

**JANUARIO L. JISON, JUDICIAL ADMINISTRATOR AND APPELLANT,
VS. WARNER, BARNES & CO., LTD., CLAIMANT AND APPELLEE.***G.R. No. L-4079. September 24, 1952*

Ponente: PARAS, C.J.

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In Special Proceeding No. 1184 of the Court of First Instance of Negros Occidental, the court issued an order on April 6, 1949, fixing the period of six months from April 16, 1949, within which claims against the intestate estate of the deceased Eduardo L. Jison could be filed. On May 12, 1949, Warner, Barnes & Co., Ltd., filed a claim against the intestate estate for the sum of P2,105.52, plus 8 per cent interest compounded monthly from May 1, 1949, and 20 per cent of the total debt as attorney's fees. A copy of said claim was served on May 11, 1949, on attorney for the administrator. On May 5, 1950, Warner, Barnes & Co., Ltd., filed a motion for the approval of its claim, calling attention to the fact that the administrator had not filed any answer thereto. On May 8, 1950, the administrator filed an opposition, setting up the defense of moratorium. After the filing of a reply by the attorneys for Warner, Barnes & Co., Ltd., the court on May 20, 1950, issued an order approving the claim and directing the administrator to pay, within thirty days from notice, the claim in question. From this order the present appeal was taken by the judicial administrator.

Under section 5, Rule 87, of the Rules of Court, all claims for money against the decedent, arising from contract, express or implied, whether the same be due, not due, or contingent, all claims for funeral expenses and expenses of the last sickness of the decedent, and judgment for money against the decedent, must be filed within the time limited in the notice; otherwise they are barred forever, except that they may be set forth as counterclaims in any action that the executor or administrator may bring against the claimants. The effect of the debt moratorium is merely to make a debt, even if already matured, not yet demandable; but section 5 of Rule 87 covers a claim which is not due, and requires its presentation within the prescribed period, if it is not to be barred. The purpose "is to settle the affairs of the estate with dispatch, so that the residue may be delivered to the persons entitled thereto without their being afterwards called upon to respond in actions for claims, which, under the ordinary statute of limitations, have not yet prescribed." (Moran, Comments on the Rules of Court, 3rd ed., Vol. II, p. 400.)

The general objective of the Moratorium Law, which is rehabilitation of debtors, must give way to the more urgent necessity of settling the estate of a decedent and distributing its residue among his heirs as soon as possible, thereby minimizing, if not avoiding altogether, expenses of administration. Sections 15 and 16, Rule 89, of the Rules of Court expressly enjoin the court to fix the period within which the executor or administrator should finish the settlement of the estate, such period not to exceed one year in the first instance, or more than two years where special circumstances shall so require, or more than two years and a half when the executor or administrator dies and a new one is appointed. Thus, "the speedy settlement of the estate of deceased persons for the benefits of creditors and those entitled to the residue by way of inheritance or legacy after the debts and expenses of administration have been paid, is the ruling spirit of our probate law." (Moran, Comments on the Rules of Court, 3rd ed., Vol. II, p. 435, citing *Magbanua vs. Akol*,[1] 40 Off. Gaz. 3871, and *Borja vs. Borja*,[2]

L-1259, April 27, 1949.)

Moreover, as the Moratorium Law had not been set up timely, because the administrator failed to file an answer within five days from the service of copy of the claim in question, in accordance with section 10, Rule 87, of the Rules of Court, said defense has been waived. In this connection, the trial court did not err in approving the claim without reception of evidence, since the same was not denied by the administrator in due time.

Wherefore, the appealed order is affirmed, and it is so ordered with costs against the appellant.

Pablo, Bengzon, Tuason, Montemayor, Jugo, and Labrador, JJ., concur.

[1] 72 Phil., 567.

[2] 83 Phil., 405.

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