

**IN THE MATTER OF THE INTESTATE ESTATE OF THOMAS FALLON
AND ANNE FALLON MURPHY, DECEASED. IGNATIUS HENRY BEZORE,
ET AL., PETITIONERS, MARTINIANO O. DE LA CRUZ,
ADMINISTRATOR AND ...**

G.R. No. L-21034. April 30, 1966

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

The estate of Thomas Fallon and Anne Fallon Murphy[1] was owner of two-fourths (2/4) share pro-indiviso of Hacienda Rosario in Negros Occidental. That whole hacienda was held in lease by Emilio Camon since long before the present intestate proceedings were commenced.

On October 23, 1962 the administrator of the estate moved the court for an order to direct Emilio Camon to pay the estate's two-fourths share of the rentals on Hacienda Rosario for the crop years 1943-1949 through 1960-1961, viz: on the sugar land, P62,065.00; and on the rice land, P2,100.00. On December 3, 1962, Emilio Camon challenged the probate court's jurisdiction over his person. The court ruled that the demand for rentals cannot be made "by mere motion by the administrator but by independent action". The administrator appealed.

The jurisdiction of the Court of First Instance of Negros Occidental over the subject matter herein is beyond debate. The organic act creating courts of first instance, amongst others, allocates within its jurisdictional boundaries "all cases in which the demand, exclusive of interest, or value of property in controversy, amounts to more than ten thousand pesos." [2] But here, the court sits as a probate court. Said court is primarily concerned with the administration, liquidation and distribution of the estate. For these purposes, property in the hands of the estate's administrator comes within the power of the probate court.

With the foregoing as parting point, let us look at the administrator's claim for rentals allegedly due. The amount demanded is not, by any means, liquidated. Conceivably, the lessee may interpose defenses. Compromise, payment, statute of limitations, lack of cause of action and the like, may be urged to defeat the administrator's case. Here, appellee's opposition to the motion served a warning that at the proper time he will set up the defense that the administrator, as attorney-in-fact of the declared heirs, had theretofore sold the estate's two-fourths share in Hacienda Rosario together with "all the rights, title and interest (including all accrued rents) that said heirs had inherited from the said deceased." Appellant administrator in his reply to the opposition admits the fact of sale of the land, but not of the rentals due. Accordingly, the right to collect the rentals is still in a fluid state. That right remains to be threshed out upon a full-dress trial on the merits. Because of all of these, the money (rentals) allegedly due is not property in the hands of the administrator; it is not thus within the effective control of the probate court. Neither does it come within the concept of money of the deceased "concealed, embezzled, or conveyed away", which would confer upon the court incidental prerogative to reach out its arm to get it back and, if necessary, to cite the possessor thereof in contempt. [3] At best that money is debt to the estate—not against the estate. Recovery thereof, we are persuaded to say, should be by separate suit commenced by the administrator. [4]

With reason, because of the absence of express statutory authorization to coerce the lessee debtor into defending himself in the probate court.[5] And, we are confronted with the unyielding refusal of appellee to submit his person to the jurisdiction of the probate court.

By no means may it be said that this is untrodden ground. *Paula vs. Escay, et al.*, teaches that: When the demand is in favor of the administrator and the party against whom it is enforced is a third party, not under the court's jurisdiction, the demand can not be by mere motion by the administrator, but by an independent action against the third person.[6] The line drawn in the *Escay* case gives us a correct perspective in the present. The demand is for money due allegedly for rentals. Camon is a third person. Hence, the administrator may not pull him against his will, by motion, into the administration proceedings. We are fortified in our view by the more recent pronouncement of this court[7] that even "matters affecting property under judicial administration" may not be taken cognizance of by the court in the course of intestate proceedings, if the "interests of third persons" are "prejudiced" (*Cunanan vs. Amparo*, 80 Phil. 229, 232)."

The appealed order is in accord with the law. It is hereby affirmed. Costs against appellant.

SO ORDERED.

Bautista Angelo, Concepcion, Reyes, J.B.L., Barrera, Dizon, Regala, Makalintal, Bengzon, J.P., and Zaldivar, JJ., concur.

[1] Special Proceedings No. 6056, Court of First Instance of Negros Occidental, started on February 16, 1961.

[2] Section 44 (c), The Judiciary Act of 1948, as amended.

[3] Section 6, Rule 87, Rules of Court.

[4] Section 2, Rule 87, Rules of Court, reads: SEC. 2. Executor or administrator may bring or defend action which survive.—For the recovery or protection of the property or rights of the deceased, an executor or administrator may bring or defend, in the right of the deceased, actions for causes which survive."

[5] Cf. 33 C.J.S., p. 1143, citing *in re Sheley's Estate*, 298 p. 942, expresses the view that—"In the absence of statutory authorization, the probate court cannot adjudicate the existence of any indebtedness owed to the estate by a distributee beyond the amount of the distributee's share in the estate."

[6] 97 Phil. 617, 620; italics supplied. To the same effect: *Tagle, etc., et al., vs. Manalo, et al.*, 56 Off. Gaz. No. 46 pp. 7049, 7053 where this Court said: "x x x the remedy being sought by the executor, that is, the declaration of nullity of the deed of sale and the consequent cancellation of the certificate of title issued in favor of the vendee-petitioner Pastor Manalo cannot be obtained through a mere motion in the probate proceedings over the objection of a third party adversely affected and over whom the probate court had no jurisdiction."

[7] *Bernardo, etc., et al., vs. Honorable Court of Appeal, et al.*, 117 Phil. 385 Italics supplied, cited with approval in: *Alvarez, et al. vs. Espiritu*, 122 Phil. 229, where this Court declared: "It is only when the parties interested are all heirs and they agree to submit to the probate court the question as to title to property that the probate court may definitely pass judgment thereon".

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