

CLEOTILDE LAT, PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND MARCIAL BANZUELA, RESPONDENTS.

G. R. No. L-17591. May 30, 1962

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Appeal by certiorari from a decision of the Court of Appeals.

On February 16, 1958, the Court of Appeals rendered a decision in CA-G. R. No. 9490-R, entitled "In re Intestate Estate of the Deceased Mariano M. Lat. Marcial Banzuela, administrator-appellant vs. Cleotilde Lat, respondent-appellee", reversing an order of the Court of First Instance of Batangas, dated October 31, 1951, in Special Proceeding No. 3961 thereof and ordering said Cleotilde Lat "to deliver to administrator-appellant the sum of P4,700, with costs of both instances against her", but, "without prejudice to her rights as compulsory heir" of the deceased Mariano M. Lat.

On July 7, 1958, the administrator of said estate, Marcial Banzuela, hereinafter referred to as the administrator, filed with the lower court a motion for the execution of said decision, which had, meanwhile, become final and executory. Cleotilde Lat hereinafter referred to as the petitioner—opposed the motion mainly upon the ground that, before the rendition of the aforementioned decision, or on September 29, 1957, the heirs of Mariano M. Lat had executed the deed Exhibit 1, whereby they agreed "to withdraw the appeal" taken by the administrator in said case CA-G. R. No. 9490-R. This notwithstanding, the court of first instance ordered on July 18, 1958, the writ of execution issued On August 8, 1958, petitioner filed a motion to quash the same. She, likewise, attached to the motion the affidavit of, among others, five (5) of the ten (10) persons who had executed said Exhibit 1, stating that they had agreed to drop the case against the petitioner and that the administrator had, in turn, agreed to withdraw the appeal in CA-G. R. No. 9490-R. The administrator objected to the motion to quash, alleging that although the heirs of the deceased had met several times with a view settling their differences, and in one of their meetings Exhibit 1 was executed "for the purpose of showing the willingness of everyone to settle" said differences, "no definite settlement had been reached between the parties". It would appear, also, that the administrator had submitted a counter-affidavit of three (3) of the heirs who had signed Exhibit I. On September 6, 1958, the lower court issued an order denying said motion to quash, upon the ground that its duty to issue the writ of execution is ministerial, once the judgment of the Court of Appeals had become final and executory.

Petitioner appealed to the Court of Appeals in which the case was docketed as CA-G. B. No. 24269-B. In due course, said appellate court rendered its decision therein, on August 3, 1960, affirming the orders appealed from, with costs against petitioner. Hence this appeal by certiorari taken by the latter.

Exhibit 1, upon which she relies reads as follows:

"Agreement of withdrawal of appeal in the case entitled 'Marcial Banzuela vs. Cleotilde Lat' pending before the Court of Appeals.

WHEREAS, In the municipality of Tanauan, Batangas, the undersigned heirs of the deceased Mariano M. Lat

and Fernanda Tapia, have assembled in the house of Dr. Melchor L. Opuleneia to thresh out several causes of family dissension;

WHEREAS, the undersigned heirs have agreed among others to withdraw the appeal of the case involving the recovery of a sum of money, filed by the Administrator of the Intestate against one of the heirs, Cleotilde Lat;

WHEREAS, his case has long been tried and decided in the Court of First Instance of Batangas, and is now pending in the Court of Appeals since May 3, 1952;

Now, Therefore, in view of having entered into an amicable settlement to foster and strengthen family unity and solidarity, We, the undersigned hereby agree to withdraw the pending appeal in the Court of Appeals of the above-mentioned ease, and in witness whereof, we hereby affix our signatures this 29th day of September, 1957, in the municipality of Tanauan, Batangas

(Sgd.) ADELAIDA LAT (Sgd.) AMANDA L. CASTILLO

ADELAIDA LAT

AMANDA L. CASTILLO

(Sgd.) LEONOE LAT (Sgd.) MARIA LAT

LEONOR LAT

MARIA LAT

(Sgd.) CLEOTILDE LAT (Sgd.) VICENTA LAT

CLEOTILDE LAT

VICENTA LAT

(Sgd.) ENRIQUE LAT (Sgd.) LYDIA CONSUL

ENRIQUE LAT

LYDIA CONSUL

(Sgd.) PILAR CONSUL (Sgd.) MILAGROSCONSUL

PILAR CONSUL

MILAGROS CONSUL"

Petitioner maintains that the Court of Appeals has erred in sanctioning the execution of its decision in CA-G. R. No. 9490-R, because the agreement contained in Exhibit I is a "virtual renunciation of any interest or participation which the heirs (of Mariano M. Lat) may have in the * * * sum of P7,400" involved in CA-G. R. No. 9490-R, and, as a consequence, the decision therein rendered had become "moot, academic and unenforceable" ; because the administrator had made a "verbal commitment with the heirs of the deceased that he would file in the Court of Appeals the motion for withdrawal of the appeal in CA-G. R. No. 9490-R, based upon" said Exhibit 1; and because, although he is not a party to Exhibit I, the same is, in effect, a compromise agreement between the heirs of the deceased on the one hand and said administrator on the other hand.

We find no merit in petitioner's pretense. Regardless of whether or not the agreement, Exhibit I, amounts to a renunciation by the heirs of the deceased of their respective shares in the amount of the Judgment rendered in CA-G. R. No. 9490-R, the Court of Appeals did not err in legalizing the execution thereof. Mid decision having been rendered in favor, not of said heirs, but of the administrator of the estate of Mariano H. Lat, who, admittedly, is not a party to said agreement. What is more, as such administrator, he could not have validly renounced his rights under said decision without the approval of the probate court, as from the fact that the heirs who signed Exhibit I were not parties in said case, and, hence, had no authority to settle the same. It is, therefore, unnecessary for us to determine whether or not the administrator had verbally promised to move for the withdrawal of the appeal in CA-G. R. No. 9490-R, as contended by petitioner, for even if he had actually made said promise, the same would not bind the estate of the deceased. In this connection, it may not be amiss to note the following passage of the decision appealed from:

"Without merit is appellant's contention that inasmuch as Mariano M. Lat's heirs, the signers of exhibit 1, became the owners of the amount of P7,400.00 upon Mariano's death, with a perfect right to renounce their participation in the same amount, their right should be respected by appellee, who is merely their alter ego. While it is true according to article 777 of the new Civil Code." (657 of the old), that the right of succession is transmitted from the moment of the death of the decedent, the participation of Mariano M. 3UV's heirs in the amount of P7,400.00 is purely prospective and contingent depending upon the results of the liquidation of his estate. The heirs may or may not receive any portion of the said sum, depending upon the demands of the administration expenses; And appellee as administrator is not a mere alter ego of the heirs, but is an officer of the probate court entrusted with the management and settlement of the estate until, with the court's approval, he has distributed and delivered to the heirs their respective shares of the inheritance; which distribution and delivery should be made only 'after, not before, the payment of all debts, funeral charges, expenses of administration, allowance to the widow, and inheritance tax is effected (Capistrano vs. Nadurata, 46 Phil 726; Lopez vs. Lopez, 68 Phil, 228; Jimogaon vs. Belmonte, 84 Phil., 54; 47 Off. Gaz. 1119), and after, not before, the declaration of the heirs had been made (Castillo to Bolafios, 62 Phil 641). -Before the completion of the liquidation of Mariano M. Lat's estate, his heirs have no right to interfere in its administration toy appellee."

Indeed, the records before us do not show the status of the proceedings for the settlement of the estate of Mariano H. Lat. It would seem that the net assets available for distribution among the heirs of the deceased have not as yet been determined. Without prejudice, therefore, to the right of petitioner herein, if any to claim at the proper time, the corresponding reimbursement from her co-heirs, based upon the waiver they have allegedly made by virtue of Exhibit I, on which we need not and do not express any opinion, we find that the Court of Appeals did not commit the error complained of.

Wherefore, the decision of said Court is hereby affirmed, with costs against petitioner Cleotide Lat. It is so ordered.

Padilla, Bautista Angelo, Reyes, J. B. L., Barrera, and Paredes, JJ., concur.

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