isabel Cojuangco, following the separation of Isabel's parents, Emilio I and Isabel Cojuangco. Isabel's parents, along with her paternal grandparents, were involved in domestic relations cases, including a case for *parricide* filed by Isabel Cojuangco against Emilio I. Emilio I was eventually acquitted.

In retaliation, Emilio I filed a complaint for legal separation against his wife, charging her among others with infidelity. The trial court declared as null and void and of no effect the marriage of Emilio I and Isabel Cojuangco on the finding that:

> From February 1965 thru December 1965 plaintiff was confined in the Veterans memorial Hospital. Although at the time of the trial of parricide case (September 8, 1967) the patient was already out of the hospital[,] he continued to be under observation and treatment.
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> It is the opinion of Dr. Aramil that the symptoms of the plaintiffs mental aberration classified as schizophernia (sic) had made themselves manifest even as early as 1955; that the disease worsened with time, until 1965 when he was actually placed under expert neuro-psychiatrist (sic) treatment; that even if the subject has shown marked progress, the remains bereft of adequate understanding of right and wrong.
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> There is no controversy that the marriage between the parties was effected on July 9, 1958, years after plaintiffs mental illness had set in. This fact would justify a declaration of nullity of the marriage under Article 85 of the Civil Code which provides:
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> > Art. 95. (sic) A marriage may be annulled for any of the following causes after (sic) existing at the time of the marriage:
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> x x x x
>
> > (3) That either party was of unsound mind, unless such party, after coming to reason, freely cohabited with the other as husband or wife.
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> There is a dearth of proof at the time of the marriage defendant knew about the mental condition of plaintiff; and there is proof that plaintiff continues to be without sound reason. The charges in this very

> complaint add emphasis to the findings of the neuro-psychiatrist handling the patient, that plaintiff really lives more in fancy than in reality, a strong indication of schizophernia (sic).[4]

Intent on maintaining a relationship with their grandchildren, Federico and Isabel filed a complaint for visitation rights to spend time with Margarita, Emilio II, and Isabel in the same special lower court. The Juvenile Domestic Relations Court in Quezon City (JDRC-QC) granted their prayer for one hour a month of visitation rights which was subsequently reduced to thirty minutes, and ultimately stopped, because of respondent Isabel's testimony in court that her grandparents' visits caused her and her siblings stress and anxiety.[5]

On 27 September 1993, more than three years after Cristina's death, Federico adopted his illegitimate grandchildren, Emilio III and Nenita.

On 26 October 1995, respondent Isabel, filed before the Regional Trial Court (RTC), Malolos, Bulacan, a petition for the issuance of letters of administration over Cristina's estate docketed as Special Proceeding Case No. 117-M-95. Federico, opposed the petition, pointing out that: (1) as the surviving spouse of the decedent, he should be appointed administrator of the decedent's estate; (2) as part owner of the mass of conjugal properties left by the decedent, he must be accorded preference in the administration thereof; (3) Isabel and her siblings had been alienated from their grandparents for more than thirty (30) years; (4) the enumeration of heirs in the petition was incomplete as it did not mention the other children of his son, Emilio III and Nenita; (5) even before the death of his wife, Federico had administered their conjugal properties, and thus, is better situated to protect the integrity of the decedent's estate; (6) the probable value of the

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4 *Suntay v. Cojuangco-Suntay*, 360 Phil. 932, 936-937 (1998).
5 *Rollo*, pp. 43-44.

estate as stated in the petition was grossly overstated; and (7) Isabel's allegation that some of the properties are in the hands of usurpers is untrue.

Federico filed a Motion to Dismiss Isabel's petition for letters of administration on the ground that Isabel had no right of representation to the estate of Cristina, she being an illegitimate grandchild of the latter as a result of Isabel's parents' marriage being declared null and void. However, in *Suntay v. Cojuangco-Suntay*, we categorically declared that Isabel and her siblings, having been born of a voidable marriage as opposed to a void marriage based on paragraph 3, Article 85 of the Civil Code, were legitimate children of Emilio I, who can all represent him in the estate of their legitimate grandmother, the decedent, Cristina.

Undaunted by the set back, Federico nominated Emilio III to administer the decedent's estate on his behalf in the event letters of administration issues to Federico. Consequently, Emilio III filed an Opposition-In-Intervention, echoing the allegations in his grandfather's opposition, alleging that Federico, or in his stead, Emilio III, was better equipped than respondent to administer and manage the estate of the decedent, Cristina.

On 13 November 2000, Federico died.

Almost a year thereafter or on 9 November 2001, the trial court rendered a decision appointing Emilio III as administrator of decedent Cristina's intestate estate:

> WHEREFORE, the petition of Isabel Cojuangco[-]Suntay is DENIED and the Opposition[-]in[-]Intervention is GRANTED.

> Accordingly, the Intervenor, Emilio A.M. Suntay, III (sic) is hereby appointed administrator of the estate of the decedent Cristina Aguinaldo Suntay, who shall enter upon the execution of his trust upon the filing of a bond in the amount of ₱200,000.00, conditioned as follows:
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> (1) To make and return within three (3) months, a true and complete inventory;
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> (2) To administer the estate and to pay and discharge all debts, legatees, and charge on the same, or dividends thereon;
>
> (3) To render a true and just account within one (1) year, and at any other time when required by the court, and
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> (4) To perform all orders of the Court.
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> Once the said bond is approved by the court, let Letters of Administration be issued in his favor.[6]

On appeal, the Court of Appeals reversed and set aside the decision of the RTC, revoked the Letters of Administration issued to Emilio III, and appointed respondent as *administratrix* of the subject estate:

> **WHEREFORE**, in view of all the foregoing, the assailed decision dated November 9, 2001 of Branch 78, Regional Trial Court of Malolos, Bulacan in SPC No. 117-M-95 is **REVERSED and SET ASIDE** and the letters of administration issued by the said court to Emilio A.M. Suntay III, if any, are consequently revoked. Petitioner Isabel Cojuangco[-]Suntay is hereby appointed administratrix of the intestate estate of Cristina Aguinaldo Suntay. Let letters of administration be issued in her favor upon her filing of a bond in the amount of Two Hundred Thousand (₱200,000.00) Pesos.[7]

As previously adverted to, on appeal by *certiorari*, we reversed and set aside the ruling of the appellate court. We decided to include Emilio III as co-administrator of Cristina's estate, giving weight to his interest in Federico's estate. In ruling for co-administration between Emilio III and Isabel, we considered that:

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6 Id. at 60.
7 Id. at 31.

1. Emilio III was reared from infancy by the decedent, Cristina, and her husband, Federico, who both acknowledged him as their grandchild;

2. Federico claimed half of the properties included in the estate of the decedent, Cristina, as forming part of their conjugal partnership of gains during the subsistence of their marriage;

3. Cristina's properties, forming part of her estate, are still commingled with those of her husband, Federico, because her share in the conjugal partnership remains undetermined and unliquidated; and

4. Emilio III is a legally adopted child of Federico, entitled to share in the distribution of the latter's estate as a direct heir, one degree from Federico, and not simply in representation of his deceased illegitimate father, Emilio I.

In this motion, Isabel pleads for total affirmance of the Court of Appeals' Decision in favor of her sole administratorship based on her status as a legitimate grandchild of Cristina, whose estate she seeks to administer.

Isabel contends that the explicit provisions of Section 6, Rule 78 of the Rules of Court on the order of preference for the issuance of letters of administration cannot be ignored and that Article 992 of the Civil Code must be followed. Isabel further asserts that Emilio III had demonstrated adverse interests and disloyalty to the estate, thus, he does not deserve to become a co-administrator thereof.

Specifically, Isabel bewails that: (1) Emilio III is an illegitimate grandchild and therefore, *not* an heir of the decedent; (2) corollary thereto,

Emilio III, not being a "next of kin" of the decedent, has no interest in the estate to justify his appointment as administrator thereof; (3) Emilio III's actuations since his appointment as administrator by the RTC on 9 November 2001 emphatically demonstrate the validity and wisdom of the order of preference in Section 6, Rule 78 of the Rules of Court; and (4) there is no basis for joint administration as there are no "opposing parties or factions to be represented."

To begin with, the case at bar reached us on the issue of who, as between Emilio III and Isabel, is better qualified to act as administrator of the decedent's estate. We did not choose. Considering merely his demonstrable interest in the subject estate, we ruled that Emilio III should likewise administer the estate of his illegitimate grandmother, Cristina, as a co-administrator. In the context of this case, we have to make a choice and therefore, reconsider our decision of 16 June 2010.

The general rule in the appointment of administrator of the estate of a decedent is laid down in Section 6, Rule 78 of the Rules of Court:

> **SEC. 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:
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> (*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;
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> (*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;

> *(c)* If there is not such creditor competent and willing to serve, it may be granted to such other person as the court may select.

Textually, the rule lists a sequence to be observed, an order of preference, in the appointment of an administrator. This order of preference, which categorically seeks out the surviving spouse, the next of kin and the creditors in the appointment of an administrator, has been reinforced in jurisprudence.[8]

The paramount consideration in the appointment of an administrator over the estate of a decedent is the prospective administrator's interest in the estate.[9] 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.[10] 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.

To illustrate, the preference bestowed by law to the surviving spouse in the administration of a decedent's estate presupposes the surviving spouse's interest in the conjugal partnership or community property forming

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8 *Uy v. Court of Appeals*, 519 Phil. 673 (2006); *Angeles v. Angeles-Maglaya*, 506 Phil. 347 (2005); *Valarao v. Pascual*, 441 Phil. 226 (2002); *Silverio, Sr. v. Court of Appeals*, 364 Phil. 188 (1999).

9 *Vda. de Dayrit v. Ramolete*, G.R. No. L-59935, 30 September 1982, 117 SCRA 608, 612; *Corona v. Court of Appeals*, G.R. No. L-59821, 30 August 1982, 116 SCRA 316, 320; *Matias v. Gonzales*, 101 Phil. 852, 858 (1957).

10 *Gonzales v. Aguinaldo*, G.R. No. 74769, 28 September 1990, 190 SCRA 112, 117-118.

part of the decedent's estate.[11] Likewise, a surviving spouse is a compulsory heir of a decedent[12] which evinces as much, if not more, interest in administering the entire estate of a decedent, aside from her share in the conjugal partnership or absolute community property.

It is to this requirement of observation of the order of preference in the appointment of administrator of a decedent's estate, that the appointment of co-administrators has been allowed, but as an exception. We again refer to Section 6(a) of Rule 78 of the Rules of Court which specifically states that letters of administration may be issued to both the surviving spouse and the next of kin. In addition and impliedly, we can refer to Section 2 of Rule 82 of the Rules of Court which say that "x x x [w]hen an executor or administrator dies, resigns, or is removed, the remaining executor or administrator may administer the trust alone, x x x."

In a number of cases, we have sanctioned the appointment of more than one administrator for the benefit of the estate and those interested therein.[13] We recognized that the appointment of administrator of the estate of a decedent or the determination of a person's suitability for the office of judicial administrator rests, to a great extent, in the sound judgment of the court exercising the power of appointment.[14]

Under certain circumstances and for various reasons well-settled in Philippine and American jurisprudence, we have upheld the appointment of co-administrators: (1) to have the benefits of their judgment and perhaps at

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11 *See* Articles 91 and 106 of the Family Code.

12 *See* Article 887, paragraph 3 of the Civil Code.

13 *Matias v. Gonzales*; *Corona v. Court of Appeals*; *Vda. de Dayrit v. Ramolete*, supra note 9.

14 *Uy v. Court of Appeals*, supra note 8 at 680; *Angeles v. Angeles-Maglaya*, supra note 8 at 365; *Valarao v. Pascual*, supra note 8 at 234; *Silverio, Sr. v. Court of Appeals*, supra note 8 at 210-211.

all times to have different interests represented;[15] (2) where justice and equity demand that opposing parties or factions be represented in the management of the estate of the deceased; (3) where the estate is large or, from any cause, an intricate and perplexing one to settle;[16] (4) to have all interested persons satisfied and the representatives to work in harmony for the best interests of the estate;[17] and when a person entitled to the administration of an estate desires to have another competent person associated with him in the office.[18]

In the frequently cited *Matias v. Gonzales*, we dwelt on the appointment of special co-administrators during the pendency of the appeal for the probate of the decedent's will. Pending the probate thereof, we recognized Matias' special interest in the decedent's estate as universal heir and executrix designated in the instrument who should not be excluded in the administration thereof. Thus, we held that justice and equity demands that the two (2) factions among the non-compulsory heirs of the decedent, consisting of an instituted heir (Matias) and intestate heirs (respondents thereat), should be represented in the management of the decedent's estate.[19]

Another oft-cited case is *Vda. de Dayrit v. Ramolete*, where we held that "inasmuch as petitioner-wife owns one-half of the conjugal properties and that she, too, is a compulsory heir of her husband, to deprive her of any hand in the administration of the estate prior to the probate of the will would be unfair to her proprietary interests."[20]

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15 *Gonzales v. Aguinaldo*, supra note 10 at 118-119.

16 *Uy v. Court of Appeals*, supra note 8 at 681; *Gabriel v. Court of Appeals*, G.R. No. 101512, 7 August 1992, 212 SCRA 413, 423 citing *Copeland v. Shapley*, 100 NE. 1080.

17 *Gabriel v. Court of Appeals*, id.

18 *In re* Fichter's Estate, 279 N.Y.S. 597.

19 Supra note 9.

20 Supra note 9 at 612.

Hewing closely to the aforementioned cases is our ruling in *Ventura v. Ventura*[21] where we allowed the appointment of the surviving spouse and legitimate children of the decedent as co-administrators. However, we drew a distinction between the heirs categorized as next of kin, the nearest of kin in the category being preferred, thus:

> In the case at bar, the surviving spouse of the deceased Gregorio Ventura is Juana Cardona while the next of kin are: Mercedes and Gregoria Ventura and Maria and Miguel Ventura. **The "next of kin" has been defined as those persons who are entitled under the statute of distribution to the decedent's property** [citations omitted]**. It is generally said that "the nearest of kin, whose interest in the estate is more preponderant, is preferred in the choice of administrator. 'Among members of a class the strongest ground for preference is the amount or preponderance of interest. As between next of kin, the nearest of kin is to be preferred.'"** [citations omitted]
>
> As decided by the lower court and sustained by the Supreme Court, Mercedes and Gregoria Ventura are the legitimate children of Gregorio Ventura and his wife, the late Paulina Simpliciano. Therefore, as the nearest of kin of Gregorio Ventura, they are entitled to preference over the illegitimate children of Gregorio Ventura, namely: Maria and Miguel Ventura. Hence, under the aforestated preference provided in Section 6 of Rule 78, the person or persons to be appointed administrator are Juana Cardona, as the surviving spouse, or Mercedes and Gregoria Ventura as nearest of kin, or Juana Cardona and Mercedes and Gregoria Ventura in the discretion of the Court, in order to represent both interests.[22] (Emphasis supplied)

In *Silverio, Sr. v. Court of Appeals*,[23] we maintained that the order of preference in the appointment of an administrator depends on the attendant facts and circumstances. In that case, we affirmed the legitimate child's appointment as special administrator, and eventually as regular administrator, of the decedent's estate as against the surviving spouse who the lower court found unsuitable. Reiterating *Sioca v. Garcia*[24] as good law, we pointed out that unsuitableness for appointment as administrator may

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21 243 Phil. 952 (1988).
22 Id. at 962-963.
23 Supra note 8.
24 44 Phil. 711 (1923).

consist in adverse interest of some kind or hostility to those immediately interested in the estate.

In *Valarao v. Pascual*,[25] we see another story with a running theme of heirs squabbling over the estate of a decedent. We found no reason to set aside the probate court's refusal to appoint as special co-administrator Diaz, even if he had a demonstrable interest in the estate of the decedent and represented one of the factions of heirs, because the evidence weighed by the probate court pointed to Diaz's being remiss in his previous duty as co-administrator of the estate in the early part of his administration. Surveying the previously discussed cases of *Matias*, *Corona*, and *Vda. de Dayrit*, we clarified, thus:

> Respondents cannot take comfort in the cases of *Matias v. Gonzales*, *Corona v. Court of Appeals*, and *Vda. de Dayrit v. Ramolete*, cited in the assailed *Decision*. **Contrary to their claim, these cases do not establish an absolute right demandable from the probate court to appoint special co-administrators who would represent the respective interests of squabbling heirs. Rather, the cases constitute precedents for the authority of the probate court to designate not just one but also two or more special co-administrators for a single estate. Now whether the probate court exercises such prerogative when the heirs are fighting among themselves is a matter left entirely to its sound discretion.**
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> Furthermore, the cases of *Matias*, *Corona* and *Vda. de Dayrit* hinge upon factual circumstances other than the incompatible interests of the heirs which are glaringly absent from the instant case. In *Matias* this Court ordered the appointment of a special co-administrator because of the applicant's status as the universal heir and executrix designated in the will, which we considered to be a "*special interest*" deserving protection during the pendency of the appeal. Quite significantly, since the lower court in *Matias* had already deemed it best to appoint more than one special administrator, we found grave abuse of discretion in the act of the lower court in ignoring the applicant's distinctive status in the selection of another special administrator.

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[25] Supra note 8.

> In *Corona* we gave "highest consideration" to the "executrix's choice of Special Administrator, considering her own inability to serve and the wide latitude of discretion given her by the testatrix in her will," for this Court to compel her appointment as special co-administrator. It is also manifest from the decision in *Corona* that the presence of conflicting interests among the heirs therein was not *per se* the key factor in the designation of a second special administrator as this fact was taken into account only to disregard or, in the words of *Corona*, to "overshadow" the objections to the appointment on grounds of "impracticality and lack of kinship."
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> Finally in *Vda. de Dayrit* we justified the designation of the wife of the decedent as special co-administrator because it was "our considered opinion that inasmuch as petitioner-wife owns one-half of the conjugal properties and that she, too, is a compulsory heir of her husband, to deprive her of any hand in the administration of the estate prior to the probate of the will would be unfair to her proprietary interests." The special status of a surviving spouse in the special administration of an estate was also emphasized in *Fule v. Court of Appeals* where we held that the widow would have more interest than any other next of kin in the proper administration of the entire estate since she possesses not only the right of succession over a portion of the exclusive property of the decedent but also a share in the conjugal partnership for which the good or bad administration of the estate may affect not just the fruits but more critically the naked ownership thereof. And in *Gabriel v. Court of Appeals* we recognized the distinctive status of a surviving spouse applying as regular administrator of the deceased spouse's estate when we counseled the probate court that "there must be a very strong case to justify the exclusion of the widow from the administration."
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> **Clearly, the selection of a special co-administrator in *Matias*, *Corona* and *Vda. de Dayrit* was based upon the independent proprietary interests and moral circumstances of the appointee that were not necessarily related to the demand for representation being repeatedly urged by respondents.**[26] (Emphasis supplied)

In *Gabriel v. Court of Appeals*, we unequivocally declared the mandatory character of the rule on the order of preference for the issuance of letters of administration:

> Evidently, the foregoing provision of the Rules prescribes the order of preference in the issuance of letters of administration, it categorically seeks out the surviving spouse, the next of kin and the creditors, and requires that sequence to be observed in appointing an

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[26] Id. at 233-235.

> administrator. It would be a grave abuse of discretion for the probate court to imperiously set aside and insouciantly ignore that directive without any valid and sufficient reason therefor.[27]

Subsequently, in *Angeles v. Angeles-Maglaya*,[28] we expounded on the legal contemplation of a "next of kin," thus:

> Finally, it should be noted that on the matter of appointment of administrator of the estate of the deceased, the surviving spouse is preferred over the next of kin of the decedent. When the law speaks of "*next of kin*," the reference is to those who are entitled, under the statute of distribution, to the decedent's property; one whose relationship is such that he is entitled to share in the estate as distributed, or, in short, an heir. In resolving, therefore, the issue of whether an applicant for letters of administration is a next of kin or an heir of the decedent, the probate court perforce has to determine and pass upon the issue of filiation. A separate action will only result in a multiplicity of suits. Upon this consideration, the trial court acted within bounds when it looked into and pass[ed] upon the claimed relationship of respondent to the late Francisco Angeles.[29]

Finally, in *Uy v. Court of Appeals*,[30] we took into consideration the size of, and benefits to, the estate should respondent therein be appointed as co-administrator. We emphasized that where the estate is large or, from any cause, an intricate and perplexing one to settle, the appointment of co-administrators may be sanctioned by law.

In our Decision under consideration, we zeroed in on Emilio III's demonstrable interest in the estate and glossed over the order of preference set forth in the Rules. We gave weight to Emilio III's demonstrable interest in Cristina's estate and without a closer scrutiny of the attendant facts and circumstances, directed co-administration thereof. We are led to a review of such position by the foregoing survey of cases.

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27 Supra note 16 at 420.
28 Supra note 8.
29 Id. at 365.
30 Supra note 8.

The collected teaching is that mere demonstration of interest in the estate to be settled does not *ipso facto* entitle an interested person to co-administration thereof. Neither does squabbling among the heirs nor adverse interests necessitate the discounting of the order of preference set forth in Section 6, Rule 78. Indeed, in the appointment of administrator of the estate of a deceased person, the principal consideration reckoned with is the interest in said estate of the one to be appointed as administrator.[31] Given Isabel's unassailable interest in the estate as one of the decedent's legitimate grandchildren and undoubted nearest "next of kin," the appointment of Emilio III as co-administrator of the same estate, cannot be a demandable right. It is a matter left entirely to the sound discretion of the Court[32] and depends on the facts and the attendant circumstances of the case.[33]

Thus, we proceed to scrutinize the attendant facts and circumstances of this case even as we reiterate Isabel's and her sibling's apparent greater interest in the estate of Cristina.

These considerations do not warrant the setting aside of the order of preference mapped out in Section 6, Rule 78 of the Rules of Court. They compel that a choice be made of one over the other.

1. The bitter estrangement and long-standing animosity between Isabel, on the one hand, and Emilio III, on the other, traced back from the time their paternal grandparents were alive, which can be characterized as adverse interest of some kind by, or hostility of, Emilio III to Isabel who is immediately interested in the estate;

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31 *Gonzales v. Aguinaldo*, supra note 10 at 117.
32 *Fernandez v. Maravilla*, G.R. No. L-18799, 26 March 1965, 13 SCRA 416, 419-420.
33 *Silverio, Sr. v. Court of Appeals*, supra note 8 at 211.

2. Corollary thereto, the seeming impossibility of Isabel and Emilio III working harmoniously as co-administrators may result in prejudice to the decedent's estate, ultimately delaying settlement thereof; and

3. Emilio III, for all his claims of knowledge in the management of Cristina's estate, has not looked after the estate's welfare and has acted to the damage and prejudice thereof.

Contrary to the assumption made in the Decision that Emilio III's demonstrable interest in the estate makes him a suitable co-administrator thereof, the evidence reveals that Emilio III has turned out to be an unsuitable administrator of the estate. Respondent Isabel points out that after Emilio III's appointment as administrator of the subject estate in 2001, he has not looked after the welfare of the subject estate and has actually acted to the damage and prejudice thereof as evidenced by the following:

1. Emilio III, despite several orders from the probate court for a complete inventory, omitted in the partial inventories[34] he filed therewith properties of the estate[35] including several parcels of land, cash, bank deposits, jewelry, shares of stock, motor vehicles, and other personal properties, contrary to Section 1,[36] paragraph a, Rule 81 of the Rules of Court.

2. Emilio III did not take action on both occasions against Federico's settlement of the decedent's estate which adjudicated to himself a number of

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34 Annexes "3," "5," and "6," of respondent's Motion for Reconsideration. *Rollo*, pp. 318-331.

35 Annex "4," of respondent's Motion for Reconsideration. Id. at 326.

36 **Section 1.** *Bond to be given issuance of letters. Amount. Conditions*. – Before an executor or administrator enters upon the execution of his trust, and letters testamentary or of administration issue, he shall give a bond, in such sum as the court directs, conditioned as follows: (a) To make and return to the court, within three (3) months, a true and complete inventory of all goods, chattels, rights, credits, and estate of the deceased which shall come to his possession or knowledge or to the possession of any other person for him;

properties properly belonging to said estate (whether wholly or partially), and which contained a declaration that the decedent did not leave any descendants or heirs, except for Federico, entitled to succeed to her estate.[37]

In compliance to our Resolution dated 18 April 2012 requiring Emilio III to respond to the following imputations of Isabel that:

> 1. [Emilio III] did not file an inventory of the assets until November 14, 2002;
> 2. [T]he inventory [Emilio III] submitted did not include several properties of the decedent;
> 3. [T]hat properties belonging to the decedent have found their way to different individuals or persons; several properties to Federico Suntay himself; and
> 4. [W]hile some properties have found their way to [Emilio III], by reason of falsified documents;[38]

Emilio III refutes Isabel's imputations that he was lackadaisical in assuming and performing the functions of administrator of Cristina's estate:

1. From the time of the RTC's Order appointing Emilio III as administrator, Isabel, in her pleadings before the RTC, had vigorously opposed Emilio III's assumption of that office, arguing that "[t]he decision of the [RTC] dated 9 November 2001 is not among the judgments authorized by the Rules of Court which may be immediately implemented or executed;"

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37 Annexes "1," and "2," of respondent's Motion for Reconsideration. *Rollo*, pp. 318-321.

38 Id. at 407.

2. The delay in Emilio III's filing of an inventory was due to Isabel's vociferous objections to Emilio III's attempts to act as administrator while the RTC decision was under appeal to the Court of Appeals;

3. The complained partial inventory is only initiatory, inherent in the nature thereof, and one of the first steps in the lengthy process of settlement of a decedent's estate, such that it cannot constitute a complete and total listing of the decedent's properties; and

4. The criminal cases adverted to are trumped-up charges where Isabel, as private complainant, has been unwilling to appear and testify, leading the Judge of the Regional Trial Court, Branch 44 of Mamburao, Occidental Mindoro, to warn the prosecutor of a possible *motu propio* dismissal of the cases.

While we can subscribe to Emilio III's counsel's explanation for the blamed delay in the filing of an inventory and his exposition on the nature thereof, partial as opposed to complete, in the course of the settlement of a decedent's estate, we do not find any clarification on Isabel's accusation that Emilio III had deliberately omitted properties in the inventory, which properties of Cristina he knew existed and which he claims to be knowledgeable about.

The general denial made by Emilio III does not erase his unsuitability as administrator rooted in his failure to "make and return x x x **a true and complete inventory**" which became proven fact when he actually filed partial inventories before the probate court and by his inaction on two occasions of Federico's exclusion of Cristina's other compulsory heirs, herein Isabel and her siblings, from the list of heirs.

As administrator, Emilio III enters into the office, posts a bond and executes an oath to faithfully discharge the duties of settling the decedent's estate with the end in view of distribution to the heirs, if any. This he failed to do. The foregoing circumstances of Emilio III's omission and inaction become even more significant and speak volume of his unsuitability as administrator as it demonstrates his interest adverse to those immediately interested in the estate of the decedent, Cristina.

In this case, palpable from the evidence on record, the pleadings, and the protracted litigation, is the inescapable fact that Emilio III and respondent Isabel have a deep aversion for each other. To our mind, it becomes highly impractical, *nay*, improbable, for the two to work as co-administrators of their grandmother's estate. The allegations of Emilio III, the testimony of Federico and the other witnesses for Federico and Emilio III that Isabel and her siblings were estranged from their grandparents further drive home the point that Emilio III bears hostility towards Isabel. More importantly, it appears detrimental to the decedent's estate to appoint a co-administrator (Emilio III) who has shown an adverse interest of some kind or hostility to those, such as herein respondent Isabel, immediately interested in the said estate.

Bearing in mind that the issuance of letters of administration is simply a preliminary order to facilitate the settlement of a decedent's estate, we here point out that Emilio III is not without remedies to protect his interests in the estate of the decedent. In *Hilado v. Court of Appeals*,[39] we mapped out as among the allowable participation of "any interested persons" or "any persons interested in the estate" in either testate or intestate proceedings:

x x x x

4. Section 6[40] of Rule 87, which allows an individual interested in the estate of the deceased "to complain to the court of the concealment, embezzlement, or conveyance of any asset of the decedent, or of evidence of the decedent's title or interest therein;"

5. Section 10[41] of Rule 85, which requires notice of the time and place of the examination and allowance of the Administrator's account "to persons interested;"

6. Section 7(b)[42] of Rule 89, which requires the court to give notice "to the persons interested" before it may hear and grant a petition seeking the disposition or encumbrance of the properties of the estate; and

7. Section 1,[43] Rule 90, which allows "any person interested in the estate" to petition for an order for the distribution of the residue of the estate of the decedent, after all obligations are either satisfied or provided for.[44]

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39 G.R. No. 164108, 8 May 2009, 587 SCRA 464.

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

41 **Section 10**. *Account to be settled on notice.* – Before the account of an executor or administrator is allowed, notice shall be given to persons interested of the time and place of examining and allowing the same; and such notice may be given personally to such persons interested or by advertisement in a newspaper or newspapers, or both, as the court directs.

42 **Section 7.** *Regulations for granting authority to sell, mortgage, or otherwise encumber estate.* x x x.

(a) x x x

(b) The court shall thereupon fix a time and place for hearing such petition, and cause notice stating the nature of the petition, the reason for the same, and the time and place of hearing, to be given personally or by mail to the persons interested, and may cause such further notice to be given, by publication or otherwise, as it shall deem proper.

43 **Section 1.** *When order for distribution of residue made.* – When the debts, funeral charges, and expenses of administration, the allowance to the widow, and inheritance tax, if any, chargeable to the estate in accordance with law, have been paid, the court, on the application of the executor or administrator, or of a person interested in the estate, and after hearing upon notice, shall assign the residue of the estate to the persons entitled to the same, naming them and the proportions, or parts, to which each is entitled, and such persons may demand and recover their respective shares from the executor or administrator, or any other person having the same in his possession. If there is a controversy before the court as to who are the lawful heirs of the deceased person or as to he distributive shares to which each person is entitled under the law, the controversy shall be heard and decided as in ordinary cases.

No distribution shall be allowed until the payment of the obligations above-mentioned has been made or provided for, unless the distributes, or any of them, give a bond, in a sum to be fixed by the court, conditioned for the payment of said obligations within such time as the court directs.

In addition to the foregoing, Emilio III may likewise avail of the remedy found in Section 2, Rule 82 of the Rules of Court, to wit:

> Sec. 2. *Court may remove or accept resignation of executor or administrator. Proceedings upon death, resignation, or removal.* – If an executor or administrator neglects to render his account and settle the estate according to law, or to perform an order or judgment of the court, or a duty expressly provided by these rules, or absconds, or becomes insane, or otherwise incapable or unsuitable to discharge the trust, the court may remove him, or, in its discretion, may permit him to resign. When an executor or administrator dies, resigns, or is removed, the remaining executor or administrator may administer the trust alone, unless the court grants letters to someone to act with him. If there is no remaining executor or administrator, administration may be granted to any suitable person.

Once again, as we have done in the Decision, we exercise judicial restraint: we uphold that the question of who are the heirs of the decedent Cristina is not yet upon us. Article 992 of the Civil Code or the *curtain bar rule* is inapplicable in resolving the issue of who is better qualified to administer the estate of the decedent.

Thus, our disquisition in the assailed Decision:

> Nonetheless, it must be pointed out that judicial restraint impels us to refrain from making a final declaration of heirship and distributing the presumptive shares of the parties in the estates of Cristina and Federico, considering that the question on who will administer the properties of the long deceased couple has yet to be settled.
>
> Our holding in *Capistrano v. Nadurata* on the same issue remains good law:
>
> > [T]he declaration of heirs made by the lower court is premature, although the evidence sufficiently shows who are entitled to succeed the deceased. The estate had hardly been judicially opened, and the proceeding has not as yet reached the stage of distribution of the estate which must come after the inheritance is liquidated.

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[44] *Hilado v. Court of Appeals*, supra note 37 at 472-473.

> Section 1, Rule 90 of the Rules of Court does not depart from the foregoing admonition:
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> > Sec. 1. *When order for distribution of residue is made.* - x x x. If there is a controversy before the court as to who are the lawful heirs of the deceased person or as to the distributive shares to which each person is entitled under the law, the controversy shall be heard and decided as in ordinary cases.
> >
> > No distribution shall be allowed until the payment of the obligations above mentioned has been made or provided for, unless the distributees, or any of them, give a bond, in a sum to be fixed by the court, conditioned for the payment of said obligations within such time as the court directs.[45]

Lastly, we dispose of a peripheral issue raised in the Supplemental Comment[46] of Emilio III questioning the Special Second Division which issued the 18 April 2012 Resolution. Emilio III asseverates that "the operation of the Special Second Division in Baguio is unconstitutional and void" as the Second Division in Manila had already promulgated its Decision on 16 June 2010 on the petition filed by him:

> 7. The question is: who created the Special Second Division in Baguio, acting separately from the Second Division of the Supreme Court in Manila? There will then be two Second Divisions of the Supreme Court: one acting with the Supreme Court in Manila, and another Special Second Division acting independently of the Second Division of the Supreme Court in Manila.[47]

For Emilio III's counsels' edification, the Special Second Division in Baguio is not a different division created by the Supreme Court.

The Second Division which promulgated its Decision on this case on 16 June 2010, penned by Justice Antonio Eduardo B. Nachura, now has a different composition, with the advent of Justice Nachura's retirement on 13

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45 *Rollo*, pp. 243-244.
46 Id. at 442-445.
47 Id. at 443.

June 2011. Section 7, Rule 2 of the Internal Rules of the Supreme Court provides:

> Sec. 7. *Resolutions of motions for reconsideration or clarification of decisions or signed resolutions and all other motions and incidents subsequently filed;* ***creation of a Special Division***. – Motions for reconsideration or clarification of a decision or of a signed resolution and all other motions and incidents subsequently filed in the case shall be acted upon by the *ponente* and the other Members of the Division who participated in the rendition of the decision or signed resolution.
>
> **If the *ponente* has retired,** is no longer a Member of the Court, is disqualified, or has inhibited himself or herself from acting on the motion for reconsideration or clarification, **he or she shall be replaced through raffle by a new *ponente* who shall be chosen among the new Members of the Division who participated in the rendition of the decision or signed resolution and who concurred therein. If only one Member of the Court who participated and concurred in the rendition of the decision or signed resolution remains, he or she shall be designated as the new *ponente*.**
>
> If a Member (not the *ponente*) of the Division which rendered the decision or signed resolution has retired, is no longer a Member of the Court, is disqualified, or has inhibited himself or herself from acting on the motion for reconsideration or clarification, he or she shall be replaced through raffle by a replacement Member who shall be chosen from the other Divisions until a new Justice is appointed as replacement for the retired Justice. Upon the appointment of a new Justice, he or she shall replace the designated Justice as replacement Member of the Special Division.
>
> Any vacancy or vacancies in the Special Division shall be filled by raffle from among the other Members of the Court to constitute a Special Division of five (5) Members.
>
> If the *ponente* and all the Members of the Division that rendered the Decision or signed Resolution are no longer Members of the Court, the case shall be raffled to any Member of the Court and the motion shall be acted upon by him or her with the participation of the other Members of the Division to which he or she belongs.
>
> If there are pleadings, motions or incidents subsequent to the denial of the motion for reconsideration or clarification, the case shall be acted upon by the *ponente* on record with the participation of the other Members of the Division to which he or she belongs at the time said pleading, motion or incident is to be taken up by the Court. (Emphasis supplied)

As regards the operation thereof in Baguio City, such is simply a change in venue for the Supreme Court's summer session held last April.[48]

WHEREFORE, the Motion for Reconsideration is **PARTIALLY GRANTED**. Our Decision in G.R. No. 183053 dated 16 June 2010 is **MODIFIED**. Letters of Administration over the estate of decedent Cristina Aguinaldo-Suntay shall solely issue to respondent Isabel Cojuangco-Suntay upon payment of a bond to be set by the Regional Trial Court, Branch 78, Malolos, Bulacan, in Special Proceeding Case No. 117-M-95. The Regional Trial Court, Branch 78, Malolos, Bulacan is likewise directed to settle the estate of decedent Cristina Aguinaldo-Suntay with dispatch. No costs.

SO ORDERED.

JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

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48 See Resolution dated 9 February 2012, A.M. No. 12-2-7-SC Re: 2012 Summer Session in Baguio City.

MARIA LOURDES P. A. SERENO
Chief Justice

DIOSDADO M. PERALTA
Associate Justice

ROBERTO A. ABAD
Associate Justice

ATTESTATION

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

ANTONIO T. CARPIO
Associate Justice
Chairperson, Special Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution 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