

**IN RE: INTESTATE ESTATE OF BEATRIZ C. DE RAMA. DECEASED.
ANGELO O. DE RAMA; PETITIONER-APPELLANT, VS. CHERIE
PALILEO, CLAIMANT-APPELLEE.**

G. R. No. L-18935. February 26, 1965

Ponente: BARRERA, J.

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BARRERA, J.:

The facts of this case are not disputed: In connection with the proceeding for the settlement of the intestate estate of the deceased Beatriz Cosio de Rama, and pursuant to the order of the Court of First Instance of Rizal before which the proceeding is pending, a notice to all persons with money claims against the deceased to file their said claims within six months, was duly published, and first notice appearing in the August 13, 1958 issue of the Manila Chronicle. On January 27, 1959, the administrator filed an inventory of the estate, showing assets amounting to P139,596.77 and liabilities in the sum of P33,012.95. The period provided in the published notice having expired without anybody filing any claim against the deceased, the administrator, upon order of the court, submitted a final account of the estate and a project of partition, which were approved on May 12, 1960. Under date of June 7, 1961, however, Cherie Palileo petitioned the court for permission to file a claim in the proceeding, alleging that in the decision of the Court of Appeals in CA-G. R. No. 22556-B, promulgated on May 6, 1961, she obtained a money judgment against the deceased Beatriz C. de Rama; that although the lower court decided in her favor the question of ownership and possession of a real property involved in the case, it was only the Court of Appeals that granted money judgment, when the case was decided on appeal. The administrator opposed this petition on the ground that the claim was filed beyond the period provided in the notice to creditor.

By order of August 3, 1961, the lower court sustained the claimant and allowed her to file her claim within one month from receipt of said order, it appearing that no final decree of distribution has as yet been entered in the case. This appeal from the aforesaid order, brought by the administrator, raises the issue of when money claims against a deceased person may be filed in the proceeding for the settlement of the estate of such deceased person.

Section 2 of Rule 87 of the old Rules of Court (now Rule 86) provides:

"SEC. 2. Time within which claims shall be filed.-In the notice provided in section 1, 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 is clear from the foregoing that the period prescribed in the notice to creditors is not exclusive; money claims against the estate may be allowed any time before an order of distribution is entered, at the discretion of the court, for cause and upon such terms as are equitable. This extension of the period shall not exceed one month,[1] from the issuance of the order authorizing such extension.[2]

It is not controverted in the instant case that no order of distribution of the estate has as yet been made. Appellant, however, charges that the lower court committed an abuse of discretion in issuing the disputed order without sufficient ground or cause therefor. The petition of claimant-appellee, for permission to file a claim in the proceeding, was based on the fact that the award of damages in her favor, against the deceased Beatriz C. de Rama, was contained in the decision of the Court of Appeals in CA-G1. R. No. 22556-R which was promulgated on May 6, 1961 or after the 6-month period provided in the notice to creditors had already elapsed. It is her contention that she could not have failed a money claim against the estate before the promulgation of said decision because although the lower court in that case upheld her right to the ownership and possession of the building subject thereof, no damages were adjudged in her favor. Considering this argument, the lower court found it sufficient to justify the relaxation of the rule and extension of the period within which to file her claim. In the circumstances, the action taken by the lower court cannot be considered an abuse of discretion amounting to lack or excess of jurisdiction to justify its reversal by this Court.

WHEREFORE, finding no reversible error in the order appealed from, the same is hereby affirmed, with costs against the appellant.

SO ORDERED.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J.B.L., Paredes, Regala and Makalintal, JJ., concur.

[1] Quisumbing vs. Guison, 76 Phil. 730; Edmunds vs. Phil. Trust Co., 87 Phil., 405; 48 Off. Gaz., 139; Paulin vs. Aquino, G. R. No. L-11267. March 20, 1958; Afan vs. De Guzman 107 Phil. 839.

[2] Paulin vs. Aquino, *supra*.

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