

CANADA / JUDGMENT

Barretto Estate (Re)

2025 BCSC 239

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Supreme Court of British Columbia

DECIDED

19 February 2025

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2025 BCSC 239 Barretto Estate (Re)

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Barretto Estate (Re),

2025 BCSC 239

Date: 20250219

Docket: P224120

Registry: Vancouver

In the Matter of the Estate of Jorge Chu Barretto, Deceased

Before: The Honourable Mr. Justice Gibb-Carsley

Reasons for Judgment

Counsel for the Applicant, T.C. Barretto:

J. Foster

Counsel for Respondent, J.T. Barretto Jr.:

A. Schleichkorn

Place and Dates of Hearing:

Vancouver, B.C.

July 17, September 26 and

November 28, 2024

Place and Date of Judgment:

Vancouver, B.C.

February 19, 2025

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I. Introduction

- [1] This is an application brought by Terence C. Barretto ("Terence") for the revocation of a grant of administration issued to Jorge T. Barretto, Jr. ("Jorge") over the estate of Jorge Chu Barretto (the "Estate"). The applicant is the grandson of Jorge Chu Barretto (the "Deceased") and the nephew of the respondent Jorge. Jorge is the son of the Deceased. As the parties and the Deceased share the same surname, I will refer to individuals by their first names, meaning no disrespect.
- [2] While the application to revoke the grant of administration is relatively straight forward, the complexity arises in this case because each party alleges that the other party is unworthy of administering the Estate and will not do so properly or with an even hand.

- [3] Another significant factor in this case is that the Estate is already being administered in a court process in the Philippines. Indeed, given the Philippines estate proceedings is extant, there is a dispute between the parties as to whether administration of the Estate in British Columbia is necessary at all. Further, in addition to the legal proceedings concerning the Estate in the Philippines, the parties are embroiled in a criminal matter in the Philippines where an arrest warrant has been issued for the respondent in a proceeding in which the applicant is the complainant.
- [4] The applicant asserts that the respondent severely misled this Court in his application for a grant of administration such that it must be revoked. The allegations include failure to make full fair and frank disclosure on the application and failure to give the applicant notice. Indeed, the respondent acknowledges the misrepresentations and failure to give notice, but says that the errors are accidental or insignificant and are insufficient to warrant the Court revoking the grant of administration from the respondent.
- [5] If I determine that the grant of estate administration should be revoked, I must then decide if a grant of estate administration for the Estate should be reissued, and to whom. The applicant argues that, if revoked, the grant of administration need not be reissued because the Estate can, and should, be resolved in the Philippines. However, the applicant contends that if the grant of estate administration is reissued it should be issued to him.
- [6] The respondent argues that the grant should not be revoked, but if it is revoked, it should be reissued to him, or in the alternative, to his daughter Alana Barretto ("Alana").
- [7] In these reasons, I will first address whether the applicant has satisfied the test such that the Court should revoke the grant of administration of the estate issued in British Columbia. If satisfied that the grant should be revoked, I will then determine if it should be reissued and to whom.

II. Background Facts

A. The Parties and the Deceased

- [8] On September 27, 2012, the Deceased passed away intestate in Richmond, British Columbia. There is some dispute as to where the Deceased was ordinarily resident, but there appears to be consensus between the parties that at the time of his death, the Deceased spent his time living between British Columbia and the Philippines. While no precise amount of time was provided as to where the Deceased resided or was ordinarily resident, I accept as a fact that the Deceased shared his time between British Columbia and the Philippines and had at least an equal connection to the Philippines as he did to British Columbia.

- [9] The Deceased had a spouse who predeceased him. She was kidnapped in the Philippines and presumed murdered in 2003 and, although her body was never found, she was legally declared deceased in 2010. The Deceased had two sons, the respondent and Eduardo T. Barretto ("Eduardo"). Eduardo was resident in the Philippines and passed away in the Philippines on January 22, 2020. The applicant is Eduardo's son and is resident in the Philippines. The respondent, at all material times, resided in Vancouver, British Columbia.

B. The Philippines Legal Proceedings

i. The Philippines Estate Proceeding

- [10] On June 7, 2021, the applicant applied to the Republic of the Philippines National Capital Judicial Region Regional Trial Court (the "Philippines Court") for letters of administration for the Estate (the "Philippines Estate Grant Proceeding").
- [11] On March 30, 2022, the respondent, through his legal counsel in the Philippines, filed an Opposition to Petition in the Philippines Court, opposing the Philippines Estate Grant Proceeding. As I will describe below, the respondent's participation in the Philippines Estate Grant Proceeding is important because it demonstrates that he was aware of the applicant's specific interest and involvement in issues regarding the Deceased's estate.
- [12] On May 26, 2022, the applicant filed an amended application in the Philippines Estate Grant Proceeding. On October 6, 2022, the respondent filed an Opposition to the amended application in that proceeding.

ii. The Philippines Criminal Proceeding

- [13] On June 25, 2021, a warrant for the respondent's arrest was issued in the Philippines in connection to allegations that, on June 21, 2019, the respondent and others prepared a false document that purported to state that Eduardo had renounced his interests in shares that the Deceased owned in a company called Panapino Holdings.
- [14] I note that the applicant is listed in other documents relating to the criminal charges as the complainant. I reference this fact because, given the animosity and contention between the applicant and the respondent and the weight the applicant asks the Court to place on the arrest warrant, it is relevant that the applicant appears to be the initiator of the criminal matter. That said, based on the documents before me, the arrest warrant appears to have been issued by the Philippines Court after a consideration of evidence placed before it. As such, I accept it has at least some bona fides because it was issued by authorities.

C. The British Columbia Application for Grant of Administration

- [15] On November 14, 2022, the respondent caused an application for a grant of administration of the Estate to be filed in this Court (the "B.C. Estate Grant Submission"). As I will describe in more detail below, the respondent did not provide notice of the application to the applicant. Further, the respondent's application materials contained representations that he

now acknowledges are untrue. These misrepresentations include that the respondent is not aware of there being any application for a grant of probate or administration, or any grant of probate or administration being issued or applied for, in relation to the Deceased in British Columbia or in any other jurisdiction. These representations were made by the respondent, despite the ongoing Estate litigation in the Philippines in which he and the applicant were participants.

- [16] On January 11, 2023, this Court ordered that letters of administration of all the Estate which, by law, devolves to and vests in the personal representative of the Deceased, be granted without bond to the respondent. On January 17, 2023, the grant of administration was issued to the respondent (the "B.C. Estate Grant").

D. The Estate Assets

- [17] As in any estate matter, the focus of the litigants is on the assets of the Deceased. In his application for the grant of administration, the respondent listed that the Estate assets include both tangible and intangible assets. The intangible assets are 650,000 shares in a company called Treasure Land (the "Treasure Land Shares") and 5,250,000 shares in a corporation called Syndicated Management Group (the "SMG Shares"). Both Syndicate Management Group and Treasure Land are companies that are incorporated in the Philippines and the shares are registered with the Philippine Securities and Exchange Commission.
- [18] The applicant contends that the Treasure Land Shares were transferred to Eduardo in 2001 and so were not part of the Estate. In respect of the SMG Shares, the applicant argues that the location of those shares is the Philippines and there is no connection to British Columbia.
- [19] In the application for the grant of administration in British Columbia, the respondent set out that the only tangible asset of the Estate is a house located in Adelfa, Philippines (the "Adelfa House"). As I will discuss in more detail below, the respondent asserts that the Adelfa House was fraudulently transferred from the Deceased to Eduardo and that it should properly be an asset of the Estate. The applicant is currently residing in the Adelfa House.
- [20] Having set out the background, I now turn to my discussion and analysis.

III. Discussion

- [21] As set out above, there are two distinct but related issues to be resolved in this application. The first is whether the B.C. Estate Grant granted to the respondent should be revoked. The second is, if the grant of administration is revoked, whether the grant should be reissued or not and, if reissued, to whom. I will now turn to a consideration of those issues.

A. Revocation of the Grant of Administration

[22] The application is brought pursuant to Rules 25-5(5), 25-14(1)(c) of the Supreme Court Civil Rules, B.C. Reg. 168/2009 [Rules] and this Court's inherent jurisdiction.

[23] As this Court recently summarized in *Narsaiya Estate (Re)*, 2023 BCSC 1350 at paras. 30-32:

- a) Rule 25-5(5) provides that, on application, the Court may order that an estate grant be revoked;
- b) Rule 25-14(1)(c) provides that, where there has been an application for estate grant, a person may bring an application under Part 8 of the Rules for an order revoking an estate grant; and
- c) Rule 25-1(1)(b) defines "estate grant" as including a grant of administration, whether the grant is made for general, special or limited purposes.

[24] This Court's jurisdiction to revoke a grant of administration is broad, although it is to be exercised sparingly. As summarized by our Court of Appeal in *Desbiens v. Smith*, 2010 BCCA 394 at para. 62:

Courts have jurisdiction to revoke estate grants where evidence discloses that the grant ought not to have issued. There are numerous grounds on which probate can be revoked: e.g., where subsequent wills have been discovered; where it has been found that the will is otherwise invalid; where it has been determined that the testator is not, in fact, dead; where it is shown that the executor is under a legal disability (minority or mental infirmity); and where probate has been obtained by fraud. In short, where it is shown that a condition precedent to the grant of probate was not fulfilled, the court has jurisdiction to revoke the grant []

[25] I will now set out my considerations and the impact of the alleged deficiencies with the respondent's application for the grant of administration that the applicant asserts warrants revoking the B.C. Estate Grant.

i. Failure to Give Notice

[26] Section 121 of the Wills Estate Succession Act, S.B.C. 2009, c. 13 [WESA] requires a person seeking probate or letters of administration to give notice to the persons referred to in the Rules. It is accepted by the respondent that the applicant is a person entitled to notice under WESA, s. 121 and Rule 25-2.

[27] The failure of the respondent to give notice of his application for the B.C. Estate Grant to the applicant is deeply troubling. I do not accept that the respondent's failure to give notice to the applicant was an oversight, as the respondent and applicant were engaged in ongoing and concurrent litigation involving the Estate in the Philippines. Given that there was extant estate administration litigation in the Philippines when the respondent applied for the grant of administration in British Columbia, it is a compelling inference that the respondent's failure to provide notice to the applicant was a strategic decision.

- [28] The respondent asserts that he innocently misunderstood that he needed to provide notice to the applicant because it was unclear to him that the applicant, being only the grandson of the Deceased, was entitled to notice. I accept that it is a somewhat convoluted route that the applicant, as the Deceased's grandson, should have been notified through the provisions of s. 121 of the WESA. However, the B.C. Estate Grant Submission was prepared by experienced counsel. In that regard, I expect that the respondent would have been made aware by his counsel of individuals who are entitled to notice under the WESA. In other words, I am inferring that the respondent made a deliberate decision not to notify the applicant of his British Columbia application. Further, given there was the litigation proceeding in the Philippines, it strikes me as a tactical choice to not provide notice to the applicant in order to gain an advantage and secure the grant in British Columbia without opposition.
- [29] Our Court of Appeal has concluded that if an individual fraudulently certifies that they have provided the required notice of an application for an estate grant, the fraud may vitiate the grant of probate or of letters of administration: *Desbiens* at para. 44. In *Desbiens* the Court held that in circumstances in which a grant of probate has issued notwithstanding a failure to make reasonable efforts to notify persons having rights to challenge the will, it "opens the door" for the grant to be revoked: *Desbiens* at para. 70; *Gill v Gill*, 2024 BCSC 526 at para. 134.
- [30] The basis of this conclusion is logical and rooted in the principle that a condition precedent to issue the grant of administration has not been satisfied and thus the grant may be revoked: *Desbiens* at paras. 67-68. Put simply, without the proper notice, the Court's issuance of the grant effectively on an ex parte put trust in the filing party that parties entitled to notice were given notice. Without notice, the grant is issued without an opportunity for challenge by a party or party who may oppose its issuance and without the Court's knowledge that any opposition may exist thus, potentially depriving the Court from awareness of relevant facts to whether the grant should issue.
- [31] That said, I accept that it remains a discretionary decision whether a Court will revoke the grant solely on the basis of a failure to comply with notice requirements. In other words, it is not an automatic cause of revocation, but instead is a factor for consideration. However, in the case at bar there are other misrepresentations, in addition to the misrepresentation of informing the Court that no party required notice, contained in the application to which I will now turn.

ii. Misrepresentations

- [32] On November 10, 2022, at para. 7 of his affidavit in support of his application for the grant of administration, the respondent solemnly affirmed:

I am not aware of there being any application for a grant of probate or administration, or any grant of probate or administration, or equivalent, having been issued, in relation to the deceased, in British Columbia or in any other jurisdiction.

[Emphasis added.]

- [33] The respondent put this affirmed statement before the Court in support of his application despite his knowledge of the hotly contested Philippines Estate litigation in which the applicant had already applied for estate administration. To reiterate, the applicant had filed the application in the Philippines 17 months earlier, in June 2021, and the respondent had filed his opposition eight months earlier, in March 2022. The respondent's excuse for this misrepresentation is that he believed he was not required to reference the Philippines Estate proceeding because it had not yet been issued by the Philippines Court. Based on the facts before me, I find this explanation difficult to accept as genuine.
- [34] As referenced above, the respondent had his application materials prepared by a senior and experienced estate lawyer. I find it difficult to accept that his counsel would not have asked the respondent the appropriate questions and given the appropriate explanations that would enable him to provide accurate information in the B.C. Estate Grant Submission and associated affidavits with reference to the ongoing Philippines estate litigation.
- [35] Further, and importantly, the information provided by the respondent in the application is in response to a question that asks both if an application in another jurisdiction has been applied for or issued. Taken at its highest, the respondent's failure to disclose the existence of the Philippines litigation demonstrates he was reckless with the truth. At worst it could be viewed as a purposeful deception. Indeed, his explanation is difficult to accept given that on the face of the documents the question asks that a party must disclose whether the individual applying for a grant of administration in British Columbia is aware of any other applications related to the Estate in British Columbia or any other jurisdiction. In my view, the respondent's failure to disclose this information was purposeful.
- [36] Although not specifically required on the application, I am also concerned that the respondent did not disclose that he was charged with fraud in the Philippines, specifically in relation to the very assets that have some connection to the Deceased. That said, this is less of a factor in my consideration for three reasons.
- [37] First, I note that the questions on the applications do not specifically ask if the respondent had been charged with an offence. Second, as I referenced above, the applicant is the complainant in the criminal proceeding. As such, it may be that the applicant made attempts to initiate a criminal proceeding to hinder the respondent's ability to participate in other matters concerning the Estate. Third, I note that the respondent has not been convicted of fraud and, as such, is presumed innocent. I recognize that I am basing this final consideration on my understanding that, as it is in Canada, in the Philippines, individuals are presumed innocent until proven guilty. Given these reasons, I put minimal weight on the respondent's failure to disclose the criminal charge to the Court in his application for the B.C. Grant of Administration.
- [38] However, in the circumstances of this case, while it may not have been strictly required to disclose the information of the criminal charges against the respondent in the Philippines, given the B.C. Grant application was made ex parte, there is a high standard to disclose all

relevant information. In my view, this additional information has relevance to whether the Court should issue the grant to the respondent. It is trite law that on an ex parte application, a party seeking an order must provide full, fair and frank disclosure: *Al-Sabah v. Al-Sabah*, 2016 BCCA 365 at para. 14. Ex parte applications require a high standard of diligence because our Court depends on the integrity and accuracy of the documents submitted in an application when only one side is represented. While the litigation system is built upon an adversarial system, in an ex parte application, only one party's voice is heard by the Court. As such, careful, accurate, and truthful representations are required. A failure to adhere to this high standard risks the order granted being set aside.

iii. Conclusion on Whether the Grant Should be Revoked

[39] I am satisfied that the B.C. Estate Grant must be revoked because it ought not to have issued. Further, I conclude that to not revoke the estate grant would bring the administration of justice into disrepute. I find that the respondent's conduct in obtaining the grant of administration, including his failure to provide notice coupled with his misrepresentations (either purposeful or careless), fell below the requisite standard. I will exercise my jurisdiction to set aside the grant of administration pursuant to Rule 25-5(5) of the Rules.

[40] I will now turn to whether I should reissue the grant of administration, and if so, to whom.

B. Should the Grant of Administration be Reissued and, if so, to whom?

[41] As set out above, the applicant asserts that it is not necessary to reissue the grant of administration, or, in the alternative, that it be issued to him. The respondent contends that the grant of administration should be reissued to him or, in the alternative, to his daughter Alana.

[42] Section 159(1) of the WESA provides:

If the court discharges or removes a personal representative, the court

- a) must appoint another person who consents to act as the substitute personal representative, unless
 - i. the administration of the estate is complete, or
 - ii. the court does not consider a new appointment necessary, and
- b) may, if the personal representative has resigned or is removed as a trustee, concurrently appoint the person referred to in paragraph (a) as trustee under the Trustee Act in place of the trustee being discharged or removed.

- [43] Section 159(1)(a) of the WESA sets out that in the usual course, when a grant of administration is revoked, the Court must issue a grant of administration to another individual. However, the Court has discretion not to appoint another person as a substitute administrator if the administration of the estate is complete or if the Court deems it unnecessary to appoint a substitute. In the circumstances of this case, I conclude that it is not necessary to appoint a personal representative, for the following reasons.
- [44] I find that there are no assets of the Estate tied directly or solely to the British Columbia jurisdiction. There is no real property in British Columbia and the only assets that appear in issue in the Estate are the Treasure Land Shares and the SMG Shares, which are both companies incorporated in the Philippines and listed on the Philippines Security and Exchange Commission.
- [45] I accept that when assets of an estate include shares in corporations based in foreign countries the estate assets may be properly administered in British Columbia. However, in the particular circumstances of this case, the Deceased shared his time between British Columbia and the Philippines. As such, he has at least an equal connection to the Philippines as he does to British Columbia. Further, the shares at issue are for companies incorporated in the Philippines, not British Columbia or Canada. Additionally, the only real property in dispute in the Estate is the Adelfa House also located in the Philippines. Courts usually refuse to take jurisdiction over foreign immovables although they may do so on occasion when assumption of such jurisdiction was incidental to administration of an estate. There are no immovable assets in British Columbia to be administered in British Columbia and the intangible assets have a stronger connection to the Philippines. Put simply, in the circumstances of this case, I conclude there is no estate in need of administration in British Columbia.
- [46] As I just referenced, in coming to this conclusion, I acknowledge that the situs of the shares of foreign companies may, in certain circumstances, be the jurisdiction in which the Deceased lived and died. This may engage arguments as to which jurisdiction is the more convenient jurisdiction to administer the estate. As just described, given that the Deceased had at least as much connection to the Philippines as to British Columbia, the Treasure Land Shares, the SGM Shares, and the Adelfa House are all within the jurisdiction of the Philippines, and the Estate is already being administered in the Philippines Court, I conclude that it is unnecessary for the Estate to be administered in British Columbia.
- [47] The assets of the Estate can be entirely dealt with in the Philippines. Indeed, the Philippines Estate Grant Proceeding is underway in the Philippines Court, commenced by the applicant for that very purpose. The Estate is not left unadministered if no substitute administrator for the respondent is appointed and, as such, I conclude that a reappointment is unnecessary.

- [48] Above, I referenced that I would return to the respondent's allegations regarding what appears to be fraud in transferring the Adelfa House from the Deceased to Eduardo. To reiterate, the respondent says that the applicant knew, or ought to have known, that the transfer of the Adelfa House from the Deceased to Eduardo was fraudulent. One of the respondent's primary objectives for seeking the grant of estate administration in British Columbia is to contest that transfer.
- [49] I accept that, on its face, the evidence before me provides compelling support for the respondent's allegation that the Adelfa house was transferred fraudulently from the Deceased to Eduardo. I was provided with a document that purports to transfer the ownership of the Adelfa House from the Deceased to Eduardo. Based on the facts before me, I am troubled by the document's legitimacy as it purports to be signed by the Deceased on April 2, 2014, which is two years after the Deceased died. Further, the respondent deposes that he did not sign the purported transfer deed. The respondent asserts that the applicant knew or should have known that this document is fraudulent based on the date of the Deceased's death.
- [50] While I conclude that the document appears to demonstrate that the transfer was fraudulent, I do not have sufficient context to know if there is some explanation for the apparent impossibility of the Deceased signing it two years after his death. More importantly, in my view, that issue would be better resolved in the Philippines Estate Grant Proceeding. The Adelfa House is located in the Philippines, the document was purportedly signed in the Philippines, and the Notary Public who witnessed the signing of the document is purportedly from the Philippines. In other words, the issues surrounding the document need not be resolved in a British Columbia litigation, and indeed, there is compelling reason for these issues to be resolved in the Philippines. As such, I conclude that the apparent alleged fraud of the transfer of the Adelfa House from the Deceased to Eduardo fails to provides sufficient necessity to continue to have the estate administered in British Columbia.
- [51] Another reason supporting my conclusion that it is not necessary to reissue the B.C. Grant of Administration is I have some concerns that the respondent commenced the BC Estate Litigation as a collateral attack given his failures in the Philippines litigation. Specifically, I am concerned that the respondent's motivation to obtain the grant of administration in British Columbia stems from his frustration at his inability to successfully oppose the grant of administration issued to the applicant in the Philippines.
- [52] This is supported by the totality of the circumstances of this case in both Canada and the Philippines and the manner in which the respondent brought his application before this Court.
- [53] Our Court must not be used for an improper purpose, such as a collateral attack on another Court's jurisdiction. In my view, the respondent's actions, based on the evidence before me, borders on an abuse of process and should not be condoned by this Court. In this regard, the

abuse of process doctrine is designed to prevent actions that violate principles of judicial economy, consistency, finality and the integrity of the administration of justice: *Ajvazi v. Century 21 Prudential Estates (RMD) Ltd.*, 2024 BCSC 276 at para. 52; *Toronto (City) v. C.U.P.E., Local 79*, 2003 SCC 63 at paras. 35-37, 40.

[54] On its face, the respondent's attempt to commence an estate proceeding in British Columbia is an attempt to obtain from this Court an order that is contrary and in conflict with an order of the Philippines Court. While not argued in these terms by either party before me on the application, I am concerned that the respondent's approach offends principles of international comity and could be viewed as an attempt to use the Canadian Court system to frustrate a valid estate litigation in the Philippines, where the Deceased and the Estate assets clearly have significant connection.

[55] While in a different context than estate litigation, the Supreme Court in *Zingre v. The Queen*, [1981] 2 S.C.R. 392 at p. 401 held that "the courts of one jurisdiction will give effect to the laws and judicial decisions of another jurisdiction, not as a matter of obligation but out of mutual deference and respect". In *Spencer v. The Queen*, [1985] 2 S.C.R. 278, at p. 283, the Court defined international comity in the following manner:

"Comity" in the legal sense, is neither a matter of absolute obligation, on the one hand, nor of mere courtesy and good will, upon the other. But it is the recognition which one nation allows within its territory to the legislative, executive or judicial acts of another nation, having due regard both to international duty and convenience, and to the rights of its own citizens or of other persons who are under the protection of its laws: *Hilton v. Guyot*, 159 U.S. 113 (1895), at pp. 163-64.

[56] Two of the objectives of international comity are fairness and order. The Supreme Court has held that order is a precondition of justice: *Tolofson v. Jensen*, [1994] 3 S.C.R. 1022 at p. 1058. If the grant of administration for the same estate, regarding the same assets, were issued in this Court despite there being a grant of administration in the Philippines Court, the result could lead to unnecessary and parallel proceedings and potentially conflicting orders. Further, our Court has held that comity demands a greater deference to the foreign proceedings where a foreign court is clearly adjudicating on the very issue which the plaintiff seeks to have resolved by this court: *Hormandinger v. Bender-Hormandinger*, 2007 BCSC 949 at para. 59; see also *Cleeves v. The Warden and Fellows of St. Antony's College in the University of Oxford*, 2021 BCSC 686 at paras. 152 to 156.

[57] In my opinion, parallel proceedings in different jurisdictions are to be avoided and, if possible, the court should decline jurisdiction to avoid the same causes of action or set of facts giving rise to parallel legal proceedings and potentially conflicting judgments. The Deceased's estate is currently being administered in the Philippines which supports a conclusion that re-issuing the grant of administration in British Columbia is unnecessary.

[58] Given the foregoing and the fact that there are no assets that need to be administered in British Columbia or have a unique connection to this jurisdiction, I conclude it is not necessary to appoint a successor to the respondent to administer the Estate in British Columbia.

IV. Summary of Order

[59] Based on the foregoing, I order:

- a) Pursuant to Rule 25-5(5) of the Rules, the grant of estate administration issued to the respondent, Jorge T. Barretto on January 17, 2023, is revoked; and
- b) Pursuant to s. 159(1)(a)(ii) of the WESA, no substitute is appointed as a personal representative to the Estate of Jorge C. Baretto.

[60] The applicant sought additional orders that flow from the revocation of the B.C. Estate Grant. In my view, they are appropriate as those ancillary orders, among other things, address the issue of whether the respondent took any steps during the time that he was the personal representative of the Deceased. In terms of the applicant's request for the respondent to provide certain documents related to the Estate to the applicant, I also deem those appropriate and necessary orders to ensure that the respondent does not take further steps with the Estate, and also that the applicant has the information required to properly administer the Estate in the Philippines.

[61] Accordingly, I order:

- a) The respondent is removed as a trustee of the Estate;
- b) The respondent shall deliver to counsel for the applicant all documents, books, personal papers, and accounts of the Deceased in the respondent's possession or control, including but not limited to, all information regarding income taxes, insurance policies, debts, assets, and liabilities of the Estate within 30 days of this Order;
- c) The respondent shall deliver to counsel for the applicant all certified and notarized copies of the B.C. Estate Grant and letters of administration within 7 days of the date of this Order; and
- d) The respondent shall, within 14 days of the date of this Order, notify all parties with which he has interacted with as administrator of the Estate, or to whom he has represented or held himself out as the administrator of the Estate, to inform them that the B.C. Estate Grant has been revoked and he has been removed as the personal representative of the Estate. The respondent shall provide proof of this correspondence to the applicant.

[62] For clarity, I order that the respondent is not removed from any actions, claims, or demands arising from or in connection with any of his acts or omissions while acting as the administrator of the Estate.

V. Costs

- [63] The applicant has been entirely successful in this application. As such, he is entitled to his costs of the application at Scale B, payable forthwith and personally by the respondent. For clarity, the respondent is not to be reimbursed from the Estate for his legal fees.
- [64] I also order that the applicant is not entitled to be indemnified from the Estate assets for his legal costs related to the British Columbia Estate litigation. Indeed, it would be inconsistent with my findings that there are no assets connected with the British Columbia jurisdiction to do otherwise. I acknowledge that it may be that ultimately the applicant is reimbursed from the assets of the Estate in the Philippines through that litigation, but I will make no order in this litigation to bind the distribution of the assets in the Philippines Court proceeding in respect of the Estate as to how legal expenses or costs will be paid. To reiterate, I conclude that it is not appropriate for me to order that the Estate indemnify either party for their legal costs in this jurisdiction.

VI. Conclusion

- [65] I thank counsel for their complete and well-argued submissions.

"Gibb-Carsley J."

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