

**TESTATE ESTATE OF THE LATE AGRIPINA J. VALDEZ, MARINA
DIZON-RIVERA, EXECUTRIX-APPELLEE, VS. ESTELA DIZON, TOMAS
V. DIZON, JOSEFINA DIZON, ANGELINA DIZON AND LILIA DIZON,
OPPOSIT...**

G.R. No. L-28493. September 27, 1968

Ponente: DIZON, J.

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DIZON, J.:

Matter before the Court is a motion filed by oppositors-appellants under date of August 21, 1968 praying that we reconsider and set aside our resolution of August 9 of the same year denying their previous motion for reconsideration.

It appears that on July 8, 1968, resolving a motion for a 7th extension of ten days from June 29 to file appellants' brief, We issued a resolution granting the same but "with warning that no further extension will be given". This last extension, therefore, expired on July 8, 1968.

On July 15, 1968 appellants filed another motion (the 8th) for another extension of five days from the expiration of the previous extension within which to file their brief. It is obvious that this motion for extension was filed seven days after the expiration of the previous extension granted with the warning mentioned above.

By resolution of July 19, 1968, We required appellants to show cause within ten days from notice why their appeal should not be dismissed. The explanation was filed on July 30 of the same year.

It turned out, however, that on July 29, 1968 We denied the last motion for an extension of five days filed by appellants and, as a result, We also dismissed their appeal. As a result, appellants filed on August 5, 1968 a motion for reconsideration praying that our resolution dismissing their appeal be set aside because it was issued before We received the explanation they had filed pursuant to our resolution of July 19, 1968, and alleging further that, had we taken into account the explanation aforesaid, our resolution would probably have been different. After considering the allegations of the motion as well as the explanation already referred to, We denied the former by our resolution of August 9, 1968 which, as stated heretofore, is now the subject of appellants' pending motion for reconsideration.

After considering all the circumstances of the case, particularly the fact that the motion for an extension of five days filed by appellants on July 15, 1968 was in violation of the warning contained in our resolution of July 8 of the same year and was filed seven days late, and considering further that, at any rate, the dismissed appeal is not meritorious because the P12,000 fees awarded to the executrix would seem to be reasonable considering that the value of the estate administered by her "was appraised at P1,809,569.77" (record on appeal, p. 36) and the aforesaid fees were fixed by the lower court after taking into consideration not only the aforesaid value of the estate but also "the services rendered by her" (Executrix), We hereby resolve to deny the pending motion for reconsideration.

Conception, C.J., Reyes, J.B.L., Makalintal, Sanchez, Ruiz Castro, Angeles and Fernando, JJ., concur.

Zaldivar, J., took no part.

Appeal dismissed.

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