

INTESTATE ESTATE OF THE LATE HOWARD J. EDMANDS.

G.R. No. L-2670. September 29, 1950

Ponente: TUASON, J.

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TUASON, J.:

The questions for decision on this appeal are, when is an order of distribution in a probate proceeding deemed effective within the meaning of Section 2 of Rule 87 of the Rules of Court? And has the Court of First Instance discretion to admit claims against a decedent's estate after such order has been entered?

Section 2 of Rule 87 reads:

"Sec. 2. Time within which claims shall be filed.—In the notice provided in the preceding section, the court shall state the time for the filing of claims against the estate, which shall not be more than twelve nor less than six months after the date of the first publication of the notice. However, at any time before an order of distribution is entered, on application of a creditor who has failed to file his claim within the time previously limited, the court may, for cause shown and on such terms as are equitable, allow such claim to be filed within a time not exceeding one month."

It appears that Howard J. Edmands having died in Baguio, testate proceedings were instituted in the Court of First Instance of that City for the administration and settlement of his estate.

On February 12, 1947, a notice to creditors was ordered published, requiring such creditors to file their claims within six months from the date of first publication of the notice. The notice was published once a week for three consecutive weeks, beginning February 12, 1947, in the Manila Post, a daily newspaper said to be of general circulation in the Philippines, in Mountain Province and in the City of Baguio» Other legal requirements in connection with the publication of the notice were complied with; at least such compliance is not denied.

The period of six months having expired on August 22, 1947, and no claims having been filed, the ancillary administrator, on September 29, 1947 filed his final inventory and project of partition which gave the sum. of P17,100 as the value of the estate, and listed the liabilities which consisted of expenses advanced by the petitioner and the attorneys, estate and income taxes, and attorneys' fees, totalling P4,613.54.

On November 14, 1947, the court made an order authorizing the ancillary administrator to pay the above liabilities and, after such payment, to make and file his final report of accounts and to deliver to Jane E. Edmands, the decedent's widow, the residue of the conjugal estate, which, it turned out, was U.S. \$6,428.28.

After these disbursements there remained only other income taxes due, the amount of which was pending determination by the Collector of Internal Revenue. The estimated amount of these taxes was P2,052 and this amount in cash was set aside for the above purpose.

On December 22, the ancillary administrator filed a petition to close the estate.

On August 12, 1948, the Philippine Trust Company, through counsel, filed a motion to allow presentation of claim accompanied by a copy of the claim, which was to be for the sum of P200. Counsel explained that the

Philippine Trust Company had just come to know of Edmands' death, and said that they had sent on July 21, 1948, to the clerk of court a letter of inquiry regarding the status of the testate proceedings.

It will be seen from Section 2 of Rule 87 that there is a time limit for the exercise by the court of discretion to allow claims presented beyond the period previously fixed. The time is one month from the expiration of such period but in no case beyond the date of entry of the order.

It is manifest from these facts that the court below properly declared the appellant's claim barred. There is no merit to the argument that, since not all the debts had been paid, distribution of the assets was premature. Distribution is permitted even though there are outstanding obligations if sufficient bond is filed or provision made to meet them. Thus the last paragraph of Section 1 of Rule 91 provides that "No distribution shall be allowed until the payment of the obligations above mentioned has been made or provided for, unless the distributees, or any of them, give a bond, in a sum to be fixed by the court, conditioned for the payment of said obligations within such time as the court directs." In this case the distributees deposited in court P2,052 in lawful currency to answer for the still pending liability of the estate to the Government for taxes. This deposit conformed to or at least was in substantial compliance with the provision of the Rule just quoted.

The appealed order is affirmed with costs.

Moran, C.J., Ozaeta, Paras, Pablo, Bengzon, and Montemayor, Reyes, JJ., concur.

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