

TOMAS BESA, PETITIONER AND APPELLEE, VS. JOSE CASTELLVI, ET AL., OPPOSITORS AND APPELLANTS.*G.R. No. L-18421. September 28, 1964*

Ponente: BAUTISTA ANGELO, J.

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On October 16, 1948, Tomas Besa filed a petition before the court a quo in the testate estate case of the late Alfonso de Castellvi praying that the court fix the attorney's fees to which he is entitled for (a) services he rendered to Jose Castellvi and Consuelo Castellvi on matters pertaining to paid case; (b) services rendered to Jose Castellvi in connection with his actuation as judicial administrator of the estate; and (c) services he rendered to both in the case filed against them before the same court by Natividad de Castellvi for the annulment of an agreement executed on December 11, 1940 wherein Jose and Consuelo were given one-third of the whole estate, and praying that a date be set for the hearing of the petition for the purpose above-mentioned and that said attorney's fees be constituted as o Jien over the share that may be adjudicated to said Jose and Consuelo in the testate proceedings.

Jose and Consuelo filed a written opposition wherein they vehemently denied having entered into a definite understanding with petitioner on his fees contending that their understanding was that they would pay him a reasonable compensation for his services. Oppositors further averred that the amount of P15,000.00 claimed by petitioner was unfair and that they are only willing to pay him the sum of P5,000.00 after deducting what they had previously paid him for his services.

On May 4, 1955, petitioner amended his petition, this time claiming that his agreement with oppositors was that the latter would pay him with property equal to one-third of the estate that may be adjudicated to oppositors and, therefore, he prayed that one-third of the two-thirds of the estate which was not expropriated, as well as the sum of money to be paid to them by the Republic of the Philippines, be given to petitioner.

The oppositors again filed an opposition to this amended petition contending, among others, that petitioner's services were availed of only thru the intercession of an uncle who was a personal friend of petitioner and because of such personal consideration no definite agreement has been arrived at between oppositors and petitioner regarding the latter's attorney's fees.

After petitioner and oppositors had filed a reply and counterreply, and after the court had heard both parties orally and in writing, the court a quo issued an order directing oppositors to pay petitioner the sum of P20,000.00 as his attorney's fees within 10 days after the order shall have become final. But after petitioner had filed a motion for reconsideration, this order was amended on December 16, 1960, the court declaring that petitioner is entitled to one-third of whatever share oppositors may get from the estate of their deceased father Alfonso Castellvi. From this order, oppositors interposed the present appeal.

As may be noted, the first order of the court a quo was to the effect that oppositors should pay petitioner the sum of P20,000.00 as his attorney's fees for the services he rendered to them, but, in a latter order, this directive was

modified in the sense that, in lieu thereof, petitioner should be given one-third of whatever share oppositors may get from the estate of their deceased father. However, in the appeal taken by the same oppositors from an order rendered by the same probate court to the effect that they have no right whatsoever to share in the estate of the deceased Alfonso de Castellvi because the latter's true heirs are only Natividad de Castellvi de Raquiza and the heirs of Juan de Castellvi, this Court in a decision rendered on October 31, 1963 (L-17630) affirmed this order in toto thereby stating that oppositors are not entitled to any share in the estate of the aforesaid deceased.

The effect of this decision is to render the order appealed from moot or academic, thus rendering this appeal purposeless or nugatory. Consequently, this Court has no other alternative than to dismiss this appeal, without costs.

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

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