

**INTESTATE ESTATE OF THE DECEASED JOSE B. SUNTAY, DECEASED.
TEOFILO SLSON, CLAIMANT AND APPELLANT, VS. FEDERICO C.
SUNTAY, RESPONDENT-ADMINISTRATOR AND APPELLEE.**

G. R. No. L-10000. December 28, 1957

Ponente: BENGZON, J.

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BENGZON, J.:

Appeal from an order of the Bulacan Court of First instance denying appellant's claim for additional professional fees.

"The matter before the Court said the judge, is the petition dated December 29, 19-54, filed by Atty. Teofilo Sison, asking for allowance and payment of his claim for attorney's fees in the amount of P400,000.00 for services rendered as counsel for respondent-administrator, Federico C. Suntay.

For a proper understanding of the claimant's claim, it is pertinent to recite the background of this case and the circumstances under "which Mr. Sison came to be engaged as counsel for the respondent-administrator. On May 14, 1934, Jose B. Suntay, a Filipino citizen, died in Amoy, Fokien, China, leaving properties in the Philippines and in China and children in the first marriage had with the deceased Manuela T. Cruz; namely, Apolonio, Concepcion, Angel, Manuel, Federico, Ana, Aurora, Emiliano and Jose, Jr., and a child named Silvino by the second marriage had with Maria Natividad Lim Billian, who survived the deceased Jose B. Suntay.

The present intestate estate proceeding was instituted and letters of administration issued to Apolonio Suntay and when the latter died, Federico C. Suntay was appointed administrator of the estate.

On October 15, 1934, the surviving widow filed in this Court a petition for the probate of a last will and testament claimed to have been executed and signed in the Philippines in November, 1929, by the late Jose R. Suntay. This petition was denied because of the loss of the said will and insufficiency of evidence to establish its loss. Appeal was taken to the Supreme Court from this order and the latter Court held that there was sufficient evidence to prove the loss of the will and the case was remanded, to this Court for further proceedings (63 Phil. 793). The petition for probate was subsequently dismissed by this Court because an attesting witness who was in China could not come to the Philippines. The war broke out.

After liberation, Silvino Suntay filed an alternative petition in this case on June 18, 1947 praying for the probate of the will which was allegedly executed by Jose B. Suntay in the Philippines in November, 1929, or of the will allegedly executed by said deceased in Amoy, Fokien, China on January 4, 1931. (Exhibit F, pp. 2-15) Administrator Federico C. Suntay filed a motion thru his lawyers, Attys. Roxas, Picazo and Mejia, asking for the dismissal of this petition of Silvino Suntay. Administrator Federico C. Suntay likewise filed thru his lawyers, Attys. Roxas, Picazo and Mejia, his opposition to Silvino Suntay's alternative petition for probate (Exhibit F, pp. 56-61).

The alternative petition for probate filed by Silvino Suntay was heard before this Court, the hearing commencing on October 13, 1947 and was terminated on March 9, 1948, or almost seven months from its

commencement, and in all the hearings, administrator Federico C. Suntay was represented by his lawyers, Attys. Roxas, Picazo and Mejia. After the hearing was terminated, the parties filed their respective memorandum. The memorandum for the respondent-administrator Federico C. Suntay (Exhibit 2) was filed by his lawyers, Attys. Roxas, Picazo and Mejia.

On April 19, 1948, Judge Peeson issued an order granting the petition of Silvino Suntay (Exhibit F, pp. 75-93). On May 20, 1948, respondent-administrator Federico C. Suntay filed thru his lawyers, Attys. Roxas, Picazo and Mejia, a motion for reconsideration and new trial asking: that the order of April 19, 1948, issued by Judge Pecson, be set aside and a new trial had (Exhibit F, pp. 148-222). Written opposition to this petition was filed by Atty. Claro M. Recto for Silvino Suntay.

While the respondent-administrator's motion for reconsideration and new trial was pending resolution, claimant Atty. Teofilo Sison was engaged as counsel by said respondent-administrator Federico C. Suntay in substitution of his former lawyers, Attys. Roxas, Picazo and Mejia without any contract as to the amount of his services, the agreement being that claimant would be given a reasonable compensation. Atty. Sison filed a reply to the opposition of Atty. Recto and appeared and argued orally at the hearing of the motion for reconsideration and new trial.

On September 29, 1948, Judge Pecson issued an order granting the motion for reconsideration filed on behalf of the respondent-administrator, reconsidering his order of April 19, 1948 and denying the alternative petition of Silvino Suntay (Exhibit F, pp. 275-294). Atty. Recto, counsel for Silvino Suntay, filed a motion for reconsideration of the second order of Judge Pecson and Atty. Sison filed a simple opposition to this motion. The motion for reconsideration of Mr. Recto was denied and appeal was taken to the Supreme Court from the order of Judge Pecson of September 29, 1948. The corresponding brief was filed with the Supreme Court by Atty. Sison on behalf of the respondent-administrator Federico C. Suntay. The Supreme Court finally rendered a decision dated July 31, 1954 affirming¹ the validity of the order of September 29, 1948. The motion for reconsideration of the decision having been denied, the decision became final. Claimant Teofilo Sison had also acted as counsel for the respondent-administrator in the motion filed by Mr. Recto, on behalf of Silvino Suntay, asking for the removal of respondent-administrator as administrator, and this motion was denied,

Mr. Sison had further rendered service as counsel for the respondent-administrator in the approval of the latter's accounting, in the motion to fix the fees of the administrator and in the motion asking that the administrator be authorized to mortgage this estate in the sum of P150,000.00 various times during the period that claimant was respondent-administrator's counsel, he secured from the latter sums amounting to P67,000.00 on account of his services.

After the termination of the case in the Supreme Court, claimant Mr. Sison made demands on respondent-administrator Federico C. Suntay for the payment of his professional fees in the sum of P400,000.00, but the latter refused to pay this amount alleging that the amount of P67,000.00 which claimant Mr. Sison had already received from the respondent-administrator as fees is sufficient compensation for claimant's services. In view of the refusal of respondent to respond for claimant services. In view of the refusal of respondent-administrator to pay the remaining claim of P333,000.00 as attorney's fees, Mr. Sison filed a petition in this case on December 29, 1954 asking for the annotation of the charging lien and for the allowance and payment of his attorney's fees of P400,000.00."

On the basis of the foregoing facts, and, of others to be mentioned, His Honor reached the conclusion that the professional services rendered were not chargeable to the estate * * * and that even if chargeable, the amount of P67,000.00 already received by claimant constituted sufficient compensation for his professional services. Consequently he denied the claim, as already stated.

In coming to the first conclusion the judge noted that the claimant's work in connection with the alleged will or wills did not redound to the protection or benefit of the estate of Suntay, because will or no will the estate

continued to be the same. There is something, however, to appellant's argument that the parties had previously agreed in the pretrial conference,

"That claimant Atty. Teofilo Sison was engaged as counsel for respondent-administrator in the latter's capacity as such judicial administrator of this intestate estate on the matters set forth in the motion of said claimant, under the circumstances alleged in said motion, * * *.

Anyway, and this is conclusive, if the will had been probated this intestate proceeding would have collapsed and the heirs of the first marriage, instead of sharing in the whole estate, would only divide one third of it among themselves. And although it is true that the rejection of the will was prejudicial to the two heirs who claimed under it, still that is a matter to be considered in apportioning the amount of the professional fees among such heirs—not a reason to deny compensation for services beneficial to the other nine intestate heirs.

Wherefore on this aspect of the litigation our view is that Atty. Sison rendered legal services for the benefit of the intestate proceedings, and pursuant to his understanding with the administrator should be paid reasonable compensation.

Courts are agreed that the fixing of such compensation is a difficult and delicate task.

Section 22 of Rule 127 provides that "an attorney shall be entitled to have and recover from his client no more than a reasonable compensation for his services, with a view to the importance of the subject matter of the controversy, the extent of the services rendered, and the professional standing" of the attorney." In amplification of such rule this Supreme Court "has held that the following are the circumstances to be considered in determining the compensation of an attorney: (a) the amount and character of the services rendered; (b) the labor, time, and trouble involved; (c) the nature and importance of the litigation or business in which the services were rendered; (d) the responsibility imposed; (e) the amount of money or the value of the property affected by the controversy, or involved in the employment; (f) the skill and experience called for in the performance of the services; (g) the professional character and social standing of the attorney; (h) the results secured; (i) and whether or not the fee is absolute or contingent, it being a recognized rule that an attorney may properly charge a much larger fee when it is to be contingent than when it is not.[1]

According to American Jurisprudence the determination of the attorney's reasonable compensation "depends largely upon the circumstances of the particular case," its importance and results, "the difficulties thereof, the degree of professional skill and ability required * * * the experience and professional standing of the attorney, * * * as well as the amount or value involved or recovered." (5 American Jurisprudence 380)

We agree with the trial judge that "the claim of the claimant is principally based on his services in connection with the reconsideration and setting aside of the order of Judge Pecson dated April 19, 1948 admitting to probate the last will and the recording of the Chinese will of the deceased Jose B. Suntay and for his services in connection with the appeal taken from the order of Judge Pecson dated September 29, 1948, reconsidering his Honor's order of April 19, 1948 and denying the alternative petition of Silvino Suntay."

We also agree that claimant "lays stress in having secured the reversal of the order of Judge Pecson dated April 19, 1948, because he alleges that if this order were not reversed, 2/8 of the estate of the deceased Jose B. Suntay would have gone to Silvino Suntay and the latter's mother, whereas, with the deceased being declared as having died intestate, the heirs participated equally in the distribution of this estate which would be 1/10 share for each one of the ten children."

But we cannot agree that the credit for such reversal should go to the former counsel of the administrator in as much as the resolution of Judge Pecson setting aside his previous resolution "is in the main and principally based

on the arguments embodied in the motion for reconsideration submitted by said former counsel." Appellant denies this; and his assertion is not entirely without foundation. Anyway it must be admitted that in order properly to improve, develop and sustain such arguments herein petitioner had to undertake the onerous work of wading through the voluminous record of the expediente. And speaking of the arguments, we note that there was oral debate of the motion to reconsider. No record exists of what transpired therein. Yet supposing the same points were touched, we must bear in mind that identical arguments acquire different meaning and impact according to the persuasive ability and personal prestige of the lawyer expounding them; and in this connection it should be noted that Teofilo Sison had been a successful practitioner before he became a Governor, a Senator, Secretary of the Interior and Justice of the Court of Appeals, not to mention other high positions he now held.[2]

We have no doubt that precisely because of those qualifications, the administrator sought his services to convince Judge Pecson "to reverse himself"—a task very difficult indeed, partly because judges render their verdicts only after mature deliberation, and partly because of the natural human reluctance to admit one's error.[3]

It may be added that such a task appeared to be doubly difficult by the opposition of the winning side, represented by the brilliant and successful lawyer Claro M. Recto, among whose many qualifications may be mentioned his having worthily occupied a seat in this Supreme Court.

The legal controversy and appellant's services continued on appeal, arguments were amplified and elaborated in the appellant's brief of 104 pages, and appellee's brief of 237 pages both referring to a Record on Appeal of 384 pages. Printed memoranda were later submitted.

The complexity and number of the issues is attested by the fact that we had to meet in not less than four sessions to arrive at a solution; with dissenting opinions at that.

Having had before us the expediente, we can say that the case for the administrator in opposition to the will had been competently handled by herein claimant. That he has been helped by an assistant in his office, cannot in any way reduce the compensation he is entitled to receive from his client; he has paid such assistant. He was not expected to do everything personally; he could employ his assistants to do research for him, under his supervision and responsibility. The general does not do the fighting; he directs and supervises. Yet nobody denies him credit for the victory won in battle.

It is generally held that in determining: what would be reasonable compensation for the attorney for an administrator or executor, the size and value of the decedent's estate should be taken into consideration.[4] But the services performed should be considered.[5]

The value of the properties involved in the estate, says appellant, is four million pesos (P4,000,000.00). Therefore, he concludes "at 10% my attorney's fee should be P400,000.00 from which P67,000.00 may be deducted; and that entitles me to demand, as I demand P833,000.00 additional fees." He introduced the testimony of Marcelo Balatbat, a real estate expert native of Hagonoy, Bulacan, whose itemized statement of his appraisal of the intestate assets reads as follows:

28 hectares of riceland in Hagonoy, Bulacan, at Hagonoy, Bulacan a hectare (t.s.n. pp. 37-64, April 16, 1955)

P84,000.00

11 hectares of Canaveral land in Hagonoy, Bulacan, at 2,000.00.00 per hectare (t.s.n. p. 56 April 16, 1965)

22,000.00

666 hectares of fishpond in Hagonoy, Bulacan, at P5,000.00 a hectare (t.s.n. pp. 34, 37, 41, 45, 54, April 16, 1955)

3,830,000.09

652.7 square meters of valuable commercial lands at Sto. Cristo, Manila which is a commercial district at P500.00 per square meter and improvements thereon appraised at P45,000.00 (t.s.n. pp. 35, 36 April 16, 1955)

371,000.00

567.4 square meters of commercial lands at Fundidor street, Binondo, Manila, at P100.00 per square meter and the improvements thereon appraised at P40,000.00 (t.s.n. p. 30, April 16, 1955)

97,710.00

Distillery site with an area of 4,260 square meters at Hagonoy, Bulacan, being a residential lot without squatters, was appraised at P1.50 per square meter (t.s.n. p. 38 April 16, 1955)

10,000.00

Rialto Theatre air conditioned recently at Hagxmoy, Bulacan, with a land area of 3,546 square meters near the church of Hagonoy, Bulacan (t.s.n. p. 38, April 16, 1955)

40,000.00

Big ricemill with a big concrete bodega with a land of 5,194 square meters appraised at (t.s.n. p. 38, April 16, 1955)

70,000.00

Cockpit of strong materials with a land of 1,222.8 square meters (t.s.n. p. 39, April 16, 1955).

5,000.00

TOTAL APPRAISED FAIR MARKET VALUE

P4,038,740.00

The biggest item in the above list is the fishponds. We will take it first. Balatbat testified that fishponds in Hagonoy are valued at P5,000.00 per hectare. He knew several persons willing to purchase at such rate. Appellant presented documents of sales of fishponds in Hagonoy and neighboring towns at prices ranging from P3,000.00 to P7,000.00 per hectare.

The trial judge however refused to be guided by these documents because there was no showing that "the buyers therein were not obliged to buy and the sellers were not obliged to sell." He obviously thought of the special rule on eminent domain proceedings. His was rather too strict a view. There is no taking of property here, and it is not desired to determine what must be paid for it.

What is needed is a mere approximate valuation of the estate's worth; and for such purpose, oral testimony and the documents of sales of fisheries in the same town or neighboring localities are competent evidence. It may be assumed that such dealing happened in ordinary course without any special reasons that may have increased or decreased their prices. In fact, appellee's own witness admitted having purchased a fishpond at P4,000.00 a hectare in Sta. Helena, Hagonoy, in the same place where 380 hectares of fishponds belonging to the Suntay estate are located.

Considering' the circumstances, to appraise these fish- ponds at P4,500.00 per hectare would be unfair to neither side.

The next biggest items are the properties in Manila. These were not mentioned in the appealed decision. Balatbat appraised the lot in Sto. Cristo St., Binondo, at P500.00 per square meter and the lot in Fundidor St., Binondo, at P100.00 per square meter. Such appraisal, we do not hesitate to say, is quite conservative.

As to the ricemill, distillery and the cine, appellee presented no good argument against Balatbat's estimate; and the trial judge made no comment on the same.

There was at first doubt as to the valuation given by Balatbat to the Canaveral and the ricelands, His Honor having found it to be exaggerated; however, in the face of the heirs' written statement of November 14, 1955[6] (including herein appellee) that said lands had "a combined total value of P105,000.00," thus corroborating the estimates given by Balatbat, have to set them down at the prices fixed by the latter. But the number of hectares must be 13 hectares of Canaveral and 26.5 hectares of riceland.

Thus, at the prices herein set forth, the estate of Jose B. Suntay should be assessed roughly at P3,695,000.00. It is immaterial that this claimant had stated in various pleadings that this estate was worth one million. He explained, quite plausibly, that he simply repeated information received from the administrator and/or statements made in the case before his connection therewith. And the price at which some heirs disposed of their shares may not be taken as the basis of computation, because the sales had taken place during the war emergency in 1942 or were affected by the uncertainties resulting from the pending contest of the wills.

Hence, for the purpose of computing the claimant's compensation, we could say that the litigation or the intestate involved over three million and a half pesos, or that his services to the intestate prevented the loss to it of two-thirds of such amount (P2,462,000.00).

The appellant insists on 10% of the value of the estate, relying principally on Quintillan vs. Degala, 50 O. G. 5305 wherein this Court approved payment of P50,000.00 for professional services in opposing two wills concerning an estate of half a million pesos. But there was a contract for contingent fees: 30 % if successful, none if unsuccessful. Here no such contract existed.

Although it is usual to insert in promissory notes or mortgage deeds, a stipulation for payment of ten per cent attorney's fees in case of litigation, still we doubt if the same rate would be fixed where the amount involved ran into hundreds of thousands or millions.

Philippine cases determining reasonably attorney's fees awarded:

4%

of the amount involved in Cu Unjieng E Hijoa vs. The Mabalacat Sugar Co., 54 Phil. 976;

5%

in Yap Tico vs. Alcjano-53 Phil. 986;

9%

in Tan Tua et al. vs. Yu Biao Sontua et al. -56 Phil. 707;

10%

in Phil. Engineering Co. vs. Green-48 Phil. 466;

12%

in Manila Trading vs. Tamaraw Plantation Co.-47 Phil. 513; and and De Guzman vs. Visayan Rapid Transit Co., Inc-68 Phil. 643;

80%

in Ulanday ve. Manila Railroad Co., 45 Phil. 540;

5%

of the amount recovered for client in Del Pan vs. Velasco-6 Phil. 213.

However, none of these litigations involved more than half a million pesos. Conceivably a lower rate should apply when a bigger sum is at issue.[7]

Of course we recall at this point the recent quarrel between the Harden spouses re their partnership funds valued at P3,841,109.00 wherein the attorney for the wife obtained fees of P384,110.00, But here again, as in the Quintillan affair, a written contract bound the client to her attorney. (100 Phil., 427)

The appellee brings to our attention an instance where the attorney got P15,000.00 only after handling two cases involving P1,182,952.00 (Delgado vs. De la Rama, 43 Phil. 419). This precedent, if applicable, could certainly clinch this debate for the appellee; but we find three telling circumstances which need no comment: (a) the attorney withdrew from the case before its termination; (6) the client lost; and (c) the attorney before filing suit, had sent to this client a bill for services in the amount of P10,000.00 only.

Panis vs. Yangco (52 Phil. 499) is likewise invoked by appellee because the attorney who handled the intestate proceedings involving P210,640.21 was awarded P15,000.00 only. It appears however that the attorney had demanded that amount only. And then his services consisted "merely in taking simple ordinary proceedings in court, with no objection raised therein."

A fairly diligent search has uncovered several representative cases in the United States fixing reasonable professional fees for litigations of the million or half-million class.

\$21,000.00 was awarded in Re Faling 113 Or. 37, 231 Pac. 148 for procuring the rejection of pretended wills and the probate of a true will disposing of a \$500,000.00 estate; \$80,000.00 to attorney for the executor of an estate worth about \$2,000,000.00 for services less beneficial than those rendered here by Atty. Sison; (Re Potts 209 N. Y. Suppl. 653) ; \$50,000.00 for sustaining a will involving an estate of about \$1,000,000.00 (Re Ketcham 191 N.Y.S. 396) ; \$50,000.00 in U.S. vs. Equitable 283 U.S. 738 concerning recovery of \$1,100,000.00 for estate of incompetent; \$75,000.00 for defense of testamentary trust in one-million- dollar estate (Re Duffil 188 Cal. 536, 206 Pac. 42); \$100,000.00 in bondholders' action recovering about \$2,000,000.00 (Brown vs. Pennsylvania 250 Fed. 513) ; \$75,000.00 in receivership of corporation having assets of about \$1,200,000.00 (Re New York Investors 79 Fed (2d) 182) ; \$43,000.00 for unsuccessful efforts to resist proceeding to liquidate insurance company having gross assets of \$1,000,000.00; \$200,000.00 in stockholders' action resulting in benefits of \$900,000.00 (Murphy vs. North American Light 33 Fed. Sup. 537); 8-1/2% of an actual savings of \$6,200,000.00 in a case that ended in a settlement (Robers vs. Hill 34 Fed. Supp. 358) ; 18% of \$310,000.00 stock recovered for benefit of estate (Trautz vs. Lamp 334 Mo. 1085, 72 S. W. (2d) 104) ; over \$300,000.00 in stockholders' action resulting in recovery of between three million and four million dollars (Hodgman vs. Atlantic Ref. 8 Fed. (2d) 777). And on smaller amounts (up to \$356,000.00) the range is from 2% all the way to 33-1/2% % even 50% as the accompanying appendix shows.

In 39 Columbia Law Review 784, 813, 814, the result of an investigation showed that attorney's fees allowed in

stockholders' derivative suits ranged between 20 per cent and 33% per cent of the benefit to the corporation.

Bearing in mind all these precedents and variables, in the light of the difficult situation of the intestate when it engaged the professional skill and prestige of the claimant, together with resultant benefits accruing to said intestate, we the undersigned reach the conclusion that an additional seventy-five thousand pesos (P75,000.00) to the claimant would be about as fair an award as the facts of the litigation could warrant. That gives the lawyer a lump sum of P142,000.00, which represents about 3.8 per cent of P3,695,000.00 (total value of the intestate) or 5.7% of P2,462,000.00, the amount preserved (or won) for the intestate through his services. As we have intimated, Silvino Lim and Natividad Lim Billian should not be made to contribute to this additional fee: they had pleaded for approval of the wills and therefore were not benefited by appellant's main accomplishment.

In view of the foregoing, the appealed order is revoked and one is hereby entered allowing herein appellant the above additional fees in the amount of seventy-five thousand pesos, with legal interest thereon from the day this decision becomes final. Costs against appellee. So ordered.

Paras, G. J., Padilla, Reyes, A., Bautista Angelo, Labrador, Concepcion, and Endencia, JJ., concur.

APPENDIX

Attorney's Fees. Percentage or Fractional Basis.

2% Landis vs. Aldrich (1880) 9 2% Warwick Iron Co, vs. Mor- ton (1892) 148 Pa 72, 28 A 1065 enforcing mortgage for \$2,000

allowance for services of plain- tiff's attorney in enforcing: mortgage for \$15,000

3% Faile vs. Clyburn (1933) - 169 SC 355, 168 SE 732 allowance to attorneys for plaintiff's in mandamus proceeding's, settled for \$30,502

5% Central R. & Bkg. Co. vs. Pettus (1885) 118 US 116, 28 L ed 815, 6 S Ct 387 establishment of lien on corporate property transferred to another

5% W i l l i a m s Succession (1023) 156 La 704, 101 So 113 attorney for executor of simple estate of \$20,000

5% Re Rapid Transit Comrs. (1907) 117 App. Div 160, 102 NYS 400 based on award to each abutting owner in eminent domain proceeding-; not to exceed, however, \$1,000

7% National Bank vs. Dulaney (1903) 96 Md 159, 63 A 944 allowance to special attorney for assignee for creditors, based on sale of assets in foreign country for \$194,847

10% Adams m. Keillor Mill. Co. (1889; CC) 38 F 281 setting aside fraudulent assign- ment, involving \$3,900

10% Standard Cotton Seed Oil Co. vs. Excelsior Kef. Co. (1902) 108 La 74, 32 So 221 attorney for receiver who realized 59,219 for distribution to creditors

10% Re Creighton (1913) 93 Neb 90, 139 NW 827 allowance to attorney securing \$94,000 for a charitable trust

10% Rathbun vs. Globe Indem. Co. (1921) 107 Neb 18, 184 NW 90S, 24 ALE 191 allowance to plaintiff's attorney in suit in which plaintiff recovered \$8,659 on accident insurance policy

10% Vanhooser vs. Cunningham (1940) Tenn App 146 SW(2d) 840 of amount for which land sold, allowed to attorneys for plaintiffs and defendants in partition suits

18%. Trautz Da. Lemp (1934) 334 Mo 1085, 72 SW(2d) 104 based on recovery of stock valued at \$310,000 for benefit of estate

20% Re Bignall (1881; DC) 3 McCrary 440) 9 F 385 recovery of \$22,000-for benefit of bankrupt estate

30% Burn us. Allen (1885) 15 RI 32, 23 A 35", 2 Am St Rep 844 recovery of judgment for \$75 and collection of same by attachment and execution

33 1/3% Frinlc vs. McComb (1894; CC) 60 F 486 recovery of \$91,400 in an im- portant and doubtful case

88%% Re Munger (1915) 168 Iowa 372, 150 NW 447, Ann Cas 1917B 213 of \$2,000, the amount of settlement of action for wrongful death.

33 1./3 % Linton's Succession (1879) 31 La Ann 130 allowance to attorney for execu- tor, based on amount recovered for the estate

331/3% Re Klein (1937) 162 Miac 589, 295 NYS 197 of \$13,000 received in settlement of death claim

50% Grant vs. Fletcher (1922; DC) 283 F 243 complicated partnership accounting resulting in recovery of \$5356,000

50% West vs. Meillmier (1926) 172 Ark 48b, 289 SW 321 procuring income tax refund of \$1,770

[1] Moron, Comments on the Rules of Court, Vol. III (1957 Ed.) pp. 44, 645 citing- *Ilaussermann vs. Rahmeyer*, 12 Phil. 350; and others.

[2] And whatever may be said of legal training in political elective offices one thing is certain: they develop the ability to gain a sympathetic ear, thru a tactful approach.

[3] To seasoned advocates, the tactical advantage involved by the reversal on a question of fact is obvious.

[4] *Fitzgerald vs. Elisenhauer* 92 Mont. 582, 206 p. 685; *Shufeldt vs. Hughes* 65 Wash. 246, 104 Pac. 253.

[5] *Reynolds vs. McMillan* 63 Ill. 46; *Patton vs. Pepper Hotel Co.* 153 Cal. 460, 96 Pae. 296. VOL. 102, DECEMBER 28, 1957 777 *Sison vs. Suntay*

[6] pages 40, 41 appellee's brief.

[7] Appellee would only pay 2.28%.

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