

EN BANC

[G.R. No. L-17759. December 17, 1962.]

ISABEL V. SAGUINSIN, *petitioner-appellant*, **vs. DIONISIO LINDAYAG, ET AL.**, *oppositors-appellees*.

DECISION

DIZON, J. :

On November 10, 1959 Maria V. Lindayag died intestate in Olongapo, Zambales. On May 27, 1960 her sister, Isabel V. Saguinsin, filed with the Court of First Instance of said province a verified petition for the issuance in her favor of letters of administration over the estate of said deceased, alleging, among other things, that the latter left real and personal properties situated in the provinces of Zambales and Bulacan worth approximately P100,000; that the names, ages and residence of her surviving heirs were: (1) Dionisio Lindayag, 60 years of age, surviving husband, residing at Olongapo, Zambales, (2) Isabel V. Saguinsin, 54 years of age, sister of the deceased, residing at Hagonoy, Bulacan, (3) Aurora V. Sacdalan, 46 years of age, sister of the deceased, and (4) Ines V. Calayag, 70 years of age, sister of the deceased, both residing at Paombong, Bulacan; and that, as far as petitioner knew, the decedent left no debts at the time of her death.

On June 21, 1960 Dionisio V. Lindayag, the surviving spouse, in his behalf and in representation of the minors Jesus, Concepcion, and Catherine, all surnamed Lindayag, filed a motion to dismiss the petition on the ground of petitioner's lack of interest in the estate, she being neither heir nor a creditor thereof. The motion alleged that the late Maria V. Lindayag was survived by her husband — the movant — and legally adopted minor children named Jesus Concepcion, and Catherine, all surnamed Lindayag, the decedent having left no legitimate, natural or illegitimate child. A certified true copy of the decision of the Justice of the Peace of Olongapo, Zambales, dated July 6, 1953 decreeing the adoption of said minors by the decedent and her husband was attached to the motion.

In opposing the motion to dismiss petitioner argued that only the facts alleged in the petition should be considered in determining its sufficiency.

On July 28, 1960, after due hearing in the motion aforesaid, the Court issued the following order of dismissal:

"It appearing that the herein petitioner is only a sister of the deceased Maria V. Lindayag; that the deceased is survived by her husband and her three (3) adopted children named: Jesus, Concepcion and Catherine, all surnamed Lindayag who were adopted by the deceased on July 6, 1953; that the herein petitioner is obviously not an heir and has no interest in the estate; and that the surviving heirs oppose the instant petition on the ground that they want to settle the estate extra-judicially among them to avoid unnecessary expenses in prosecuting this case, the Court finds the oppositors' opposition to be well taken.

"WHEREFORE, let this case be dismissed. No pronouncement as to costs."

Petitioner's motion for the reconsideration of the above order having been denied, she took the present appeal.

The question to be resolved in this appeal is whether petitioner is "an interested person" in the estate of the deceased Maria V. Lindayag.

According to Section 2, Rule 80 of the [Rules of Court](#), a petition for letters of

administration must be filed by an "interested person". An interested party has been defined in this connection as one who would be benefited by the estate, such as an heir, or one who has a claim against the estate, such as a creditor (Intestate Estate of Julio Magbanwa 40 O.G. 1171). And it is well settled in this jurisdiction that in civil actions as well as special proceedings, the interest required in order that a person may be a party thereto must be material and direct, and not merely indirect or contingent. ([Trillana vs. Crisostomo](#), G.R. No. L-3378, August 22, 1951; [Espinosa vs. Barrios](#), 70 Phil. 311)

Petitioner's interest in the estate of the deceased Maria V. Lindayag was disputed, through a motion to dismiss her petition, by the surviving spouse on the ground that said deceased was survived by him and by three legally adopted children — thus excluding petitioner as an heir. In the course of the hearing held in connection with said motion, evidence was introduced in support thereof which according to the lower court, established that said deceased was survived not only by her husband but three legally adopted children named Jesus, Concepcion, and Catherine, all surnamed Lindayag.

Upon these facts — which petitioner does not dispute — it is manifest that she is not an heir of her deceased sister and, therefore, has no material and direct interest in her estate.

Petitioner's view that when a motion to dismiss a complaint or a petition is filed, only the facts alleged in the complaint or petition may be taken into account is not entirely correct. To the contrary, the rule is that at said hearing said motion may be proved or disproved in accordance with the rules of evidence, and it has been held that, for that purpose, the hearing should be conducted as an ordinary hearing; and the parties should be allowed to present evidence, except when the motion is based on the failure of the complaint or of the petition to state a cause of action ([Asejo vs. Leonoso](#), 78 Phil. 467; 44 O.G. No. 10, p. 3832). In the present case, the motion to dismiss the petition was grounded on petitioner's lack of legal capacity to institute the proceedings which, as already stated heretofore, was fully substantiated by the evidence presented during the hearing.

IN VIEW OF ALL THE FOREGOING, the order appealed from is affirmed, with costs.

Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Barrera, Paredes, Regala and Makalintal, JJ., concur.

Bengzon, C.J., took no part.