

[G.R. No. 1489. February 28, 1906]

RAFAEL ENRIQUEZ, PLAINTIFF AND APPELLEE, VS. FRANCISCO ENRIQUEZ Y VILLANUEVA, DEFENDANT AND APPELLANT.

D E C I S I O N

WILLARD, J.:

On the 13th day of December, 1902, an order was made by the Court of First Instance of Manila in the matter of the estate of Antonio Enriquez, which is in part as follows: "I further order that the present administrator, Rafael Enriquez, as well as the former administrator Francisco Enriquez render each their accounts of administration and file the same with the clerk of this court on or before the 20th of January, 1903. These accounts shall be final and duly sworn to, and shall contain an exact statement of all the transactions concerning the estate of the deceased Antonio Enriquez, which may have been made by each of the appointed administrators during the period of their incumbency, with the exception of those corresponding to periods for which accounts have been rendered and which appear in the records."

Rafael Enriquez, the then administrator of the estate, claiming that Francisco Enriquez had not complied with this order, made an application to the court for an order directing Francisco Enriquez to show cause why he should not be punished for contempt for such noncompliance. A hearing was had upon the order to show cause, and upon the 2d day of March, 1903, the court held that Francisco Enriquez was in contempt for noncompliance with the order and sentenced him to confinement in the prison of Bilibid for six months, and until he should comply with the order, or until the further order of the court. Francisco Enriquez took an exception to this order, and has brought the case here by means of a bill of exceptions. The appellee admits "that Francisco Enriquez has rendered to the court the accounts of his administration from the 1st day of July, 1896, to the present time, and that he has also rendered to the court his account of the family allowances (*alimentos*) and

advances made by him to the respective heirs from the beginning of his administration to the present time." It is further admitted that the matter to be reviewed and determined "is limited to the general accounting of the executor defendant for the period commencing on or about the year 1883, to the 30th of June, 1896."

The question to be decided in this proceeding is not whether the accounts of Francisco Enriquez were correct and should be allowed but the only question is whether he had submitted his account for examination and allowance. As said by the appellee in his brief, referring to the accounts which he admitted had been presented by Francisco Enriquez, "these accounts are now on file with the probate, court, and though the correctness thereof may now be the subject of the examination before that court, yet no question is raised here that he has not rendered those accounts to the court." The only question, therefore, is whether Francisco Enriquez submitted his accounts as executor during the period from 1883 to 1896 in accordance with the law then in force. Upon this question of fact there can be no doubt. The evidence is overwhelming in favor of the appellant. Prior to 1891 the heirs of Antonio Enriquez had been in litigation with each other concerning the settlement of the estate. On the 22d of April, 1891, a document was signed by which the heirs agreed to abandon the litigation and proceed to the settlement of the estate in an amicable way. Considerable space is devoted in the appellee's brief to the fact that Francisco Enriquez signed this document as the attorney in fact for seven of his brothers and sisters, and it is claimed that he could not act for himself and for them in this matter. This document however, is of no importance in connection with the question here involved. The parties to it did not in any way give their consent or approval to any accounts which had been or were to be rendered by Francisco Enriquez as executor. In fact the purpose of the document was to secure a rendition of accounts, their examination and approval.

On the 25th of August, 1896, Francisco Enriquez, Rafael Enriquez, and Antonio Enriquez executed another public document, in which they refer to the document of the 22d of April, 1891. In this later document it is distinctly stated that Francisco Enriquez had submitted his accounts from 1884 to 1890, and that he had also submitted his accounts from 1891 to 1895, and that he had also submitted them for the first half of the year 1896. This document stated the rules which should be followed in connection with the examination and approval of the accounts. In pursuance of these rules the three brothers who signed the agreement met from time to time in the office of Moreno Lacalle. Minutes of these meetings were kept and some of them were offered in evidence in this case. In the minutes of the meeting held on the 16th day of August, 1897, it was expressly declared that with certain amendments the accounts of the executor were, after examination, approved. In the minutes

of the meeting of the 3d of November, 1897, it is again stated that the accounts were examined, and that they were definitely approved. On the 27th of November, 1897, Francisco Enriquez, Rafael Enriquez, and Antonio Enriquez signed a paper which was to serve as a basis for a formal document of settlement. In this it was distinctly stated that Francisco Enriquez had presented his accounts as executor from 1884 until the 30th of June, 1896.

On the 20th day of November, 1897, all the persons interested in the estate appeared before a notary public, either by themselves or by their duly authorized attorneys, and executed a formal public document, in which it was again stated that the accounts for the period above mentioned had been presented by Francisco Enriquez, and had been finally and definitely approved. This document was signed by Francisco Enriquez, for himself and as attorney in fact for his sister, Carmen Enriquez. Francisco Enriquez in the execution of this instrument, represented no other one of the heirs. They were represented by Kafael Enriquez and his brother Antonio. It apparently is the claim of the appellee that this contract of the 20th of November, 1897, is for some reason not binding upon the other heirs. With that question, however, we have nothing to do in this case. That contract and the other documents executed prior thereto show conclusively that Francisco Enriquez had presented the accounts of his administration for the time here in question.

The judgment of the court below is reversed, and the case remanded, with instructions to dismiss this proceeding for contempt against Francisco Enriquez. No costs will be allowed to either party in this court. So ordered.

Torres, Mapa, Johnson, and Carson, JJ., concur.

Arellano, C. J., did not sit in this case.