

TESTATE ESTATE OF THE DECEASED ELIGIO NAVAL. PETRITA PASCUAL, ET AL., CO-ADMINISTRATRIX AND APPELLEES, VS. RUDYARDO SANTIAGO, ET AL., CO-ADMINISTRATORS AND APPELLANTS.

G. R. No. L-9589. January 30, 1959

Ponente: LABRADOR, J.

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LABRADOR, J.:

This is an appeal against a judgment of the Court of First Instance of Rizal, Hon. Demetrio B. Encarnacion, presiding, disapproving the statements of accounts of the administratrix Isabel Gabriel from 1937 to June, 1948, and those of Rudyardo Santiago from August, 1948 up to 1952; finding a gross income of the estate of the late Eligio Naval of P244,249.00 from 1937 up to 1953; approving the accounts of co-administratrix Petrita Pascual; and referring the accounts of Isabel Gabriel and Rudyardo Santiago to the Provincial Fiscal for investigation, with a view to determining whether crimes of falsification and perjury have been committed. The appeal is prosecuted by counsel for the former administratrix Isabel Gabriel and administrator Rudyardo Santiago. No appeal was interposed against the approval of the accounts of the co-administratrix Petrita Pascual.

It is true as found by the trial court that many of the accounts, especially those from 1937 to 1943, as presented by the administratrix Isabel Gabriel, have been found to be inaccurate, exaggerated and not supported by evidence. But instead of disapproving the accounts in toto, we believe it more useful and advantageous in order to terminate the long litigation occasioned in relation to the accounts, to consider each account independently of the others, approving or disapproving the items in each, and determining the net income or liability of the estate for each calendar year.

The records of the intestate proceedings in the Court of First Instance of Rizal appear to have been destroyed during the war, so that, after liberation, none of the accounts previously presented by the widow were on file in the records of the case, so the administratrix Isabel Gabriel filed a consolidated statement of accounts covering the period from 1937 to 1945. Opposition to these statements was presented by the co-administrator Angel Pascual. Subsequently, that is on November 19, 1946, the administratrix filed a motion repudiating the consolidated statement of accounts above referred to, alleging that the same were not the correct accounts of income and expenditure.

The court, however, did not allow the withdrawal of the said accounts.

At the trial of the case and during the cross-examination of Isabel Gabriel, two books, Annexes A and B, which were submitted by the administratrix with consolidated statement of accounts were presented to her, and she admitted that they contain lists of the income and expenditures of the estate for many years. These books appear to have been salvaged from the records. As the accounts submitted before and during the war were destroyed and were not reconstituted, we believe that the said statements of accounts (contained in Annexes A and B), the authenticity of which is not disputed by the oppositor, should represent, more or less, the true and correct

statements of account for the years 1937 to. 1941 and 1943. So we have considered them as bases for the accounts for the said years.

Documentary evidence were submitted by the oppositor to refute some of the items appearing in the said Annexes A and B. We have found these documents to be authentic and the statements of account should be modified to conform with the exhibits.

With respect to the order of the court that the accounts be referred to the Fiscal, we do not choose to revoke or approve the same, the matter of prosecution of any party guilty of perjury or falsification being entirely in the hands of the prosecuting officers.

We have also taken pains to examine the receipts submitted by the administratrix and the special administrator, and if the accounts are entirely contrary to the said exhibits, we have disregarded the accounts and formulated statements of account from the receipts submitted. We have also studied the accounts by year, independent of each other, so that the matter of the correctness of the items specified in each account may be more easily passed upon.

Difficulty has arisen with respect to the accounts for the years 1944 and 1945. In the year 1944 the currency in which business was carried on was in Japanese war notes, and in 1945, during the months of January and February, in Japanese war notes also, while transactions made beginning in the month of March, 1945 were already conducted in Philippine currency. The incomes derived and the expenditures incurred in the years 1943, 1944 and early part of 1945, having been in Japanese war notes, were, therefore, set against each other. We have found a balance in Japanese war notes of P3,774.67. As Japanese war notes lost their value after liberation, said loss should not be charged against the administratrix Isabel Gabriel.

With the foregoing preliminary observations, the following are our findings and conclusions for the yearly accounts from 1937 to 1952:

1937

As set forth in the preliminary statement the basis for the 1937 account is Annex A. The trial court found, that the income from the Orani fishpond from the year 1937 up to 1941 should have been P9,000 a year, because Octavio Naval, the encargado, declared that he did not receive a share less than P3,000 a year; the income from the Bocaue fishpond should be P2,000, yearly, from 1937 up to 1941, because that was its rental in 1939; and the income from the land at Navotas should be P1,394, yearly, basing it on the computation of oppositor Petrita Pascual. We cannot agree to these findings. Incomes of properties vary each year and fixing a yearly amount cannot be correct or just. Instead we give credence to the accounts contained in Annexes A and B, as the same were prepared in the ordinary course of duty by the person whose duty it was to list the income and expense-s0 No specific objections are raised with respect to the expenses for 1937.

We, therefore, approve the said accounts as contained in Annex A, and find a total income of P6,291.25, a total expenditures of P5,663.32, and a balance in favor of the estate of P627.93.

1938

For the same reasons stated in connection with the accounts for the previous year, the statement for 1938 contained in Annex A, should also be approved, except that the income from the Muntinglupa property should be increased from P53 to P265, in accordance with Exhibits 15-c and 15-d. The total income is, therefore, P6,236.04, while the total expenditures is P6,006.40, thereby leaving a balance of P229.64, in favor of the estate.

1939

The income and expenditure for 1939, appearing in Annex A is approved, with the following change: the income derived from the Muntinglupa property is increased from P250 to P265, in accordance with Exhibits 15-c and 15-d0. It is claimed that inasmuch as the Bocaue fishpond was already leased on September 5, 1939, the expenses in relation to the administration thereof should be disapproved. We do not agree to this contention. The expense must have been incurred before September, the month of the lease. Besides, the mere fact that the fishpond was leased did not relieve the administratrix from the obligation of sending an overseer to find out if the lessees have been keeping the properties, especially the dikes, in order. Objection on this ground is therefore overruled. Other objections to the income derived from the properties, under administration have already been answered in the consideration of the previous accounts.

However, it appears from the contract, (Exh. 7) that the lessees are to pay the sum of P2,000 for the first year upon the execution of the deed of lease. It is to be presumed that this contract was complied with and if the same has not been complied with, it is the fault of the administratrix. There is, therefore, added to the income of the estate the sum of P2,000, so that the income is P6,230.92. The total expenditures being P5,955.56, there is a balance of P2,275.36, in favor of the estate,

1940

For the reasons stated in connection with the accounts for the year 1939, the accounts for this year found in Annex B, is approved, with the following exceptions: the income from the Muntinglupa property should be increased from P250 to P265, in accordance with Exhs. 15-c and 15-d; the amount of P200, paid for bañgus fry and of P50.00, for catching fish, in the Bocaue fishpond, should be disapproved, because the fishpond was then under lease. In connection with the rental corresponding to the year 1940, which is P2,000 per year, the accounts show only the sum of P1,000, but another sum of P1,000 appears in the accounts for the succeeding year. It is probable that the rental was paid in two installments, in one 1940 and part in 1941. Objections on the income derived have already been answered in previous accounts.

The accounts for this year is approved with the modifications mentioned above, and so there is a total income of P7,655, and a total expenditures of P7,304.62, leaving a balance in favor of the estate of P350.38.

1941

The income for the year 1941, contained in Annex B, is hereby approved with the following addition: rental of the Muntinglupa property in the amount of P265.

Opposition is registered against the approval of the expenses in relation to the Orani fishpond, on the basis of the affidavit and the testimony of Felipe de la Cruz, who was the encargado of the fishpond from 1941 to 1947. In accordance with his declaration, de la Cruz had received shares, which corresponds to 1/4 of the net income derived from the fishpond. The administratrix, on the other hand, rebutted this testimony by presenting, as witnesses, aside from herself, Jose Anastacio, Simplicio Tamayo, Rudyardo Santiago. These testified that F. de la Cruz was merely an overseer paid on salary basis only. The salary appearing from the 1947 accounts is P720 a year. As between the testimony of de la Cruz and those of the witnesses for the administratrix, this Court is more inclined to believe the latter. We, therefore, overrule the objections, insofar as the income and expenditures of the Orani fishpond is concerned. We conclude that the income for this year is P8,259.00, the total expenditures P7,341.69, leaving a balance of P917.31, in favor of the estate.

1942

There is no statement of accounts for this year in the records of the case. However, there are receipts submitted at the trial which show the expenses incurred and the income derived (See Exhs. G to G-5, H to H-7, inclusive). The

total expenditures for the Orani fishpond is P4,336.22, and the income derived therefrom is only P973.24 (Exh. G-4) The income for this year is small because according to the witnesses the dikes of the fishpond broke down (Exh. U). The amount spent on the Bocaue fishpond is P3,325.82, but no income was derived therefrom because of the outbreak of the war. The consolidated statement of accounts shows that the rental of the Muntinglupa property is P250 and the produce from the riceland at Navotas is valued at P225. But in accordance with Exhibits 15-c and 15-d, the rental of the Muntinglupa property should be increased to P265. The total income, therefore, for this year, as shown by the receipts and the consolidated statement of accounts is P1,363.24, while the total expenditures is P7,662.04, leaving a balance against the estate of P6,313.80.

1943

There are two statements of accounts for this year, one is salvaged from the records of the trial court (pp. 64-68, ROA) and the other is found in Annex B (Journal). The statement found in the latter should be considered, for the reason that it is more complete than the former. However, there are receipts for expenses incurred during this year which are not found in Annex B, and they are as follows: Exhibit G-5, in the amount of P1,850.10; Exhibit H-13, P10.00; Exhibit B-14, P9.00; Exhibit H-16, P16.20; H-17, P24.80; Exhibit H-18, P40.50; Exhibit H-20, P1,500; Exhibit H-22, P311.90; Exhibit H-23, P16.01; Exhibit H-24, P100; and Exhibit H-25, P3,000. These should be included as expenses. The tax of the Orani fishpond, in the amount of P337.17 for the year 1942, should be deleted because it is already covered in the statement of accounts for 1942. For the same reason, the expense "Kapagalan ng Tanod" for 1942, in the amount of P600, should also be omitted. With the above changes, the total income for this year is P10,860.15, while the total expenditures is P23,065.74, leaving a balance of P12,205.59, in Japanese war notes, against the estate.

1944

The statement of accounts for this year is contained in Exhibit J, dated January 25, 1946. It is approved with the following change, the income for that year, which is P67,055, is increased to P87,075, because according to Exhibit 6 the contents of the Orani fishpond were sold at P80,020. Inasmuch as the income for the other properties is P7,055 (Exh. J), the total income for 1944 should be P87,075.

Receipts were attached to Exhibit J, which receipts, according to the widow, pertain to the expenses found in the statement of accounts. Some of the receipts, such as Exhibits K-2, K-4 and K-8 are apparently tampered with, because whereas they seem to originally bear the year 1942, the last digit of the date appears to be super-imposed with the number "4". They are, therefore, rejected. However, the following expenses are to be included in the statement of accounts: Exhibit K-5, in the amount of P51.95; Exhibit K-6, P1,350; Exhibit K-7, P30; Exhibit K-9, P100, or a total of P1,531.95. Exhibit L cannot be considered as an additional expense, because Salud Gabriel, witness for the administratrix Isabel Gabriel, testified that the amount contained in said receipt is already included in several small amounts in Exhibit J.

The total income for this year is P87,075, while the total expenditures is P62,744.73, leaving a balance of P26,028.32, in favor of the estate. The balance is in Japanese war notes.

1945

Exhibit M is the statement of accounts for this year. The difficulty met in the consideration of the account for this year lies in the fact that some items are in Japanese war notes while others must have been in Philippine currency. This fact gives rise to the objection to the accounts that expenses in Japanese war notes have been set up against income in Philippine currency because derived after liberation. However, if account is taken of the fact that expenses made or income derived prior to the liberation are in Japanese war notes, while those subsequent thereto

are in Philippine currency, the objections to the accounts for this year can be ignored. We assume that after liberation, the accounts, whether of income or of expenditures, were made in Philippine currency, while those before liberation, were in Japanese war notes. With the above basis and there being no serious objection to the income derived for the year, the income of P12,865.71, in Philippine currency, and P613.00, in Japanese war notes, is approved,.

Objections have been raised to the expenses incurred on the ground that they are exaggerated. There is no evidence to show that the expenses have been exaggerated, except the item of P37,800. The first items spent before March should be considered as having been paid in Japanese war notes. In so far as item P37,800 is concerned, 30,600 fish fry bought in the year 1945 were actually paid at the rate of P1,200 per 10,000, or a total of P4,320 (Exh. Q-4). This expenditure should, therefore, be P4,320, in Philippine currency, instead of P37,800, in Japanese war notes,,

We find that there are two other items of expenditure which are duplicated, one in the amount of P1,800 and another in the amount of P2,880, or a total of P4,680. These items should be deducted from the expenditures incurred in Philippine currency.

There are also included in the statement of accounts for this year lists of expenses supposed to have been incurred by the administratrix Isabel Gabriel from 1937 to 1943 (Schedules 1 to 4). These expenditures are rejected because they do not appear to be proper administration expenses. Moreover, they have been incurred several years before 1945, and we doubt their correctness and veracity.

Upon the basis stated in the previous paragraphs the expenses for this year totals P9,963, in Japanese war notes, and P24,380, in Philippine currency.

The balance, therefore, is P8,350, in Japanese war notes and P11,514.24, in Philippine currency, both against the estate.

1946

The statement of accounts for this year is Exh. O. No income is reported for the Bocaue riceland, and this failure of harvest is not explained, so the amount of P60,00 (same as 1947) should be included as income from the property. The Muntinglupa land should have an income of P265, instead of only P200, as reported (Exhs, 15-c and 15-d). The amount of P40,00 contained in Exhibit 20 is already included in the income derived from the Tondo property. The statement of expenditures for the year is subject to the following changes: the price of 50,000 seedlings in the Orani fishpond should be reduced from P5,897 to P5,487, to conform with Exh. T; the wages of 3 watchmen of the Orani fishpond should be reduced from P9,323 to P1,800, for the reason that the increase is too big and the explanation therefor is not satisfactory (P1,800 is the same as the expense for same purpose in 1945); the payment of loan to F. Soriano should reduced from P7,328 to P2,269, in accordance with Exh. W; the expenses for weeding in the Bocaue fishpond should be reduced from a total of P1,276.00 to P876, in accordance with Exh. S-1.

In addition to the expenses, the amount of P510 only in Exh. T, and the amount of P99.32 in Exh. Q-2, should be included.

The following expenses are rejected for the reason that they are already included in the statement: Exhs. Q-1, S, T-1, T-3, V, and S-4 Exh. R is rejected also because the year when the receipts were made is superimposed With ink and said year is not known, Exh. S-2 should likewise be rejected because it is inconsistent with Exh. Q-1, The latter is more reliable because unlike the former it is signed.

The amount of P100 in Exh. 10 and P50 in Exh. 10-A are included in the income and should be discarded.

The total income for this year is therefore, P64,554.80, while the total expenditures is P53,409.44 leaving a balance of P11,145.36 in favor of the estate.

1947

The statement of accounts for this year is Exh. Y, which was prepared on March 22, 1948. The income reported for this year, which is in the amount of P45,710.32, is very much less than that of the year 1946. The income from the Bocaue fishpond is only over P3,000, while in 1946, it was P10,000; the income from the Orani fishpond, which was over P50,000 in 1946, is only over P40,000, for this year. The decrease in income from the two fishponds has been explained as due to typhoon and flood during that year, as may also be evidenced by the many repairs made. The income from the Muntinglupa property should be P265, instead of only P250 (Exhs. 15-e and 15-d). The amount of P174.00, contained in Exhs. 17, 18, 18-a, 19-a and 21 of the oppositor, are already included in the income from the Tondo property for the year and should be discarded. The income for 1947 should be P45,725.32.

Few receipts are presented to support the entries for the expenses contained in Exh. Y. But on the other hand, no evidence has been submitted to show that the expenditures are exaggerated, and it appearing that the statement was prepared under the widow's direction, there is no reason for its disapproval, except for the following changes: Delete expenses of Rudyardo Santiago and Jo Anastacio, in the total amount of P130, because Santiago testified that he had never before his appointment as administrator had any dealings with the properties of the Intestate, while Anastacio also declared that he was no longer the encargado of the Orani fishpond; in accordance with Exh.2, the price of bañgus fry kept in the Bocaue fishpond should be reduced from P572 to P372; motor transportation expense should be reduced from P55.00 to P50.00; wage of "manglilimas" should be reduced from P10 to P5, all in accordance with Exh. 2-8; the price of 100 bamboos, reduced from P10 to P5; the price of algae for the month of August, in the total amount of P750, should be reduced to P411, in accordance with Exh. 2-4. With respect to the Orani fishpond the share of encargado F. de la Cruz, in the amount of P6,239.48 (Exh. 8) should be omitted, because the widow and her witnesses had testified that the encargado is on salary basis, and that Exh. 8 is a mistake,,

In addition to the above expenditures, the following should be added: Exh. Z-3, in the amount of P19.74, and Exh. Z-1, in the amount of P108.51 only. The expenses found in Exhs, Z-4, Z-5 and Z-6 are already included in the statement.

To be approved is the total income of P45,725.32, the expenditures in the amount of P35,151.69, thereby leaving a balance of P10,573.63, in favor of the estate,

1948

The statement of accounts filed by Isabel Gabriel, from January 1, to July 31, 1948 is Exh. AA. On August 1, 1948, the widow ceased to be administratrix. No harvest is reported from the 10 hectares of Bocaue riceland. If the administratrix ceased to be so in July, 1948, it is evident that she could not have received any harvest therefrom. Exhs. 16, 16-a, 17-a, 19, 22, in the total amount of P122.50, are already included in the income derived from the Tondo property, so they should be discarded. The total income should be P18,123.26.

The expenses contained in Exhibits CC-1 and CC-2 are already included in the statement, so they should not be considered. However, the widow's pension (for the period of 7 months) in the amount of P3,500 does not appear in the statement, and this must be added as expenditure.

The total income is P18,069.26, while the total expenditures is P20,540.71, leaving a balance of P2,471.45, against the estate.

1948

The statement of accounts submitted by co-administrator Rudyardo Santiago covers the period starting from August 1 and ending on December 31, 1948. The total income for this period is P2,731.56. The administrator testified that only P1,831.36 was derived from the Bocaue fishpond for this period. He testified also that only P900 was obtained from the Tondo and Navotas properties. He testified further that there was income from the Orani fishpond, but later on corrected himself saying that there was no income because the contents were all harvested by the previous administratrix (p. 711, t.s.n.). The appellee claims that the income from this property should have been P14,001. But Exhibit AA (statement of accounts of the widow from January 1 to July 31, 1948) shows that the income from this fishpond is P13,504.62, so that there must have been no more income from this property during the period when Rudyardo Santiago was the administrator. There is no evidence that the income for this period is not correct, so the same is approved.

The account of expenditures is approved with the following changes: the two entries on the expenses of Isabel Gabriel, in the amount of P250 should be omitted, because she was then no longer the administratrix; the pension of the widow should be reduced from P,6000 to P2,500, because the statement covers a period of only 5 months (pension of the widow for the period from January to July, 1948, is already included in Exhibit AA) ; the transportation expenses of Jose Anastacio, in the amount of P96 should be deleted as he was no longer encargado; the purchase price of two bancas of algae should be reduced from P190 to P180, the expenses of the repairs reduced from P198 to P184, all in accordance with Exhibits E and E-1 (Santiago) ; the purchase price of 20,000 milkfish fry reduced from P600 to P380, in accordance with Exhibit E (Santiago).

On the other hand, the amount of P55 (part of amount in Exh. E-1 (Santiago)) is to be added as expenditure.

The expenses contained in Exhibits E, E-1 to E-5 (all Santiago) are already included, so they should be rejected. Exhibit F (Santiago) should also be rejected, because the widow was then no longer authorized to purchase fish fry.

The total income is P2,731.56, while the total expenditures is P7,280.10, leaving a balance of P4,548.54, against the estate, payable to the widow, the funds spent having been advanced by her.

1949

The statement of accounts for this year is Exhibit G Santiago. The income is less than those of the previous years. Decreased yields from the two fishponds have been attributed to the lack of water. For the first time the Navotas truck garden yielded produce worth P1,000. The Muntinglupa land had a rental of only P40, and this is so because Petrita Pascual, oppositor-appellee herein, had collected the rental corresponding to this year (Exh. 15-c).

The reported income is approved with the following change: the income from sale at Malabon of milkfish harvested from the Orani fishpond is increased from P8,571.26 to P10,804.69, in accordance with Exhibits 1-2, 1-3, J-6 and J-7 (all Santiago).

The expenditures should be approved with the following modifications; delete P200 (expenses of Isabel Gabriel in visiting fishponds) and P150 (Isabel Gabriel's expenses in going to the court), because they are not authorized administration expenses; delete also P40 (transportation expense of Teodoro) because he was then no longer encargado of the Orani fishpond; reduce food allowance for 3 watchmen in the Bocaue fishpond from P1,660 to P1,270, in accordance with Exhibits J-13 to J-5, inclusive, J-8, J-10, J-11, J-15 and J-16 (all Santiago); reduce also delivery expenses of 10 clay seedlings from P35 to P15, in accordance with Exhibit J (Santiago); add to the

expenses of the estate the amount of P144 (Exh. J-6-Santiago), P100 (Exh. J-7-Santiago), P2.25 (Exh. J-9-Santiago), P91.36 (Exh. J912-Santiago), and P48.70 (Exh., J-13-Santiago), because they have not been included in the statement of accounts.

The amount contained in Exhibit J-14(Santiago) is already included in the accounts.

The total income is P21,749.26, while the total expenditures is P25,145.16, leaving a balance of P3,395.90, against the estate.

1950

The statement of accounts is Exhibit K-Santiago, The income from the Orani fishpond is P10,181.87, inspite of the fact that it was harvested by oppositor Petrita Pascual in October, 1950 No proceeds was derived from the Muntinglupa property because the rental has not been paid (Exh. 15-c). Also none reported from the Navotas riceland but that of the previous year, in the amount of P220, is to be added.

Few receipts were presented to support the expenses. The account of expenditures is likewise approved with the following changes: delete the amount of P502 (expenses for judicial fines) and 15.00 (fare in delivery of said fines), because they are not administration expenses; reduce the price of 10 clay pots of seedlings from P160 to P150, in accordance with Exhibit L-7 (Santiago) , and that for 15,000 seedlings from f225 to f»150, in conformity with Exhibit L-6-Santiago; reduce the subsistence allowance of 3 watchmen from a total of P1,109 to P1,080, in accordance with Exhibit L to L-6, inclusive, L-11, L-12, L-13, L-15 and L-16 (all Santiago). Exhibit L-8 (Santiago), not being an administration expense, is rejected. Include P26.75 (Exh. L-10-Santiago), as expenditure.

The total income is P4,739.33, while the total expenditures is P17,599.84, leaving a balance of P2,860.51, against the estate.

1951

On April 14, 1951, the trial court divided the administration of the properties of the Intestate, as follows: fishpond in Orani, lot in Muntinglupa, lot in Tondo and house and lot in Navotas were given to co-administrator Rudyardo Santiago; while the fishpond and land in Bocaue and all other properties in Navotas were given to Petrita Pascual (Exh. M-Santiago), The statement of accounts for this year covers only the properties assigned to Rudyardo Santiago for exclusive administration.

Due to flood in August, 1951, the dikes of the fishponds were damaged, thus enabling the fish to escape» The Orani fishpond was leased to the widow Isabel Gabriel on November 15, 1951, so that the income was set up to September, 1951 only. No income was derived from the property at Muntinglupa because the rental was not paid (Exh. 15-c). The account on the income as reported is approved.

The expenditures are also approved, with the following modifications: the price of diliman should be reduced from P13 to 1P10, in accordance with Exh. 0-12 (Santiago), while the amount of P186.70 contained in the same receipt should be included as expenditure.

Exh. Q-1 (Santiago) should be rejected because it is the same as Exh. 0-12 (Santiago). The expenses contained in Exhs. 0 to 0-11, Q, Q-2 to Q-5 (all Santiago) are rejected because they are already included in the statement.

In the statement of accounts for 1952, there are expenses incurred from September to December, 1951, in the total amount of P1,976.90. These expenditures should be included. However, the amounts of P36.70 and P10.00, or a total of P6.70, for tools should be rejected because similar equipments have been bought for the estate and included in the statement of accounts for this year. For the same reason the amount of P24.00 for carbide should be reduced by P5.

The total income to be approved is P15,493.48, while the total expenditures is P13,411.09, thereby leaving a balance of P2,082.39, in favor of the estate.

1952

The statement of accounts for this year is Exhibit R-Santiago. No income is reported from the land in Navotas, and no explanation having been given therefor, the proceeds from this land for the previous year, in the amount of P1,200, should be included-as part of the income.

No receipts were submitted to support the expenditures, but because there is no evidence to show that the expenses are false, the list of expenditures should be approved with the following modifications: the income tax for 1951, in the amount of P155 (Exh. 1), should be rejected, because it is not authorized.

It is to be noted also that the statement of accounts for this year submitted by administrator Santiago contains expenses incurred in the year 1951. These expenditures are rejected because they have already been included in the statement for 1951.

To be approved, therefore, is the income of P15,751.90, the total expenditures of P7,975.75, thereby leaving a balance in favor of the estate in the amount of P7,776.15.

1953

No statement of accounts was presented for this year. Co-administrator Rudyardo Santiago is ordered to render an accounting for the year 1953.

RESUME

The following is the resume of the income and expenditure by year of the estate during the administration thereof by the widow Isabel Gabriel and her nephew Rudyardo Santiago:

Isabel Gabriel

Year

Income

Expenditure
in favor
of the
estate

Balance
against the
estate

1937

P6,291.25

P5,663.35

P627.93

P

1938

6,236.04

6,006.40

229.64

1939

8,230.92

5,955.56

2,275.36

1940

7,655.00

7,304.62

350.38

1941

8,259.00

7,341.69

917.31

1942

1,363.24

7,662.04

6,313.80

1943

10,860.15

23,065.74

12,205.59

1944

87,075.00

62,744.73

24,330.26

1945

613.00

9,963.00

8,350.00

(Japanese war Note)

12,865.71

24,380.00

11,514.29

(Philippine currency)

1946

64,554.80

53,409.44

11,145.36

1947

45,725.32

35,151.69

10,573.63

1948 (January to July)

18,069.26

20,540.71

2,471.45

Rudyardo Santiago

Year

Income

Expenditure

on favor

of the

estate

Balance
against the
estate

1948 (August to December)

2,731.56

7,280.10

4,548.54

1949

21,749.26

25,145.16

3,395.90

1950

14,739.33

17,599.84

2,860.51

1951

15,493.48

13,411.09

2,082.39

1952

15,751.90

7,975.75

7,776.15

1953 No statement of accounts

During the time that the widow Isabel Gabriel administered the properties of the intestate (1937 to July, 1948), there is a total balance in favor of the estate of P26,119.61, in Philippine currency, and P24,330.25?, in Japanese war notes; while during the same period of time, there is a total balance against the estate of P20,299.54, in Philippine currency, and P20,555.59, in Japanese war notes. There is, therefore, a net balance in favor of the estate of P5,820.07, in Philippine currency, and P3,774.68, in Japanese war notes. The net balance in Philippine currency should be paid by the administratrix Isabel Gabriel to the estate of her deceased husband, but that in Japanese war notes, should be declared as a loss.

During the administration of the estate by Rudyardo Santiago (August, 1948 to 1952), there is a total balance in favor of the estate of P9,858.54, in Philippine currency, and a total balance against the estate of P10,804.96, thereby leaving a net balance of P946.42, in Philippine currency, against the estate. It should be noted, however, that no statement of accounts was submitted by Santiago for the year 1953, so he is ordered to render an accounting for that year.

As the evidence shows that the widow Isabel Gabriel advanced money to the estate during the administration thereof by Rudyardo Santiago, the widow should be required to pay to the estate only the sum of P4,873.65, in Philippine currency.

The decision appealed from is hereby modified as above set forth. No costs. So ordered.

Paras, C.J., Bengzon, Montemayor, Bautista Angelo, Concepcion, and Endencia, JJ., concur.

RESOLUTION

LABRADOR, J.:

This concerns a motion for a reconsideration of our decision, filed by administratrix-appellee Petrita Pascual. It is argued in the motion that the properties subject of administration had an income during the administration of appellant Isabel Gabriel, from the year 1937 to 1948 out of the properties; that the items of expenditures are in accurate and exaggerated; and that the Court failed to consider the fact that previous to the filing of the statement of accounts the appellant Isabel Gabriel had been found by the probate court to have falsified her claims against the estate of the decedent.

In answer to the above objections, it must be stated in general that a woman could not have administered the properties of herself and of her husband, two fishponds one in Bataan and another in Bulacan, with the same efficiency as her husband himself when alive. Moreover, the periods which the accounts cover were, first, a period before the war, when the prices of foodstuffs were still very low in comparison to those in the year 1948; second, the period of Japanese occupation; and third, the years thereafter up to the capture of the POLITBURO in the year 1951, which were periods of trouble, which circumstances must have prevented the efficient administration of the fishponds which are the main source of the income now being questioned. Furthermore, this Court found documentary evidence supporting the expenses and did not merely approve them as thus supported, but took into consideration the reasonableness and probability of the items thereof, and the testimonies of the appellant and her witnesses in support of the same.

We will now proceed to examine the specific objections raised against the accounts. One objection is its failure to conform with the consolidated statement of accounts, which was submitted to the court by the lawyer. This consolidated statement covers the years from 1937 to 1945. It assigned and sword to by the

administratrix-appellant. But subsequent to its presentation, that is on November 19, 1946, the the administratrix presented a petition in writing in Tagalog, signed by her, asking for the withdrawal of said consolidated accounts, and repudiating the items of expenditures and income as set forth therein on the ground that they did not conform with the true expenditures and income (ROA, pp. 141-142). The attorney who prepared the accounts and who thereupon presented his resignation as counsel for the administratrix-appellant, stated that he himself adopted his own criterion in determining the amounts of expenditures and income principally to avoid anymore instances of friction and resentment between the administratrix and the heirs, and with a view to prompt liquidation of the estate. It is true the trial court refused to have the accounts withdrawn, but it is evident from the statement of the lawyer who prepared the same that he must have increased the income and expenditures were actually obtained or defrayed, but because of his desire to obtain the approval or acquiescence of the adverse party thereto. Under these circumstances, it can not be said that the consolidated statement of accounts is the true basis of the income and expenditures.

On the other hand, there was attached to the consolidated statement of accounts two journals, Annexes "A" and "B", which were not objected to by the oppositor, and which appear to have been made by the the administratrix in the ordinary course of business. Considering that previous records have been destroyed, we deem these journals to be the closet to the actual receipts and expenditures of the estate.

The journals, Annexes "A" and "B", cover the period from 1937 to 1941 and 1943, there was presented a statement of accounts which was salvaged from the records of the case. We used this salvaged account does not differ in very great measure from that found in the journal, Annex "D" and so we, therefore, approved the statement as true statement, subject to the modifications as per the receipts presented in support thereof.

We have proceeded in the same manner with respect to accounts of previous years. Much importance is placed by the movant in the testimony of witness Felipe de la Cruz who claims that he was the encargado of the Orani fishpond from 1937 to 1945 on a share basis. This encargado claims that he received one-fourth of the net produce of the fishpond at Orani, Bataan, stating that he received the following amounts:

"1941 P1,350.00

1942 Wala akong nakaparte, pagka't pumutok ang palaisdaan

1943 P1,500.00

1944 P18,00.00 nguni't may pautang pa kaming P16,000.00

1945 P1,250.00

1946 P8,125.00

1947 P7,683.00" (Exh. 27, p. 224 of the Expediente; Exh. 27-A; Felipe de la Cruz, t.s.n. 838-841).

The widow, appellant herein, and her two witnesses, Simplicio Tamayo and Jose Teodoro, have, however rejected his claim. We refuse to believe the testimony of this witness for the oppositor. Exhibit G-3, dated December 15, 1952, shows that he received the total sum of P600.00, at P50.00 a month, from January to December, 1942. If he were not a salaried encargado, why did he execute said Exhibit G-3. Then, again, his share of produce does not appear in any form in the accounts. If he was really getting a share of the produce, there would have been an accounting between him and the administratrix as to the gross receipts and the total expenditures. No such accounting was produced. Besides, his share from the year 1937 to 1945 was recited from the memory; we believe this testimony can not be relied upon. Again two witnesses, Simplicio Tamayo and Jose Teodoro, aside from the appellant himself testified from Felipe de la Cruz did not receive any share from the proceeds of the fishpond, but

was paid on salary basis. The evidence also discloses that Felipe de la Cruz was relieved from his position as encargado. When he executed the affidavit and testified in court, to discredit the accounts of the administratrix, it must been out of spite to her who had fired him.

One other point raised by the movant is that most of the expenditures are not supported by receipts. The administratrix-appellant was not a woman who kept a strict and clear accounting of her expenditures in accordance with modern methods. The receipts themselves show this. These modern methods can not be expected from an old woman like the administratrix. But in determining whether or not the items, whether supported by receipts or not, are correct the court took into account their probability. It would be unfair and unjust to expect that an accounting system or a strict system of receipts adopted by big business houses can be expected from the widow. As we have stated above, we have taken into account the reasonableness of each and every item of expenditures presented, and we have rejected or reduced those which we believe are not true expenses and reduced those which appeared to have been exaggerated.

Much capital is made out of the fact that the properties administered are new big income producing fishponds. But there was a time when the fishponds in Bocaue were given for a lease of only P2,000 a year. The amounts of income appearing in the accounts do not appear to be much less than the amount for which the fishpond was given for the lease.

Another circumstances which supports our findings on the income of the fishponds, is that income therefrom is not the same every year, as it depends upon the weather, the condition of the dikes, and the condition of peace and order. We can take judicial notice of the fact that during the years after the liberation, peace and order conditions in the provinces where the fishponds were located were such that the properties could not have been exploited to the fullest advantage. The fact that the incomes of the fishponds are large in 1951 or during the years when they were administered by the appellee is no reason to presume that the same should be true in previous years.

The motion for reconsideration is hereby denied. So ordered.

Paras, C.J., Bengzon, Montemayor, Bautista Angelo, Reyes, J.B.L., and Endencia, JJ., concur.

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