

TESTATE ESTATE OF THE LATE FELIX J. DE GUZMAN. VICTORINO G. DE GUZMAN, ADMINISTRATOR-APPELLEE, VS. CRISPINA DE GUZMAN-CARILLO, ARSENIO DE GUZMAN AND HONORATA DE GUZMAN-MENDIOLA,...

G.R. No. L-29276. May 18, 1978

Ponente: AQUINO, J.

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AQUINO, J.:

This case is about the propriety of allowing as administration expenses certain disbursements made by the administrator of the testate estate of the late Felix J. de Guzman of Gapan, Nueva Ecija.

The deceased testator was survived by eight children named Victorino, Librada, Severino, Margarita, Josefina, Honorata, Arsenio and Crispina. His will was duly probated. Letters of administration were issued to his son, Doctor Victorino G. de Guzman, pursuant to the order dated September 17, 1964 of the Court of First Instance of Nueva Ecija in Special Proceeding No. 1431.

One of the properties left by the decedent was a residential house located in the poblacion. In conformity with his last will, that house and the lot on which it stands were adjudicated to his eight children, each one being given a one-eighth pro-indiviso share in the project of partition dated March 19, 1966, which was signed by the eight heirs and which was approved in the lower court's order of April 14, 1967 but without prejudice to the final outcome of the instant accounting incident.

The administrator submitted four accounting reports for the period from June 16, 1964 to September, 1967. Three heirs named Crispina de Guzman-Carillo, Honorata de Guzman-Mendiola and Arsenio de Guzman, interposed objections to the administrator's disbursements in the total sum of P13,610.48, broken down as follows:

I. Expenses for the improvement and renovation of the decedent's residential house:

1. Construction of fence -

P3,082.07

2. Renovation of bathroom -

P1,389.52

3. Repair of terrace and interior of house -

P5,928.00

--P10,399.59

II. Living expenses of Librada de Guzman while occupying the family home without paying rent:

1. For house helper -

P1,170.00

2. Light bills -

227.41

3. Water bills -

150.80

4. Gas, oil, floor wax and switch nail -

54.90

--P 1,603.11

III. Other expenses:

1. Lawyer's subsistence -

P 19.30

2. Gratuity pay in lieu of medical fee -

144.00

3. For stenographic notes -

100.00

4. For food served on decedent's first death anniversary -

166.65

5. Cost of publication of death anniversary of decedent -

102.00

6. Representation expenses -

P 26.25

– P 558.20

IV. Irrigation fee - P1,049.58

TOTAL - P13,610.48

It should be noted that the probate court in its order of August 29, 1966 directed the administrator "to refrain from spending the assets of the estate for reconstructing and remodelling the house of the deceased and to stop spending (sic) any asset of the estate without first securing authority of the court to do so" (pp. 26-27, Record on Appeal).

The lower court in its order of April 29, 1968 allowed the said items as legitimate expenses of administration. From that order, the three oppositors appealed to this Court. Their contention is that the probate court erred in approving the utilization of the income of the estate (from rice harvests) to defray those expenditures which allegedly are not allowable under the Rules of Court.

An executor or administrator is allowed the necessary expenses in the care, management, and settlement of the estate. He is entitled to possess and manage the decedent's real and personal estate as long as it is necessary for the payment of the debts and the expenses of administration. He is accountable for the whole decedent's estate which has come into his possession, with all the interest, profit, and income thereof, and with the proceeds of so much of such estate as is sold by him, at the price at which it was sold (Sec. 3, Rule 84; secs. 1 and 7, Rule 85, Rules of Court).

One of the conditions of the administrator's bond is that he should render a true and just account of his administration to the court. The court may examine him upon oath with respect to every matter relating to his accounting "and shall so examine him as to the correctness of his account before the same is allowed, except when no objection is made to the allowance of the account and its correctness is satisfactorily established by competent proof. The heirs, legatees, distributees, and creditors of the estate shall have the same privilege as the executor or administrator of being examined on oath on any matter relating to an administration account." (Sec. 1[c], Rule 81 and secs. 8 and 9, Rule 85, Rules of Court).

A hearing is usually held before an administrator's account is approved, especially if an interested party raises objections to certain items in the accounting report (Sec. 10, Rule 85).

At that hearing, the practice is for the administrator to take the witness stand, testify under oath on his accounts and identify the receipts, vouchers and documents evidencing his disbursements which are offered as exhibits. He may be interrogated by the court and cross-examined by the oppositors' counsel. The oppositors may present proofs to rebut the administrator's evidence in support of his accounts.

I. Expenses for the renovation and improvement of the family residence - P10,399.59. - As already shown above, these expenses consisted of disbursements for the repair of the terrace and interior of the family home, the renovation of the bathroom, and the construction of a fence. The probate court allowed those expenses because an administrator has the duty to "maintain in tenantable repair the houses and other structures and fences belonging to the estate, and deliver the same in such repair to the heirs or devisees" when directed to do so by the court (Sec. 2, Rule 84, Rules of Court).

On the other hand, the oppositors-appellants contend that the trial court erred in allowing those expenses because the same do not come within the category of necessary expenses of administration which are understood to be the reasonable and necessary expenses of caring for the property and managing it until the debts are paid and the estate is partitioned and distributed among the heirs (*Lizarraga Hermanos vs. Abada*, 40 Phil. 124).

As clarified in the *Lizarraga* case, administration expenses should be those which are necessary for the management of the estate, for protecting it against destruction or deterioration, and, possibly, for the production of fruits. They are expenses entailed for the preservation and productivity of the estate and its management for purposes of liquidation, payment of debts, and distribution of the residue among the persons entitled thereto.

It should be noted that the family residence was partitioned pro-indiviso among the decedent's eight children. Each one of them was given a one-eighth share in conformity with the testator's will. Five of the eight co-owners consented to the use of the funds of the estate for repair and improvement of the family home. It is obvious that the expenses in question were incurred to preserve the family home and to maintain the family's social standing in the community.

Obviously, those expenses redounded to the benefit of all the co-owners. They were necessary for the preservation and use of the family residence. As a result of those expenses, the co-owners, including the three oppositors, would be able to use the family home in comfort, convenience and security.

We hold that the probate court did not err in approving the use of the income of the estate to defray those expenses.

II. Expenses incurred by Librada de Guzman as occupant of the family residence without paying rent - P1,603.11. - The probate court allowed the income of the estate to be used for those expenses on the theory that the occupancy of the house by one heir did not deprive the other seven heirs from living in it. Those expenses consist of the salaries of the house helper, light and water bills, and the cost of gas, oil, floor wax and switch nail.

We are of the opinion that those expenses were personal expenses of Librada de Guzman, inuring mainly to her benefit. Those expenses, not being reasonable administration expenses incurred by the administrator, should not be charged against the income of the estate.

Librada de Guzman, as an heir, is entitled to share in the net income of the estate. She occupied the house without paying rent. She should use her income for her living expenses while occupying the family residence.

The trial court erred in approving those expenses in the administrator's accounts. They should be, as they are hereby, disallowed (See 33 C.J.S 1239-40).

III. Other expenses - P558.20. - Among these expenses is the sum of P100 for stenographic notes which, as

admitted by the administrator on page 24 of his brief, should be disallowed. Another item, "representation expenses" in the sum of P26.25 (2nd accounting), was not explained. It should likewise be disallowed.

The probate court erred in allowing as expenses of administration the sum of P268.65 which was incurred during the celebration of the first death anniversary of the deceased. Those expenses are disallowed because they have no connection with the care, management and settlement of the decedent's estate (*Nicolas vs. Nicolas*, 63 Phil. 332).

The other expenses, namely, P19.30 for the lawyer's subsistence and P144 as the cost of the gift to the physician who attended to the testator during his last illness, are allowable expenses.

IV. Irrigation fee - P1,049.58. - The appellants question the deductibility of that expense on the ground that it seems to be a duplication of the item of P1,320 as irrigation fee for the same 1966-67 crop-year.

The administrator in his comment filed on February 28, 1978 explained that the item of P1,320 represented the "allotments" for irrigation fees to eight tenants who cultivated the Intan crop, which allotments were treated as "assumed expenses" deducted as farming expenses from the value of the net harvests.

The explanation is not quite clear but it was not disputed by the appellants. The fact is that the said sum of P1,049.58 was paid by the administrator to the Peñaranda Irrigation System as shown in Official Receipt No. 3596378 dated April 28, 1967. It was included in his accounting as part of the farming expenses. The amount was properly allowed as a legitimate expense of administration.

WHEREFORE, the lower court's order of April 29, 1968 is affirmed with the modifications that the sum of (a) P1,603.11 as the living expenses of Librada de Guzman, (b) P100 for stenographic notes, (c) P26.25 as representation expenses, and (d) P268.65 as expenses for the celebration of the first anniversary of the decedent's death are disallowed in the administrator's accounts. No costs.

SO ORDERED.

Fernando, (Chairman), Barredo, Antonio, Concepcion, Jr., and Santos, JJ., concur.

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