

**IN THE MATTER OF THE TESTATE ESTATE OF MARGARITA DAVID.
CARLOS MORAN SISON, JUDICIAL ADMINISTRATOR, PETITIONER
AND APPELLEE. NATIVIDAD SIDEKO, ET AL., CLAIMANTS AND
APPELLEES, V...**

G.R. No. L-6704. March 26, 1956

Ponente: ENDENCIA, J.

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ENDENCIA, J.:

On December 21, 1951, this Court rendered a decision in G. R. No. L-3846 ordering the Testate Estate of Margarita David to pay the claim of the Testate Estate of Crispulo Sideco in the sum of P17,010.43, with legal interest at the rate of 6 per cent per annum from March 11, 1945, until the same is fully paid. To facilitate the payment of this claim, Priscilla F. Sison, an heiress of the estate, delivered to its administrator the amount of P12,128.44 to cover the payment of her one half share in the Sideco claim. The other heiress, herein appellant Narcisa F. Teodoro, was unwilling to do the same, contending that the Estate has real properties which could be sold and with its proceeds pay the Sideco claim hence, on January 23, 1952, the administrator filed a petition with the lower court to compel Narcisa F. Teodoro to deliver to him her share in the payment of the afore-mentioned Sideco claim. While this motion was pending hearing because of the opposition thereto filed by appellant, on March 5, 1952, the Co-Administratrix of the Estate of Crispulo Sideco filed a petition in the Court of First Instance of Manila to secure an order directing the Administrator of the Testate Estate of Margarita David to , pay the aforementioned claim of P 17,010.43 plus the legal interest accrued thereon. Both the petition of the Administrator of the Testate Estate of Margarita David and that of the Administratrix of the Sideco Testate Estate were heard and, on April 5, 1952, the lower court entered an order, the pertinent portion of which reads as follows:

"With respect to the petition of the Administrator filed on January 23, 1952, it appears that -in the decision of the Court of Appeals in CA-G. B. No. 3921-R, promulgated on June 30, 1950, the amount of P272,000 was held to be residuary cash within this testate proceeding and that 'the same was equally divided between the two heiresses herein, Narcisa de la Fuente and Priscilla de la Fuente.

"In the light of all the foregoing, this Court hereby directs the heiresses Narcisa de la Fuente and Priscilla de la Fuente to deposit with the Philippine National Bank, in the name of the Estate of Crispulo Sideco, the amount of P17,010.43, with legal interest thereon at the rate of 6 per cent per annum from March 11, 1945 until fully paid, which amount and interest shall be paid by said heiresses, share and share alike, out of the residuary cash belonging to this estate which has been equally divided between them, submitting proof of such deposit within ten (10) days from receipt of this order.

"No withdrawal shall be made from said deposit without previous judicial authority and the same shall be subject to the further orders in Special Proceeding No. E-121 of this Court."

On May 22, 1952, heiress Narcisa F. de Teodoro filed a motion for reconsideration of the aforequoted order on the ground that (1) it is against section 1 of Rule 89, Rules of Court; (2) that thereunder the executor of the testate

estate, and not the heiresses, should be ordered to pay the claim of Sideco (3) that although the sum of P272,000 was held by the lower court and, on appeal, by the Court of Appeals to be residuary cash "within this estate, the same was divided and has been in the possession of the universal heiresses since 1941 and therefore, not liable to pay any claim against the estate so long as there are sufficient assets in the hands of the Judicial Administrator to pay them; and (4) that it would be more beneficial to the heiresses that the real properties in the hands of the Judicial Administrator be sold by him and out of its proceeds the Sideco claim be paid, because such sale would hasten the early termination of these testate proceedings. Acting on this motion, on February 5, 1953, the lower court entered the following orders:

"In the order of April 23, 1952, the heiresses Nareisa de la Fuente and Priscila de la Fuente were directed to deposit with the Philippine National Bank, in the name of the Estate of Crispulo Sideco, the amount of P17,010.43, with, interest thereon at the rate of 6 per cent per annum from March 11, 1945, until fully paid, representing the approved claim of said estate against this estate, which amount and interest shall be paid by said heiresses, share and share alike, out of the residuary cash belonging to this estate which has been equally divided between them.

"Complying with the said order, the heiress Priscilla de la fuente deposited with the Philippine National Bank on May 8, 1952, the amount of P12,128.44 as her share in the payment of the Sideco claim in accordance with the said order of April 23, 1952. However, the heiress Narciaa de la Fuente filed a motion seeking the reconsideration of the said order on the ground that the estate has sufficient real properties which could be sold to pay the Sideco claim, invoking the provisions of section 1 of Rule 89 of the Rules of Court. Said section 1 of Rule 89 reads follows:

'SECTION 1. Debts paid in full if estate sufficient.—If, after hearing all the money claims against the estate, and of ascertaining the amount, of such claims, it appears that there sufficient assets to pay the debts, the executor or administrator shall pay the same within the time limited:for the purpose.'

"As stated in the order of April 23, 1952, the amount of P272,000 was held to be residuary cash, within the test proceeding in the decision of the Court of Appeals in C.A.-G. No. 8921-R, promulgated on June 30, 1950. The said residuary cash, therefore, is an asset of this estate which should be applied to the payment of the debts mentioned in section 1 of Rule 89.

"Wherefore, the heiress Narcisa de la Puente is hereby directed to deposit with this Court within ten (10) days from receipt of this order one half of the amount of P17,010.43 together with the interest on the said half at the rate of 6 per cent per annum from March 11, 1945, until such deposit shall have been made."

Hence this appeal.

Appellant's main contention may be reduced to the following propositions: (1) that in deciding the claim in favor of the Testate Estate of Crispulo Sideco the lower court as well as the Court of Appeals and this Court had ordered the Judicial Administrator of this Estate, and not the heiresses thereof, to pay said claim; (2) that said decision was final and executory and, therefore, cannot be amended by the lower court as it was being done in the disputed order; (3) that in order to pay said claim, the real properties in the hands of the administrator should be sold and out of its proceeds pay the Sideco claim; (4) that the residuary cash in the hands of the heiresses, although part of the estate, never reached the hands of the Judicial Administrator in due course and, therefore, it cannot be used for the payment of the Sideco claim.

After a careful consideration, we find these contentions to be untenable. We agree with the view of the lower court that the residuary funds in the hands of the heiresses of this estate should be applied to the payment of the Sideco claim, for it is more advantageous to use that fund to pay the claim in question than selling the real properties of the estate for that purpose. Besides, section 3 of Rule 89 of the Rules of Court provides:

"The personal estate of the deceased shall be first chargeable with the payment of debts and expenses; and if the personal estate is not sufficient for that purpose, or its sale would redound to the detriment of the participants in the estate, the whole of the real estate, or so much thereof as is necessary, may be sold, mortgaged, or otherwise encumbered for that purpose by the executor or administrator, after obtaining the authority of the court therefor."

And according to section 6 of Rule 89, the Court has authority to fix the contributive shares of the devisees, legatees or heirs, for the payment of a claim if they have entered into possession of portions of the estate before the debts and expenses thereof have been settled and paid. Appellant argues, however, that section 3 of Rule 89, Rules of Court, is not applicable to the instant case on the ground that it refers to the personal and real properties of the deceased which are in the hands of the administrator, and not to the properties of the estate which are already in the hands of the heiresses. This contention is likewise untenable. The residuary funds in the hands of the appellant are funds of the estate and the Court has jurisdiction over them and, therefore, it could compel the appellant to deliver to the administrator of this estate the necessary portion of such fund for the payment of the Sideco claim.

Wherefore, finding no errors in the order appealed from, the same are hereby affirmed, with costs against the appellant.

Parás, C. J., Bengzon, Padilla, Reyes, A., Bautista, Angelo, Labrador, Concepcion, and Reyes, J. B. L., JJ., concur.

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