

7 Phil. 395

[ G.R. No. 3216. January 26, 1907 ]

**PASCUALA PRADO, PLAINTIFF AND APPELLANT, VS. JUAN LAGERA, DEFENDANT AND APPELLEE.**

**D E C I S I O N**

**WILLARD, J.:**

The plaintiff brought this action against the judicial administrator of Juan Sangalang to recover the possession of certain real and personal property of which she claimed to be the exclusive owner. It appears from the complaint that she is the widow of the deceased Sangalang.

A demurrer to the complaint was sustained on the ground that the property of the deceased was in process of administration and liquidation in accordance with the provisions of the present Code of Civil Procedure, and this action, therefore, could not be maintained.

It does not appear from the complaint distinctly whether the property in question is a part of the conjugal property or whether it is a part of the *bienes parafernales* of the plaintiff, but it makes no difference to which one of these two classes it belongs. We have held in the case of Alfonso vs. Natividad<sup>[1]</sup> (4 Off. Gaz., 461) that when a conjugal partnership is dissolved by the death of the husband the inventory which is mentioned in article 1418 of the Civil Code should be made and the partnership affairs settled in the Court of First Instance which takes jurisdiction of the settlement of his estate, and in the same proceeding. That this inventory should include the *bienes parafernales* of the wife and the capital of both spouses appears very plainly from the provisions of articles 1421, 1422, and 1423 of the Civil Code. The affairs of the conjugal partnership being in process of liquidation in another proceeding, this action can not be maintained. The judgment of the court below is affirmed, with the costs of this instance against the appellant.

After expiration of twenty days let judgment be entered in accordance herewith and ten days thereafter the record remanded to the court below for proper action. So ordered.

*Arellano, C. J., Torres, Mapa, Carson, and Tracey, JJ., concur.*

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<sup>[1]</sup> 6 Phil. Rep., 240.

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