

JUAN PALACIOS, ADMINISTRATOR OF THE INTESTATE ESTATE OF THE DECEASED JOSEFA AGUIRRE, PETITIONER, VS. MANUEL AGREGADO, IN HIS CAPACITY AS AUDITOR GENERAL, RESPONDENT.

G.R. No. L-1984. May 24, 1949

Ponente: FERIA, J.

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FERIA, J.:

This is an appeal by certiorari from a decision that the Auditor General Manuel Agregado rendered on January 9, 1947, disallowing the claim of petitioner-appellant Juan Palacios, administrator of the intestate estate of Josefa Aguirre, that legal interests be paid on the debt due from the Province of Batangas to the intestate estate during the Japanese occupation and, after liberation, during the time Executive Order No. 25, series of 1944, as amended by Executive Order No. 32, series of 1945, on debt moratorium was in force.

The appellee-respondent asked for the dismissal of the appeal on the ground that it was filed long after the expiration of the period of thirty days from notice of the order or decision appealed from fixed by Sec. 1, Rule 45 of the Rules of Court, and reiterated his petition in the brief filed by the Solicitor General in behalf of the respondent.

The appellee's contention is well taken and we have, therefore, to dismiss the appeal.

In support of the motion to dismiss the appeal there are attached to it a certified copy of a letter of the Provincial Treasurer of Batangas dated February 27, 1947 (Exh. A); an affidavit of Romualdo Grenas, Assistant Bookkeeper and Deputy in the office of the Provincial Treasurer of Batangas, to the effect that he was the one who typed the letter of the Provincial Treasurer above-mentioned addressed to the petitioner furnishing the latter with a copy of the decision of the respondent Auditor General (Exh. B), and an affidavit of the janitor of the office of the Provincial Treasurer (Exh. C). And the presumption is that the letter of the Provincial Treasurer and the copy of the decision of the Auditor General attached to it, was received by the petitioner (Sec. 69 (v), Rule 123 of the Rules of Court).

The denial by the petitioner in his answer supported by his affidavit of having received the letter and copy of the decision of the respondent Auditor General can not rebut the said presumption, because it appears from the very letter the petitioner wrote to the Hon. President of the Philippines dated July 5, 1947, (Exhs. 2 and 2-A of the answer) he stated, among others, the following: "It was a wrong impression however as we later found out, because the Auditor General refused to approve the payment of any interest accrued thereon not only during the Japanese occupation but since the liberation as well, without giving any ground therefor, upon the papers being presented to him for approval."

The petitioner's explanation in the same answer that he was only informed that his claim was disallowed, but he had not received a copy of the decision of the Auditor General, and for that reason he could not appeal, because he did not know the reasons or grounds on which the Auditor General's decision is based. This explanation is without merit, for it was not necessary for him to know the reasons why his claim was disallowed in order to

appeal, because petitioner may allege the reasons in support of his claim irrespective of the Auditor General's reasons on which the latter's decision is grounded. Besides, it is to be presumed that the petitioner, being an interested party in knowing the outcome of his claim, should have asked for a copy of respondent's decision.

Wherefore, the appeal is dismissed with costs against the petitioner.

So ordered.

Moran, C. J., Ozaeta, Paras, Pablo, Feria, Bengzon, Tuason, Montemayor, and Reyes, JJ., concur.

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