

FELICISIMO GATMAITAN, ADMINISTRATOR, PLAINTIFF AND APPELLANT, VS. GORGONIO D. MEDINA, CO-ADMINISTRATOR, DEFENDANT AND APPELLEE.

G.R. No. L-14400. August 05, 1960

Ponente: REYES, J.B.L., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/2eefa017fd6c/>

REYES, J.B.L., J.:

Appeal from the order dated April 5, 1957, of the Court of First Instance of Nueva Ecija in Special Proceedings No. 972, which reads as follows:

"This is a motion for partial partition and distribution. The parties having agreed that only the heirs Dominica Medina. and Gorgonio Medina be given an advance payment of P1,000.00 from the cash deposit, and they, as well as the other heirs twenty-five cavans of palay each for their subsistence, to be included in the final distribution of the residue of the estate, the administrator is hereby ordered to advance to Dominica Medina and Gorgonio Medina the amount of P1,000.00, each, from the cash deposit of the estate, and twenty-five cavans each to all the five heirs for their subsistence, pending the liquidation of the said estate, provided that the same shall be collated in the final distribution of shares among the heirs";

and from the order of April 29, 1957, denying for lack of merit appellant's motion for reconsideration.

The records disclose that the following proceedings were had in the lower court:

On March 10, 1956, Felicisimo Gatmaitan filed a petition, seeking his appointment as administrator of the property of his wife, Veronica Medina, who died intestate. On April 2, 1956, Gorgonio Medina and Dominica Medina, as heirs of the deceased (she being their full-blood sister), filed an opposition, praying that Gorgonio Medina, or a neutral third party, or Felicisimo Gatmaitan and Gorgonio Medina, jointly, be appointed as administrator or administrators of the estate. In an order dated July 18, 1956, the court appointed Felicisimo Gatmaitan as administrator of the estate with a bond in the amount of P2,000.00 and Gorgonio Medina as co-administrator without compensation and bond.

On March 14, 1957, administrator Gatmaitan filed an amended inventory of the estate left by the deceased consisting of an undivided half of the conjugal partnership properties and amounting all in all to P31,336.60. An opposition to the admission of said inventory was registered by the oppositors on the ground that the same did not represent the true and faithful list of the properties left by the deceased, and, particularly, that a parcel of twenty-two (22) hectares of land, more or less, was left but. In view of the opposition, the hearing and consideration of the amended inventory was, in an order dated April 29, 1957, postponed until further assignment.

On April 2, 1957, the heirs of the deceased, through counsel, filed a "Motion for Partial Partition and Distribution", stating that the estate had no debts and the heirs were all of legal age; that some of them were necessitous and in need of cash; and praying that the share corresponding to each of the heirs in the palay produce for the agricultural year 1956-1957, as well as the cash deposit in the different banks, be ordered partially distributed among the heirs pending the final distribution of the estate. The court heard counsel for administrator

Gatmaitan and for the heirs or oppositors, but without receiving any evidence whatsoever, promulgated on April 5, 1957 the order subject-matter of the instant appeal. On April 26, 1957, the administrator, Gatmaitan, filed a motion for reconsideration, calling attention to the fact that, contrary to what the order states, "he has not agreed to the partial distribution of the estate in the manner contained in the order", and urging that "the sums ordered to be partially distributed are not warranted by the circumstances obtaining" in the case and that, moreover, "the manner of distribution will work difficulties to the estate and to the heirs themselves". As previously indicated, this motion was denied by Judge Agustin P. Montesa for lack of merit.

Gatmaitan filed notice of appeal from the foregoing orders. On May 17, 1957, appellant filed the record on appeal and notified counsel for the oppositors of the date he would move for the approval thereof by the court. The order of Judge Felix Makasiar, dated July 15, 1957, approving the record on appeal presented by appellant, states that counsel for the oppositors had failed to file written opposition thereto as required in the order of the court dated June 12, 1957, notwithstanding the length of time that had already elapsed. In his brief, appellant only made one assignment of error, and it reads thus:

"The lower court gravely abused its discretion in directing a partial distribution of the intestate estate of the deceased Veronica Medina in favor of appellees, under its order of April 5, 1957, without requiring the distributees to file the proper bonds pursuant to the provisions of Rule 91, Section 1 of the Revised Rules of Court."

This appeal was originally taken to the Court of Appeals, but, since there is no serious issue of fact involved in the case, the same was certified to us pursuant to the appellate court's resolution of August 28, 1958.

The lower court, we believe, erred in rendering the order appealed from. A partial distribution[1] of the decedent's estate pending the final termination of the testate or intestate proceedings should as much as possible be discouraged by the courts and, unless in extreme cases, such form of advances of inheritance should not be countenanced. The reason for this strict rule is obvious—courts should guard with utmost zeal and jealousy the estate of the decedent to the end that the creditors thereof be adequately protected and all the rightful heirs assured of their shares in the inheritance.

Why the appealed order is unwarranted is evident on three counts. Firstly, to our mind, the partial distribution was prematurely ordered by the lower court. It appears that at the time the questioned order was rendered, the amended inventory and appraisal filed by the administrator-appellant was not yet even accepted, and it was still under consideration by the court, in view of an opposition to the admission thereof by some of the heirs. Moreover, it seems that notices for the presentation of claims by possible creditors of the estate had not yet been published, so that the period for the presentation of claims had not as yet elapsed. Consequently, it cannot be safely said that the court had a sufficient basis upon which to order a partial distribution of the properties, having in mind the adverse effects that it might have on the rights of the creditors and the heirs alike.[2] As pointed out by the appellant, there are indications that the fruits and cash amounts ordered to be partially distributed would be in excess of the distributees' full inheritance from the estate. The inventory, as filed, showed a total sum of P31,336.60 that actually represents the conjugal partnership assets, half of which belongs to the surviving spouse. Said inventory does not embody any deductions for such expenses as funeral charges, inheritance taxes, expenses for administration or an estimate of probable debts of the estate. It is worthwhile to state in this connection that besides the appellant, as the surviving spouse of the decedent, there are about eight others, all claiming to be lawful heirs and seeking respective shares in the estate, five of whom are alleged full-blood brothers and sisters and three half-blood brothers[3] of the deceased Medina. It should be noted that the appellees, being brothers and sisters of the deceased, are not entitled to allowances for support, such as the court is authorized to provide, under Section 3 of Rule 84 of the Rules of Court, for the widow and the children[4] of the deceased during the

settlement of estate proceedings, to be deducted from the respective shares of the participants.

Second, and more important, no bond was fixed by the court as a condition precedent to the partial distribution ordered by it, a bond which, because of the reasons already adduced, becomes all the more imperative.

Rule 91, Section 1 of the Rules of Court, specifically provides as follows:

"When the debts, funeral charges, and expenses of administration, the allowances to the widow, and inheritance tax, if any, chargeable to the estate in accordance with law, have been paid, the court, on the application of the executor or administrator, or of a person interested in the estate, and after hearing upon notice, shall assign the residue of the estate to the persons entitled to the same, naming them and the proportions, or parts, to which each is entitled, and such persons may demand and recover their respective shares from the executor or administrator, or any other person having the same in his possession. * * *

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." (Italics supplied)

Appellees contend that the order of partial distribution having been issued pursuant to an agreement of the parties, the same could not now be assailed by the appellant. While the wording of the appealed order seem to indicate that it was rendered with the conformity of the heirs, there is reason to believe that it was just a mistaken impression on the part of the court. Soon after the order was rendered, the administrator-appellant filed a motion for reconsideration, among other things, calling the attention of the court that he never agreed to the partial distribution of the estate in the manner ordained in the appealed order. Although said motion was denied for lack of merit, the court did not deny categorically appellant's imputation, which could have easily been averred to by it; nor did the appellees at any time prior to this appeal controvert the aforesaid allegation of the administrator. There is plausibility in appellant's statement that the agreement referred to in the order was actually one between the appellees among themselves.

It should be noted, furthermore, that the bond required by the Rules is not solely for the protection of the heirs appearing, but also for the benefit of creditors and subsequent claimants who have not agreed to the advances.

As to the argument that the order in question is merely interlocutory and therefore not appealable, we find that the objection was not seasonably interposed by the appellees. In *Salazar vs. Salazar*, G. R. No. L-5823, April 29, 1953, it was held, and we quote:

"The motion to dismiss filed by appellee during the pendency of this appeal on the ground that the order appealed from is not appealable because it is merely interlocutory, cannot be entertained. While an order denying or granting alimony pendente lite is interlocutory and consequently non-appealable * * *, however, if appeal is taken therefrom, and no timely objection is interposed thereto, the objection is deemed waived. Thus, when the objection is founded on the ground that the judgment appealed from is interlocutory, but the appellee, before making such objection, has allowed the record on appeal to be approved and printed, and has allowed the appellant to print his brief, such objection is too late and is deemed waived (*Slade-Perkins vs. Perkins*, 57 Phil., 223, 225; *Luengo & Martinez vs. Herrero*, 17 Phil., 29; *Moran*, Comments on the Rules of Court, Vol. 1, 1952 ed., p. 987)."

Lastly, appellees urge that this appeal was prematurely taken in that appellant has not as yet formally objected to the proffered bond as mentioned in an alleged order of the court, dated May 16, 1957, which appellees have quoted in their brief, as follows:

"Atty. Cesar Francisco, counsel for the administrator, is hereby given one week from today within which to file

his manifestation as to whether the administrator is willing to withdraw his appeal from the order dated April 5, 1957, provided Atty. V. M. Ruiz files a bond in the amount of P2,000.00 and the value of 25 cavanes of palay granted to each of the, two heirs Dominica Medina and Gorgonio Medina in the aforesaid order of the Court to guarantee the refund of the said amount and the value of the palay should the same be found, to be in excess of what is due to the said two heirs upon the final distribution of the estates";

and upon which, they (appellees) filed the following manifestation dated May 23, 1957:

"Considering that up to the present, the Court has not as yet ruled upon counsel's opposition or objection to the administrator's appeal, nor have the administrator or that of his counsel rejected the heir's offer of a bond to answer for whatever excess they might receive as advance inheritance, the undersigned counsel for the heirs above-named respectfully prays the Court, to hold in abeyance whatever action it shall take towards the approval or non-approval of the Record on Appeal, until such time as it shall have ruled upon their opposition or until the administrator shall have rejected formally the offer of a bond aforesaid. Counsel shall then in time file his corresponding opposition to the Record on Appeal."

The tenor of the order of May 16, 1957, as well as the fact that neither said order nor the "constancia" of appellees are included in the Record on Appeal, indicates that the belated offer to file a bond amounted to no more than an attempt of appellees to settle the particular issue between the parties that was rejected by the appellant. That the record on appeal was approved much later, on July 15, 1957, and yet without the written opposition * * * required in the order of this Court dated June 12, 1957, notwithstanding the length of time that has already elapsed (R. A. p. 23), and the absence of proof that the bond offered was ever filed and approved by the Court, fortify that conclusion. Anyway, since the purpose of the bond required by Section 1, paragraph 2, of Rule 91 is to protect not only the appellant but also the creditors and subsequent claimants to the estate, in order that they may not be prejudiced by the partial distribution, the amount of the bond could not be fixed without hearing such interested parties, and there is no showing that they were consulted. Hence, the bond offered could not affect the merits of this appeal, although the Court below is not precluded from approving a new bond.

Wherefore, the order of partial distribution appealed from is hereby set aside, without prejudice to the issue of another order after strict compliance with the Rules of Court. The records are ordered remanded to the lower court for further proceedings. Costs against appellees.

Paras, C.J., Bengzon, Padilla, Bautista Angelo, Labrador, Concepcion, Barrera, and Gutierrez David, JJ., concur.

[1] Should not be confused with an order for alimony pendente lite. [2] See *Escuin vs. Escuin*, 11 Phil. 332.

[3] These last mentioned heirs were not included in the order of partial distribution.

[4] The enumeration has been held to be exclusive (see *Babao vs. Villavicencio*, 44 Phil., 921).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.