

**INTESTATE ESTATE OF THE LATE MARTIN EMILIANO LACSON, JR.,
EMILIANO LACSON, SR., ADMINISTRATOR AND APPELLEE, VS.
JACINTO DELGADO, RESERVEE—CLAIMANT AND APPELLANT.**

G.R. No. L-15739. April 29, 1961

Ponente: LABRADOR, J.

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LABRADOR, J.:

Appeal from an order of the Court of First Instance of Iloilo, Hon. Pantaleon Pelayo, presiding, directing the administrator to sell any property belonging to the intestate within 30 days to pay the obligation of the estate, and from another extending above period to 60 days.

These proceedings were instituted upon joint petition of Emiliano Lacson, Sr., father and heir of the intestate, and Jacinto Delgado, reservee of the properties left by the intestate, who had inherited the properties object of the proceedings from his mother Consolacion Delgado. The joint petition prayed for the appointment of Emiliano Lacson, Sr., as administrator. It also declares that the funeral expenses of intestate amounted to P9,345.00, P3,359.10 of which was furnished by Delgado, and P5,958.90 by Lacson. It was agreed in the joint petition that the said amounts "se pagarán proporcionalmente y anualmente por el opositor en su concepto de administrador judicial, con las dos terceras partes del producto anual de los terrenos bajo administracion a partir de la cosecha de 1952-1953 y así sucesivamente sin interrupcion hasta su completo pago." (R. A. pp. 2-5, 7-9).

The incidents immediately preceding the orders appealed from are as follows:

- (1) On January 14, 1957 the administrator filed an account showing a balance of P1,073.64 in favor of the estate, which he proposed to apportion as follows: to himself, P477.17 and to Delgado, P238.59. Opposition to this account was presented by Delgado, who claimed that the total balance should be P4,948.69.
- (2) In view of opposition, the court appointed a commissioner who found Delgado's objection to be well founded, so the court ordered the administrator to amend his account accordingly. The commissioner had found that the balance in favor of the intestate is P4,948.69.
- (3) Delgado moved for reconsideration, praying that the administrator should also be ordered to include rentals of a parcel of land of intestate occupied by a rice mill.
- (4) The administrator filed another account on February 22, 1957 showing a balance of P4,014.89, which he had applied to himself in payment of his claim of P5,985.90. Opposition to this account, was presented by Delgado, calling attention to the report of commissioner that the balance is P4,948.69 and praying for the removal of administrator.
- (5) The account of February 22, 1957 was approved by the court and the administrator ordered to file a project of partition. The order is dated March 18, 1957.
- (6) On April 24, 1957 Delgado filed a petition to declare administrator in contempt.

(7) On April 29, 1957 the administrator filed a project of partition, adjudicating all the property of deceased to himself, subject to the claim of Delgado for P3,359.10.

(8) Delgado objected to the project of partition on the ground that the debts have not been paid.

(9) On May 11, 1957 the Court entered the first order appealed from i. e., ordering the sale of any property of the intestate to pay the debts and upon failure to do so, that he be removed. Another subsequent order extended the period to sell from 30 days to 90 days. It is these orders that are attacked on this appeal.

In this court the appellant argues:

"Esta actuación del Juzgado es un burdo error. Con la sanción del Juzgado, ya se ha convenido por las partes la manera de pagar las reclamaciones contra el intestado. En vez el Juzgado de atenerse a lo convenido por las partes con respecto al pago de dichas deudas y no tolerar al administrador a disponer a diestro y siniestro de los fondos de la administración para su uso y beneficio, caprichosamente optó por la venta de cualquiera propiedad del intestado a los efectos de pagar la deuda contraída al mismo reservatario-reclamante, lo cual es muy perjudicial para éste por ser el único heredero reservatario de todas y cada una de las propiedades del intestado." (pp. 28-29, Alegato del Apelante).

We find the above argument meritorious. The administrator should have been required to comply strictly with the agreement entered into by him with appellant upon the initiation of these proceedings namely dividing the net income between himself and appellant in proportion to their claims. This agreement is a sort of judicial compromise, which has the effect of a judgment of the court. (Article 2067, Civil Code of the Philippines). Conformably to the agreement no partition should be decreed until the claims of appellant shall have been paid, and no sale of any property of the estate should be ordered.

Wherefore, the orders appealed from are hereby set aside and the court below is hereby enjoined to follow the compromise in question. No costs.

Bengzon, C.J., Padilla, Bautista Angelo, Concepcion, Reyes, J.B.L., Barrera, and Dizon, JJ., concur.

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