

INTESTATE ESTATE OF RUFINA MERCADO, DECEASED, CATALINA JAVIER, PETITIONER-APPELLE, VS. EULOGIO MAGTIBAY AND SOLEDAD SALES MAGTIBAY DE HERNANDEZ, RESPONDENTS-APPELLANTS.

G.R. No. L-6829. December 29, 1954

Ponente: REYES, A., J.

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REYES, A., J.:

This is an appeal from an order of the Court of First Instance of Batangas, granting letters of administration and appointing a judicial administratrix for the estate of the deceased Rufina Mercado.

It appears that Rufina Mercado died intestate on September 20, 1949, survived by her second husband Eulogio Magtibay, her only living daughter Catalina Javier and the descendants of her two deceased daughters—all three daughters being of one first marriage. Shortly after Rufina's death, these heirs made an extrajudicial partition of her properties. But alleging that there were some properties not included in the partition, one of the heirs, the said Catalina Javier, on August 15, 1952, petitioned the court for letters of administration and the appointment of herself as administratrix. The other heirs opposed the petition on the ground that there was no necessity for subjecting the estate to judicial administration. Since, according to them, the decedent left no debts, all her properties had already been partitioned and the heirs were all of age or represented by a guardian. But the court overruled the opposition and granted the petition. Hence this appeal.

For the purposes of the appeal, it may be assumed that, as alleged by the appellees, not all the properties of the deceased have been divided among the heirs. But there being no question that the deceased left no debts and the heirs are all of age with the exception of one who, however, is represented by a guardian, the case comes squarely under section 1 of Rule 74, which reads:

"SEC. 1. Extrajudicial settlement by agreement between heirs.—"If the decedent left no debts and the heirs and legatees are all of age, or the minors are represented by their judicial guardians, the parties may, without securing letters of administration, divide the estate among themselves as they see fit by means of a public instrument filed in one office of the register of deeds and should they disagree, they may do so in an ordinary action of partition. If there is only one heir or one legatee, he may adjudicate to himself the entire estate by means of an affidavit filed in the office of the register of deeds. It shall be presumed that the decedent left no debts if no creditor files a petition for letters of administration within two years after the death of the decedent."

This rule provides for the partition of the estate of the deceased where no debts are due from it and the heirs are all of age or properly represented. But on the theory that the provision is not mandatory and does not prohibit recourse to an administration proceeding, one of the heirs in the present case insists on the issuance of letters of administration notwithstanding the opposition of the other heirs. The question, therefore, for determination is whether in a case like the present where recourse to partition without letters of administration is authorized, the

estate—or what remains of it after the part already partitioned has been segregated—and nevertheless be subjected to an administration proceeding despite the opposition of the majority of the heirs.

The question is not new. Time and again this Court has had to pass upon it in cases arising; under section 596 (as amended by Act 2331) of the old Code of Civil Procedure, from which the precept embodied in the above-copied provision of the present Rules of Court was taken. Resolving that question in those cases, this Court has repeatedly held that "when a person dies without leaving pending obligations to be paid, his heirs, whether of age or not, are not bound to submit the property to judicial administration, which is always long and costly, or to apply for the appointment of an administrator by the court," for in such case the judicial, administration and the appointment of an administrator, are superfluous and unnecessary proceedings." (*Utu.Lo vs. Pasion.*, 66 Phil. 302) citing *Ilustre vs. Alaras Frondosa*, 17 Phil. 321; *Kalahacan vs. Ignacio*, 19 Phil. 434; *Bondad vs. Bonad*, 34 Phil. 232; *Baldemor vs. Malangyaon*, 34 Phil. 367; and *Fule vs. Fule*, 46 Phil. 317.)

The words to quotation sum up the doctrine of the cases cited, which, though rendered under section 596 of the former code of civil procedure, has equal validity under section 1 of Rule 74, because the two sections are fundamentally the same. It is, therefore, our view that, now as before, the rule is that where administration proceeding is unnecessary because the estate has no debts and the more expeditious remedy by partition is available the heirs or the majority of them may not be compelled to submit the estate to such proceeding.

The rule harmonizes with the law of succession contained in the Civil Code under whose provisions "the rights to the succession of a person are transmitted from the moment of his death," the heirs succeeding "immediately to all the property of the deceased ancestor * * * as completely as if the ancestor had executed and delivered to them a deed for the same before his death," so that as co-owners they may immediately, if the property is not burdened with debts, administer it jointly or divide it among themselves. (*Ilustre vs. Alaras Prondosa*, 17 Phil. 321.) For, as was said in a case, since the property of the deceased belongs, from the moment of his death, to the heirs, "what reason can there be," if there are no debts, "for the appointment of a judicial administrator to administer the estate for them and to deprive the real owners of their possession to which they are immediately entitled?" (*Fule vs. Fule*, 46 Phil. 317.) Withholding the inheritance from the heirs by subjecting it to an administration proceeding for no useful purpose, would only unnecessarily expose it to the risk of being wasted or squandered as not infrequently happens.

The rule, in our opinion, is fundamentally sound and should be adhered to rather than departed from. We cannot allow it to be overridden by the adverse ruling in *Orozco vs. Garcia*, 50 Phil. 149, which, as pointed out by counsel for the appellants, would appear to be the result of a misinterpretation of the following quotation from the decision in *Castillo vs. Castillo and Quizon*, 23 Phil. 364:

"* * * it is not a principle authorized by law that heirs of legal age may not demand by division of a real property, left them by their predecessor-in-interest and held by a coheir, without first initiating special intestate proceedings during which a judicial administrator is to be appointed, who alone is vested with the personality to claim the property that belongs to the succession. On the contrary, such heirs are expressly authorized to do so, unless, for the reason of there being unpaid debts, judicial intervention becomes necessary, which was not alleged as a special defense in this suit."

The court was in the *Orozco* case apparently led astray by the use of the double negative in the quotation and without good reason made to deviate from the doctrine repeatedly followed in its previous decisions. In any event, the doctrine was reaffirmed in the subsequent case of *Utulo vs. Pasion*, *supra*, and with this admonition: "We conceive of no powerful reason which counsels the abandonment of a doctrine so uniformly applied. We are convinced that if the courts had followed it in all cases to which it has application, their files would not have been replete with unnecessary administration proceedings as they are now."

The trial court, however, chose to [depart from the accepted doctrine in the mistaken belief that it had already been overruled by our decision in the case of *Rodriguez vs. Ian*, G. R. No. L-6044, promulgated November 24, 1952, where the statement was made that section 1 of Rule 74 "does not preclude the heirs from instituting administration proceedings, even if the estate has no debts or obligations, if they do not desire to resort for good reasons to an ordinary action of partition." That statement, it should be noted, sanctions recourse to an administration proceeding even if the estate has no debts only if, as therein expressly stated, the heirs have good reasons for not resorting to an action for partition, and is thus a reaffirmance rather than a repudiation of the doctrine, being in line with its policy that where partition is possible, either in or out of court, the estate should not be burdened with an administration proceeding without good and compelling reasons. This Court, it would appear, did not have to go into the adequacy of the reasons given for the issuance of letters of administration in the *Rodriguez* case because it there found "that the core of petitioner's objection is not that the heirs have erroneously instituted this administration proceeding but that the (lower) court erred in appointing Abelardo Rodriguez administrator of the estate" instead of the persons proposed by them.

Proof that the doctrine has not been abandoned is its recent application in the case of *Macalinao et al. vs. Valdez et al.*,[*] 50 Off. Gaz., 3041, which is subsequent to the *Rodriguez* case. It appears that in that case of *Macalinao* the hearing of a land registration case had been ordered suspended until ownership of the property involved therein could be decided in the intestate proceedings which one of the heirs to the property (which was conjugal) agreed or was directed to institute, but that this heir, in conjunction with her husband, instead of instituting such proceedings, filed an action for accounting, liquidation and partition. Objected to by the defendants on the ground that the directive of the trial court was for the plaintiff to file an intestate proceeding, the action was ordered dismissed, but upon appeal this Court set aside the order of dismissal, saying:

"Section 685 of the Code of Civil Procedure, as amended by Act No. 3176, provides that: 'When the marriage is dissolved by the death of [the husband or wife, the community property shall be inventoried, administered and liquidated, and the debts thereof shall be paid, in the testamentary or intestate proceedings of the deceased spouse, in accordance with the provisions of this Code relative to the administration and liquidation of the estates of the deceased persons, or in an ordinary liquidation and partition proceedings, unless the parties, being all of age and legally capacitated, avail themselves of the right granted to them by this Code of proceeding to an extrajudicial partition and liquidation of said property.' (Italics supplied.) Expressly recognized by this legal provision, the ordinary action instituted herein by the appellants is even preferred to an intestate proceeding, when the heirs are of age or duly represented, and the estate has no debts. 'When the heirs are all of lawful age and there are no debts there is no reason why the estate should be burdened with the cost and expenses of an administration.' (*Ilustre vs. Alaras Frondosa*, 17 Phil. 321; *Bondad vs. Bondad*, 34 Phil. 232; *Baldernor vs. Malangyaon*, 34 Phil. 367.) as repeatedly held, 'when a person dies without leaving pending obligations to be paid, his heirs, whether of age or not, are not bound to submit the property to a judicial administration, which¹ is always long and costly, or to apply for the appointment of an administrator by the court * * *'. It 'has been uniformly held that in such case the judicial administration and the appointment of an administrator' are superfluous and unnecessary proceedings' (*Utulo vs., Pasion*, 66 Phil. 302, 306, citing other cases).

"The fact that the lower court suspended the land registration case upon appellants' manifestation that an intestate proceeding would be filed, did not legally deprive them of availing themselves of the proper judicial (and for that matter less burdensome) remedy, especially in the absence of any law requiring that the estates of deceased persons must always be brought to the courts for administration and liquidation. At any rate, the essential basis of the order suspending the registration case was the necessity for determining the ownership of the controverted land. The theory of the lower court in dismissing the present case, would prefer form to substance."

In an attempt to justify these administration proceedings the appellee confesses in her brief that she has been obliged to institute the same in order to avoid a multiplicity of suite, because she proposes to ask for the annulment of certain transfers of conjugal property made by the surviving husband of the deceased in favor of one of the heirs, Soledad Sales Magtibay de Hernandez, and the validity of those transfers could be ventilated in these proceedings without need of bringing a separate action for the purpose. But if the aim is merely to avoid a multiplicity of suits, that same objective could be achieved in an action for partition, where the validity of those transfers could also be inquired into in line with our decision in *Monserrat vs. Ibañez et al.*, G.R. No. L-3367, promulgated May 24, 1950, where we said:

"Again the petitioner argues that 'only when the heirs do not have any dispute as to the bulk of the hereditary estate but only in the manner of partition does section 1, Rule 74 of the Rules of Court apply', and that in this case 'the parties are at loggerheads as to the corpus of the hereditary estate because' respondents 'succeeded in sequestering some assets of the intestate'. The argument is unconvincing, because, as the respondent judge has indicated, questions as to what property belonged to the deceased (and therefore to the heirs) may properly be ventilated in the partition proceedings, especially where such property is in the hands of one heir."

Moreover, if appellee's purpose is really to avoid a multiplicity of suits, she has herself nullified that objective by actually filing, as reported by the appellants and admitted by her, a separate action for the annulment of the property transfers already referred to.

There appearing to be no good reason for burdening the estate of the deceased Rufina Mercado with the costs and expenses of an administration proceeding, not justified in issuing letters of administration. With this ruling, it is no longer necessary to decide which, as between the appellee Catalina Javier and the widower Eulogio Magtibay, should be preferred in the appointment of an administrator.

Wherefore, the order appealed from is set aside, and the appointment of this appellee Catalina Javier as administratrix of the estate of the deceased Rufina Mercado revoked.

With costs against the appellee.

Paras, C.J., Pablo, Bengzon, Padilla, Jugo, Bautista Angelo, Labrador, Concepcion, and Reyes, J.B.L., JJ., concur.

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