

[G.R. No. 2370. December 12, 1905]

**MARIANO ESCUETA, PLAINTIFF AND APPELLANT, VS. LEON SY-JUILLIONG,
DEFENDANT AND APPELLEE.**

D E C I S I O N

WILLARD, J.:

In Manila, on the 21st of February, 1902, Joaquin Martinez Sy-Tiongday executed his last will, whereby he disposed of an estate of 212,862 pesos among his five children, Carlos Pabia, Baldomero (the mother of these two being Chan-Sinnin), Felipa, Manuel, and Faustina (the mother of these three being Ana Cuanci). Apparently the testator's business was connected with shipping interests. He afterwards died, the exact date of his death not appearing in the record, and Sy-Giang was appointed his executor and at the time this case arose was in possession of the property left by the deceased. After the death of his father his son and heir, Baldomero, died, leaving no will, and leaving as his only heirs his brothers and sisters above named. When Baldomero died the property left by his father had not been divided, and he had an interest therein.

After the death of Baldomero, Carlos Pabia, Ms brother, employed the plaintiff, who is a lawyer, to procure the appointment of an administrator of the estate of Baldomero and to attend to the settlement of that estate in the Court of First Instance. The plaintiff, by virtue of such employment, performed services and expended money in procuring the appointment of the administrator, and in other work connected with the settlement of the estate. The person appointed as administrator of the estate of Baldomero was Carlos Pabia. Carlos Pabia died in the month of February, 1904, and the defendant was

appointed administrator of the estate of Baldomero in succession to said Carlos, and this action was commenced against the defendant in his capacity as administrator of said estate, to recover the value of such services and the money so expended.

The court below entered judgment in favor of the defendant on the ground that the services rendered by plaintiff were entirely unnecessary and that there was no occasion for the appointment of an administrator of the estate of Baldomero. We can not agree with this opinion. Baldomero left an estate of about 46,000 pesos. Almost all of it consisted of his interest in his father's estate. This estate had not been divided and was in the hands of the executor of that estate. It appeared from the evidence that this executor refused to deliver any of the property to the administrator of the estate of Baldomero, or to the heirs of the latter. It also appears that the question as to who such heirs are is now in litigation in court. Under these circumstances it seems to us that the appointment of an administrator and the settlement of Baldomero's estate in the probate court was necessary. The final decree rendered in that proceeding under the provisions of section 753 of the Code of Civil Procedure would be a determination of the question as to who the heirs of Baldomero were, and when such decree was presented to Sy-Giang, the executor of the estate of the father, he would be obliged to deliver the interest of Baldomero to the persons named in that decree.

Moreover, in a case where there is an estate of 46,000 pesos, and there are no known debts, if not necessary it is at least extremely advisable that an administrator be appointed and the estate regularly administered in the Court of First Instance, exercising its probate jurisdiction, for the purpose of having the fact that there are no debts conclusively determined. When an estate is regularly administered in the Court of First Instance, and commissioners appointed before whom claims must be presented within the time fixed in the order, they are by law, with some few exceptions, barred unless so presented. This time may be limited by the court to six months. It is important to the heirs of an estate to know as soon after the death of the intestate as possible what claims exist against it. If they then know what demands

are made against it, they have an opportunity to ascertain the facts relating to such demands when evidence concerning their validity can be easily obtained. Unfounded claims in such cases can be more easily defeated than they could if they were presented several years after the death of the intestate.

So far from the services of the plaintiff being unnecessary in this case, we think that he acted wisely in advising his client that the estate of Baldomero should be regularly administered in court, and we think he has a claim for the amount of money he expended on account of the estate, and for the reasonable value of his services.

The question remains, however, against whom this claim can be enforced by him. The claim or cause of action arose after the death of Baldomero. It was therefore not a proper claim to be presented before the commissioners appointed in Baldomero's estate. (Philippine Trading Company, Ltd., r,s'. Cross-field, Judge.^[1])

The contract which the plaintiff made was made with Carlos Pabia. If it was made with Carlos Pabia as an individual, then the plaintiff's cause of action is against him. If it was made with Carlos Pabia as the administrator of the estate of Baldomero, the question arises whether such a contract imposes any direct liability upon the estate which the creditor can enforce by an action; whether he can secure a judgment which will be binding and conclusive upon the estate and upon all the persons interested therein.

The provisions of the present Code of Civil Procedure relating to the settlement of estates of deceased persons are taken from similar provisions in the United States. There the decisions, which are numerous, are practically unanimous in holding that in a case like the present, the contract made between the administrator and the lawyer does not bind the estate to such an extent that the lawyer can maintain an action against it and recover a judgment which is binding upon it. In such a case the creditor has two remedies: He can prosecute an action against the administrator as an individual. If judgment is rendered against the administrator and it is paid by him, when he

presents his final account to the Court of First Instance as such administrator he can include the amount so paid as an expense of administration. The creditor can also present a petition in the proceeding relating to the settlement of the estate, asking that the court, after notice to all persons interested, allow his claim and direct the administrator to pay it as an expense of administration. Whichever course is adopted the heirs and other persons interested in the estate will have a right to inquire into the necessity for making the contract and the value of the work performed by the attorney.

If Carlos Pabia were now alive the plaintiff might have a right of action against him, but under the rule above stated he has no right of action against the present defendant, because he (the present defendant) is not in any way connected with Carlos Pabia. He is not his executor or administrator. The estate which the present defendant represents is the estate of Baldomero, and against that estate, as we have seen, an ordinary action can not be maintained by the plaintiff.

The court below ordered the action to be dismissed. This judgment should be modified so as to provide that the dismissal should be without prejudice to the right of the plaintiff to prosecute his claim against the person responsible therefor, or to make an application in the proceeding for the settlement of the estate of Baldomero for its allowance and payment. As so modified the judgment is affirmed. No costs will be allowed in this court, and after the expiration of twenty days let judgment be entered in accordance herewith and the case be returned to the court below for execution of said judgment. So ordered.

Arellano, C.J., Mapa, Johnson, and Carson, JJ., concur.

^[1] Page 400, *supra*.
