

RICARDO SLKAT, JUDICIAL ADMINISTRATOR OF THE INTESTATE ESTATE OF THE DECEASED MARIANO P. VILLANUEVA, PLAINTIFF AND APPELLANT, VS. QUITERIA VIUDA DE VILLANUEVA, JUDICIAL ADMINIST...

G. R. No. L-35925. November 10, 1932

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

The plaintiff Ricardo Sikat, as judicial administrator of the intestate estate of Mariano P. Villanueva, appeals to this court from the judgment of the Court of First Instance of Manila, the dispositive part of which reads as follows:

"In view of the foregoing considerations, let judgment be entered absolving the defendant from the complaint, and, no evidence having been adduced in support of the counterclaim, the plaintiff is also absolved therefrom, without special pronouncement as to costs."

In support of his appeal, the appellant assigns the following alleged errors as committed by the court a quo in its judgment, to wit:

- The lower court erred in holding that the claim of the administrator of the estate of Mariano P. Villanueva against the estate of Pedro Villanueva has already prescribed.
- The lower court erred in dismissing the complaint."

The present case was commenced by virtue of a complaint filed by Ricardo Sikat, as judicial administrator of the intestate estate of Mariano P. Villanueva, against Quiteria Vda. de Villanueva, as judicial administratrix of the intestate estate of Pedro Villanueva, praying that the decision of the committee on claims and appraisal in the intestate proceedings of the aforesaid Pedro Villanueva with regard to the credit of the late Mariano P. Villanueva be confirmed by the court, and the defendant as judicial administratrix, be ordered to pay the plaintiff the amount of P10,192.92, with legal interest from July 15, 1919 until fully paid, and the costs.

In answer to the complaint, the defendant denied each and every allegation thereof, and set up a special defense of prescription, and a counterclaim for P15,536.69 which she alleges the estate of Mariano P. Villanueva owes to the estate of Pedro Villanueva; and she prayed for judgment absolving her from the complaint and sentencing the plaintiff to pay her said amount with interest and costs.

At the hearing of the case, the parties submitted the following agreed statement of facts to the court:

- That plaintiff and defendant are both of age, the former residing in the municipality of Malinao, and the latter in the municipality of Tabaco, Province of Albay, P. I.; that the plaintiff, Ricardo Sikat, instituted the present action as judicial administrator of the estate of Mariano P. Villanueva, duly appointed in place of the former administrator, Enrique V. Kare, by the Court of First Instance of Albay; and the defendant is the judicial administratrix of the estate of Pedro Villanueva, duly appointed by the Court of First Instance of the City of

Manila.

- That the intestate proceedings of the estate of Mariano P. Villanueva were instituted in the Court of First Instance of Albay, and Julio V. Quijano was appointed administrator; that the intestate proceedings for the settlement of the estate of Pedro Villanueva, were also commenced therein as civil case No. 3011, upon application of Julio V. Quijano, for the purpose mentioned in the order of the court, dated 'August 14, 1919, a copy of which is attached and made a part of this agreed statement of facts, as Exhibit A.

- That by an order dated August 19, 1919, the Court of First Instance of Albay appointed Quiteria Vda. de Villanueva administratrix of the estate of Pedro Villanueva, and on September 11, 1919 Tomas Almonte and Pablo Rocha were appointed commissioners to compose the committee on claims and appraisal.

- That on September 16, 1919 the then administrator of the estate of Mariano P. Villanueva, Julio V. Quijano, filed with said committee a written claim for the same sums as now claimed, according to Exhibit B, attached to and made a part of this agreed statement of facts, and adduced evidence in support thereof before the committee.

- That in view of the fact that Quiteria Vda. de Villanueva questioned the jurisdiction of the Court of First Instance of Albay over the intestate proceedings of the estate of Pedro Villanueva, and upon appeal the Supreme Court decided (see decision of October 21, 1921, a copy of which is attached to and made a part hereof as Exhibit C) that said Court of First Instance had no jurisdiction to take cognizance of the said intestate proceedings, at the instance of both parties, the committee composed of Tomas Almonte and Pablo Rocha abstained from making any report on the aforementioned claim to the Court of First Instance of Albay.

- That in view of this decision of the Supreme Court holding the Court of First Instance of Albay incompetent to take cognizance of the intestate proceedings in the estate of Pedro Villanueva, these proceedings were instituted in the Court of First Instance of Manila through the application of Enrique Kare, as judicial administrator of the intestate estate of Mariano P. Villanueva in case No. 28244, filed on June 18, 1925, upon the ground that when Pedro Villanueva died he owed the estate of Mariano P. Villanueva the sum of P10,192.92, with legal interest from June 15, 1919.

- That after the Court of First Instance of Manila had appointed Quiteria Vda. de Villanueva, administratrix of the estate of Pedro Villanueva, and Mamerto Roxas and Nicanor Roxas as commissioners to compose the committee on claims and appraisal, Enrique Kare, as administrator of the estate of Mariano P. Villanueva, filed his claim with the committee on September 22, 1925, and that same-claim appears in the present complaint.

- That the said committee on claims and appraisal, composed of Mamerto Roxas and Nicanor Roxas, admitted the claim and decided in favor of the estate of Mariano P. Villanueva, filing their report with the court accordingly.

- That 'the defendant administratrix, Quiteria Vda. de Villanueva, took a timely appeal from this report, and so the present complaint has been filed.

- That the evidence presented to this committee on claims and appraisal by the parties to the present case, and the rulings and decisions of said committee upon all the claims and counterclaims filed with it, are contained in the record entitled 'Report of the Committee on Claims and Appraisal' of the intestate proceedings of Pedro Villanueva, No. 28244 of the Court of First Instance of Manila.

"Manila, December 18, 1930."

In addition to the agreed statement of facts quoted above, there was adduced in evidence the document dated September 22, 1909, executed by the late Pedro Villanueva in favor of his father, the late Mariano P. Villanueva, which literally reads as follows:

"I owe my father, Mariano P. Villanueva, the following amounts:

"For the balance account, three thousand five hundred thirty-nine pesos and eight centavos, Philippine currency.

"For the capital invested by Mariano P. Villanueva in said bazaar, three thousand pesos, Philippine currency.

"For the debt of the late Sulpicio Briznela, six hundred forty-nine pesos and seventy-seven centavos, Philippine currency.

"For salary accruing to me during the months of January, February, March, and April, 1907, unduly withheld, having worked in his office during that time, four hundred pesos, Philippine currency.

"For the entry in the book, dated October 31, 1904, but if it is thereafter discovered to have been paid, it shall be null and void, two thousand four hundred forty pesos and seven centavos, Philippine currency.

"For the cost of a horse from Munoz y Cia., Manila, one hundred sixty-four pesos, Philippine currency.

"The amounts stated above are written as they appear in my father's books.

(Sgd.) "PED. VILLANUEVA."

The sole question to decide in this appeal, raised in the first assignment of error, is whether the trial court erred in holding that the aforesaid claim of Mariano P. Villanueva's estate against Pedro Villanueva's estate has already prescribed.

There is no question that at the time of Pedro Villanueva's death the right of Mariano P. Villanueva's estate to collect the credit against him by virtue of the above-quoted acknowledgment of indebtedness had not yet prescribed.

Section 70S of the Code of Civil Procedure provides:

"SEC. 703. CERTAIN ACTIONS SURVIVE.—Actions to recover the title or possession of real estate, buildings, or any interest therein, actions to recover damages for an injury to person or property, real or personal, and actions to recover the possession of specific articles of personal property, shall survive, and may be commenced and prosecuted by or against the executor or administrator; but all other actions commenced against the deceased before his death shall be discontinued, and the claims therein involved presented before the committee as herein provided."

If in pursuance of the legal provision just quoted, all actions commenced against a debtor shall be discontinued upon his death, and the claims involved filed with the committee on claims and appraisal appointed in the testate or intestate proceedings unless they are actions to recover the title" or possession of real estate, buildings, or any interest therein, damages for an injury to person or property, real or personal, or the possession of specific articles of personal property, which actions shall survive and may be commenced and prosecuted by or against the executor or administrator, then with a greater reason should credits that have not prescribed at the debtor's death, and upon which no action had been brought, be presented before the committee on claims and appraisal for collection. Section 689 of the same Code provides:

"SEC. 689. COURT TO LIMIT TIME FOR PRESENTING CLAIMS.—The court shall allow such time as the circumstances of the case require for the creditors to present their claims to the committee for examination and allowance; but not, in the first instance, more than twelve months, or less than six months; and the time allowed shall be stated in the commission. The court may extend the time as circumstances require, but not so that the whole time shall exceed eighteen months."

The question arises as to which of these two prescriptions should govern the case; ordinary prescription,

established in chapter III, or extraordinary prescription, created in section 689 aforesaid, both of the Code of Civil Procedure. It is a rule of statutory construction that when there are two different provisions upon one subject matter, one of them general and the other specific, the latter should prevail, if both cannot stand together. In the present case according to the law, Mariano P. Villanueva's credit cannot be judicially collected from Pedro Villanueva although the right of action has not prescribed, because the latter is dead; and it cannot be collected from his estate because the action is not one of those that survive upon his death. To remedy this situation the law established a new prescriptive period for such cases, which, being incompatible with the ordinary period of prescription both in commencement and in duration, must be deemed to have superseded the latter. This court has so held in *Santos vs. Manarang* (27 Phil., 209, 213), in treating of the period of prescription established in section 689 of the Code of Civil Procedure, as follows:

"It cannot be questioned that this section supersedes the ordinary limitation of actions provide for in chapter 3 of the Code. It is strictly confined, in its application, to claims against the estates of deceased persons, and has been almost universally adopted as part of the probate law of the United States. It is commonly termed the statute of non-claims, and its 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."

Now then, with reference to the extraordinary prescription established for claims against deceased persons, has the claim of Mariano P. Villanueva's estate against Pedro Villanueva's estate prescribed?

The trial court decided the question in the affirmative, citing section 49 of the aforesaid Act No. 190, which reads:

"SEC. 49. SAVING IN OTHER CASES.—If, in an action commenced, or attempted to be commenced, in due time, a judgment for the plaintiff be reversed, or if the plaintiff fail otherwise than upon the merits, and the time limited for the commencement of such action has, at the date of such reversal or failure, expired, the plaintiff, or, if he die and the cause of action survive, his representatives, may commence a new action within one year after such date, and this provision shall apply to any claim asserted in any pleading by a defendant."

This provision of law speaks of an "action", which, according to section 1 of Act No. 190, "means an ordinary suit in a court of justice, by which one party prosecutes another for the enforcement or protection of a right, or the redress or prevention of a wrong". According to this definition, the proceeding here in question is not an action but a special proceeding, which, according to the same section, is any other remedy provided by law. The very reference in section 49 to actions brought against debtors before their death clearly means ordinary actions and not special proceedings. The saving clause, then, in section 49 of Act No. 190 does not directly apply to special proceedings.

In *re Estate of De Dios* (24 Phil., 573), cited in the aforementioned case of *Santos vs. Manarang*, this court laid down the following doctrine:

"The purpose of the law, in fixing a period within which claims against an estate must speedy settlement of the affairs of the deceased person and the early delivery of the property to the persons entitled to receive it."

The speedy settlement of the estate of deceased persons for the benefit 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.

Thus section 642, paragraph 2, of the Code of Civil Procedure provides:

"SEC. 642. To WHOM ADMINISTRATION GRANTED.—If no executor is named in the will, or if a person dies intestate, administration shall be granted:

* * * * *

2. If such surviving husband or wife, as the case may be, or next of kin, or the person selected by them, be unsuitable, or if the husband or widow, or next of kin neglect for thirty days after the death of the person to apply for administration, or to request that administration be granted to some other person, it may be granted to one or more of the principal creditors, if competent and willing to serve. * * *"

We have seen that under section 689 of the Code, the maximum period for the presentation of claims against the estate of a deceased person is eighteen months from the time fixed by the committee on claims and appraisal in its notice, and this period may be extended one month if a creditor applies for it within six months after the first term, according to section 690.

It may be argued in this case that inasmuch as none of the persons entitled to be appointed administrators or to apply for the appointment of an administrator have taken any step in that direction, and since no administrator or committee on claims and appraisal has been appointed to fix the time for filing claims, the right of the plaintiff, as administrator of Mariano P. Villanueva's estate, to present the latter's claim against Pedro Villanueva's estate could not prescribe.

If, as we have stated, the object of the law in fixing short special periods for the presentation of claims against the estate of a deceased person is to settle the affairs of the estate as soon as possible in order to pay off the debts and distribute the residue; and if a creditor having knowledge of the death of his debtor is interested in collecting his credit as soon as possible; and if according to law the persons entitled to the administration or to propose another person for administrator have thirty days from the death within which to claim that right, after which time the court may appoint any creditor of the intestate debtor: then the plaintiff herein as administrator of Mariano P. Villanueva's estate, was guilty of laches in not instituting the intestate proceedings of Pedro Villanueva in the Court of First Instance of Manila until after the lapse of three years after this court had set aside the intestate proceedings begun in the Court of First Instance of Albay for lack of jurisdiction over the place where the decedent had died, that is, from October 21, 1921, to June 18, 1925. Wherefore, taking into account the spirit of the law upon the settlement and partition of estates, and the fact that the administration of Mariano P. Villanueva's estate had knowledge of Pedro Villanueva's death, and instituted the intestate proceedings for the settlement of the latter's estate in the Court of First Instance of Albay and filed Mariano P. Villanueva's claim against it, which was not allowed because this court held those proceedings void for lack of jurisdiction, the estate of Mariano P. Villanueva was guilty of laches in not instituting the same proceedings in the competent court, the Court of First Instance of Manila, until after three years had elapsed, and applying the provisions of section 49 of the Code of Civil Procedure by analogy, we declare the claim of Mariano P. Villanueva to have prescribed. To hold otherwise would be to permit a creditor having knowledge

Government of the P. I. vs. Fernandez Espejo of his debtor's death to keep the latter's estate in suspense indefinitely, by not instituting either testate or intestate proceedings in order to present his claim, to the prejudice of the heirs and legatees. Even in the case of the summary settlement of an estate under section 598, as amended by Act No. 2331, the Code of Civil Procedure limits the time within which a creditor may file his claim to two years after the settlement and distribution of the estate.

In view of the foregoing considerations, we are of opinion and so hold that whenever a creditor's claim presented in the intestate proceedings of the estate of his debtor is not allowed because the court has no jurisdiction, and such creditor permits more than three years to elapse before instituting the same proceedings in the competent court, the claim is barred by laches, applying the provisions of section 49 of the Code of Civil Procedure, by analogy.

By virtue whereof, the judgment appealed from is affirmed with costs against the appellant. So ordered.

Street, Malcolm, Ostrand, Abad Santos, Vickers, Imperial, and Butte, JJ., concur.

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