

100 Phil. 1036

[G. R. No. L-8315. March 18, 1957]

**THE PHILIPPINE BANK OF COMMERCE, PLAINTIFF AND APPELLEE, VS.
APOLINAR SANTOS, DEFENDANT AND APPELLANT.**

D E C I S I O N

PADILLA, J.:

Apolinar A. Santos appeals from a judgment of the Court of First Instance of Manila ordering him to pay the Philippine Bank of Commerce the sum of P2,910.49, interest thereon at 10% per annum from 14 May 1954 until paid, and of P200 as attorney's fees.

On 2 March 1949 the appellant and Clara D. Palanca, the latter with the consent of her husband Angel C. Palanca, jointly and severally, secured from the appellee a loan of P7,000 payable in 90 days from date. It was agreed that should it be necessary to collect the note by or through an attorney-at-law, the maker and indorser would pay 25 per cent of the amount due on the note as attorney's fees (Exhibit A). On 14 March 1953 the appellant's wife, Marciana C. Palanca, died and he was appointed administrator of her estate (Special Proceedings No. 1724, Court of First Instance of Rizal).

On 14 May 1954 the bank brought an action in the Court of First Instance of Manila to recover from the appellant the sum of P2,910.49, the unpaid balance of the loan, attorney's fees and costs. The appellant admitted that he was indebted to the bank in the sum sought to be recovered but averred that as there was a special proceedings pending in the Court of First Instance of Rizal for the settlement of the estate of his deceased wife and hence for the liquidation of the conjugal partnership, and that as the indebtedness was chargeable to the conjugal partnership, he could not be sued for the payment thereof, but that the bank should file its claim in the special proceedings.

After trial, the Court held that although the conjugal partnership benefited from the proceeds of the loan, still the appellant did not secure it in his capacity as administrator of the conjugal partnership and did not disclose that he was married, thereby assuming the

role of an agent for an undisclosed principal, and that for that reason the bank could sue on the obligation personally contracted by the appellant, and rendered judgment as prayed for in the complaint but without pronouncement as to costs. The motion for reconsideration was denied.

Section 2, Rule 75, which provides: and section 1, Rule 87, which provides:

When the marriage is dissolved by the death of the husband or wife, the community property shall be inventoried, administered, and liquidated and the debts thereof paid, in the testate or intestate proceedings of the deceased spouse. If both spouses have died, the conjugal partnership shall be liquidated in the testate or intestate proceedings of either,

Immediately after granting letters testamentary or of administration, the Court shall issue a notice requiring all persons having money claims against the decedent to file them in the office of the clerk of said court,

have no application to the case, because the loan was secured by the appellant. It matters not that the proceeds of the loan were spent for the benefit of the conjugal partnership—to repair and paint the house where the spouses lived, to improve the appellant’s medical clinic, to replenish his medical equipment and instruments, and to defray some expenses of the family—and that partial payments on account of the loan were made by the wife of the appellant. The debt may be chargeable to the conjugal partnership, but as far as the appellee bank is concerned it may enforce its collection against the appellant who personally secured the loan or contracted the obligation, or may file a claim for its collection in the proceedings for the settlement of the estate of the deceased spouse. A contrary rule would render difficult the granting of loans to persons who have good credit standing because of possible demise of their spouses. Another drawback for credit institutions and creditors in general would be to compel them to sever the collection of loans in case of joint and several obligors—a claim for the collection of the loan in the special proceedings for the settlement of the estate of the deceased spouse of one of the obligors and an action for the collection of the loan, from the other co-obligor or co-obligors. The rule in *Calma vs. Taiiedo*, 66 Phil. 594, is not applicable to the case, because there the debt consisting of two sums was of the spouses and chargeable to the conjugal property. After the death of one of the spouses administration proceedings for the settlement of the estate of the deceased spouse were begun. It was but logical: that the claim for the

collection of the debt should be filed with the probate court and that the collection thereof should not be by an ordinary action Against the surviving spouse. The appellant after paying the debt to the appellee may claim half of it from the estate of his deceased wife.

The judgment appealed from is affirmed, with costs in both instances against the appellant.

Paras, C, J., Bengzon, Reyes, A., Bautista Angelo, Labrador, Reyes, J. B. L., Endencia, and Felix, JJ., concur.

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