

ROSITA SANTIAGO DE BAUTISTA, ET AL., PLAINTIFFS-APPELLEES, VS. VICTORIA DE GUZMAN, ET AL., DEFENDANTS-APELLANTS.

G.R. No. L-28298. November 25, 1983

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an appeal from the decision of the Court of First Instance of Rizal, Pasay City branch, in Civil Case No. 3530, ordering the defendants-appellants to pay the plaintiffs-appellees damages and attorney's fees and dismissing the former's counterclaim. As no questions of facts were raised by the appellants in their brief, the Court of Appeals certified this case to us for decision.

The facts, as stated in the resolution of the appellate court, are as follows:

On May 10, 1952, Numeriano Bautista, husband and father of the plaintiffs-appellees, respectively, was a passenger of jeepney bearing Plate No. TPU-4013, owned and operated by Rosendo de Guzman, deceased husband and father of defendants-appellants, respectively, as one of the jeepneys used in his transportation business. Eugenio Medrano y Torres was employed by said Rosendo de Guzman as the driver of said jeepney. Said driver drove and managed said jeepney at that time along Taft Avenue, Pasay City, in a negligent and reckless manner and, as a result, the jeepney turned turtle and, consequently, passenger Numeriano Bautista sustained physical injuries which caused his death. Eugenio Medrano, the driver, was accused and convicted of homicide through reckless imprudence by the trial court in a decision promulgated on May 27, 1952 and sentenced to a penalty of imprisonment of four (4) months and one (1) day of *arresto mayor* and to indemnify the heirs of Numeriano Bautista, plaintiffs-appellees herein, in the sum of P3,000.00. A writ of execution was issued against said driver, Eugenio Medrano for the said sum of P3,000.00 but the same was returned to the Court unsatisfied.

On May 12, 1952, Rosendo de Guzman died.

Because of their failure to collect the said sum of P3,000.00 from the driver, Eugenio Medrano, plaintiffs-appellees filed a complaint (Civil Case No. 2050) dated October 7, 1952, with the Court of First Instance of Rizal, Pasay City Branch, against defendants-appellants alleging, among other things besides the above-mentioned incidents, that they demanded from Rosendo de Guzman and from the defendants-appellants the payment of the sums of P3,000.00 as subsidiary liability; P10,000.00 as actual exemplary and moral damages and P1,000.00 as attorney's fees for the suit by reason of the death of Numeriano Bautista as related above, but Rosendo de Guzman and later the herein defendants-appellants refused to pay the same. Plaintiffs-appellees therefore prayed that the defendants-appellants be ordered to pay the said sums as well as the costs of suit.

Defendants-appellants through counsel filed a motion to dismiss predicated on two grounds, namely, that the lower court had no jurisdiction over the subject matter of the litigation and that the complaint stated no cause of action. In support of said motion, they maintained that the suit was for a money claim against the supposed debtor who was already dead and as such it should be filed in testate or intestate proceedings or, in the absence of such proceedings, after the lapse of thirty (30) days, the creditors should initiate such proceedings;

that the heirs could not be held liable therefor since there was no allegation that they assumed the alleged obligation.

The lower court sustained the motion to dismiss in an order dated May 11, 1953, stating, among other things, that:

"The procedure thus opened for a money claimant against a deceased person, as in the instant case, is for said claimant to file proceedings for the opening of the judicial administration of the estate of said deceased person and to present his claim in said proceedings. The claimant may only proceed to sue the heirs of the deceased directly where such heirs have entered into an extra-judicial partition of such estate and have distributed the latter among themselves, in which case, the heirs become liable to the claimant in proportion to the share which they have received as inheritance. Plaintiffs' complaint does not state that the defendants have received any such inheritance from their said deceased father, Rosendo de Guzman, and hence, there is no cause of action against aforesaid defendants."

This order became final.

Then on December 14, 1954, plaintiffs-appellants filed with the same trial court Civil Case No. 3530 (subject of this appeal) against the same defendants in the former case, the complaint containing analogous allegations as those embodied in the first complaint but in this second complaint they further allege that on June 12, 1952, Rosendo de Guzman died intestate and that intestate proceedings were filed in the same court and docketed therein as Special Proceedings No. 1303-P, wherein on April 20, 1953, a project of partition was presented in and approved by said Court with the five heirs receiving their shares valued at P2,294.05 each, and on May 14, 1953, said intestate proceedings were closed. They also alleged that Numeriano Bautista during his lifetime was the only one supporting them and his death caused them shock, sufferings and anxiety and therefore defendants-appellants should pay to them, aside from the P3,000.00, an additional amount of P15,000.00 as moral, exemplary and compensatory damages, plus the sum of P2,000.00 as attorney's fees for the prosecution of this case, besides the costs of suit.

Defendants-appellants again filed a motion to dismiss on May 5, 1955, alleging the same grounds as those interposed in the first complaint but adding the further ground of res judicata in view of the dismissal of the first case which became final as no appeal or any other action was taken thereon by the appellees.

On August 22, 1955, the lower court denied the motion to dismiss for lack of sufficient merit.

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Then on July 11, 1961, the parties through their respective counsel submitted a partial stipulation of facts found on pages 63 to 67 of the amended record on appeal which stipulation of facts, was made the basis of the decision of the lower court which was rendered on August 26, 1961 (should be August 14, 1961), aside from the testimony of the widow of Numeriano Bautista, appellee Rosita Bautista, who testified on the same incidents already re-cited herein and on the sufferings and shock she and her children, all appellees in this case, suffered. From said decision, the present appeal has been interposed x x x."

Defendants-appellants assign the following errors:

I

THE COURT BELOW ERRED IN NOT SUSTAINING THE MOTION TO DISMISS (MOCION DE SOBRESIMIENTO) FILED BY THE DEFENDANTS-APPELLANTS ON OR ABOUT MAY, 1955, APPEARING ON PAGE 10 ET SEQ. OF THE AMENDED RECORD ON APPEAL.

II

THE COURT BELOW ERRED IN NOT DECLARING THAT THE CLAIM OF THE PLAINTIFFS-APPELLEES IS ALREADY BARRED FOR FAILURE ON THEIR PART TO FILE THEIR CLAIM IN THE INTES-TATE PROCEEDINGS OF THE DECEASED ROSENDO DE GUZMAN (SPECIAL PROCEED-INGS NO. 1303-P) OF THE COURT OF FIRST INSTANCE OF RIZAL.

III

THE COURT ERRED IN NOT SUS-TAINING THE DEFENSE OF RES JUDICATA INTERPOSED BY DEFENDANTS-APPELLANTS BY VIRTUE OF THE FINAL ORDER RENDERED OR ISSUED BY THE COURT OF FIRST INSTANCE OF RIZAL IN CIVIL CASE NO. 2050, DATED MAY 11, 1953, COPY OF SAID ORDER IS ATTACHED AS EXHIBIT "F" AND MADE AN INTEGRAL PART OF THE PARTIAL STIPULATION OF FACTS.

IV

THE COURT BELOW ERRED IN RENDERING A DECISION ORDERING THE HEREIN DEFENDANTS-APPELLANTS TO JOINTLY AND SEVERALLY PAY THE PLAINTIFFS-APPELLEES THE SUM OF THREE THOUSAND PESOS (P3,000.00), WITH INTERESTS AND COSTS.

V

THE COURT BELOW ERRED IN DISMISSING DEFENDANTS-APPELLANTS' COUNTER-CLAIM AND IN NOT RENDERING A DECISION IN ACCORDANCE THEREWITH.

The only question presented in the assigned errors is whether or not the trial court erred in giving due course to the complaint on the grounds stated above. We sympathize with the plight of the plaintiffs-appellees but they have lost their right to recover because of neg-ligence and a failure to observe mandatory pro-visions of the law and the Rules. They over-looked the fact that they were no longer suing Rosendo de Guzman who died shortly after the accident but his heirs.

Section 5, Rule 86 of the Rules of Court provides:

All claims for money against the decedent arising from contract, express or implied, whether the same be due, not due, or contingent, all claims for funeral expenses and expenses for the last sickness of the decedents, and judgment for money against the decedent, must be filed within the time limited in the notice; otherwise they are barred forever; except that they may be set forth as counterclaims in any action that the executor or administrator may bring against the claimants. x x x Claims not yet due, or contingent, may be approved at their present value.

The above-quoted rule is mandatory. The requirement therein is for the purpose of pro-tecting the estate of the deceased. The executor or administrator is informed of the claims against it, thus enabling him to examine each claim and to determine whether it is a proper one which should be allowed. Therefore, upon the dismissal of the first complaint of herein plaintiffs-appellees in Civil Case No. 2050, they should have presented their claims before the intestate proceedings filed in the same court and docketed as Special Proceedings No. 1303-P. Instead of doing so, however, the plaintiffs-appellees slept on their right. They allowed said proceedings to terminate and the properties to be distributed to the heirs pursuant to a project of partition be-fore instituting this separate action. Such is not sanctioned by the above rule for it strictly requires the prompt presentation and disposition of claims against the decedent's estate in order to settle the affairs of the estate as soon as possible, pay off its debts and distribute the residue. (See *Py Eng Chong v. Herrera*, 70 SCRA 130). With the exception provided for in the

above rule, the failure of herein plaintiffs-appellees to present their claims before the intestate proceedings of the estate of Rosendo de Guzman within the prescribed period constituted a bar to a subsequent claim against the estate or a similar action of the same import.

Therefore, it was an error on the part of the trial court to hold that the plaintiffs-appellees had a cause of action against the defendants-appellants who are the heirs of the deceased against whom the liability is sought to be enforced, much less take cognizance of the complaint. As in the first complaint, said court could not have assumed jurisdiction over the second case for the simple reason that it was no longer acting as a probate court which was the proper forum to file such complaint. The termination of the intestate proceedings and the distribution of the estate to the heirs did not alter the fact that plaintiffs-appellees' claim was a money claim which should have been presented before the probate court. The liability of the late Rosendo de Guzman arose from the breach of his obligations under the contract of carriage between him and the unfortunate passenger. The obligations are spelled out by law but the liability arose from a breach of contractual obligations. The resulting claim is a money claim.

The only instance wherein a creditor can file an action against a distributee of the debtor's asset is under Section 5, Rule 88 of the Rules of Court which provides:

If such contingent claim becomes absolute and is pre-sented to the court, or to the executor or administrator, within two (2) years from the time limited for other creditors to present their claims, it may be allowed by the court if not disputed by the executor or administrator, and, if disputed, it may be proved and allowed or disallowed by the court as the facts may warrant. If the contingent claim is allowed, the creditor shall receive pay-ment to the same extent as the other creditors if the estate retained by the executor or administrator is sufficient. But if the claim is not so presented, after having became absolute, within said two (2) years, and allowed, the assets retained in the hands of the executor or administrator, not exhausted in the payment of claims, shall be distributed by the order of the court to the persons entitled to the same; but the assets so distributed may still be applied to the payment of the claim when established, and the creditor may maintain an action against the distributees to recover the debt, and such distributees and their estates shall be liable for the debt in proportion to the estate they have respectively received from the property of the deceased.

Even under the above rule, the contingent claims must first have been established and allowed in the probate court before the creditors can file an action directly against the distributees. Such is not the situation, however, in the case at bar. The complaint herein was filed after the intestate proceedings had terminated and the estate finally distributed to the heirs. If we are to allow the complaint to prosper and the trial court to take cognizance of the same, then the rules providing for the claims against the estate in a testate or intestate proceedings within a specific period would be rendered nugatory as a subsequent action for money claim against the distributees may be filed indepen-dently of such proceedings. This precisely is what the rule seeks to prevent so as to avoid further delays in the settlement of the estate of the deceased and in the distribution of his property to the heirs, legatees or devisees.

Furthermore, even assuming that the plaintiffs-appellees had no knowledge of the intestate proceed-ings which is not established, the law presumes that they had such knowledge because the settlement of estate is a proceeding in rem and therefore the failure to file their claims before such proceedings barred them from subsequently filing the same claims outside said proceedings.

WHEREFORE, the decision of the Court of First Instance appealed from is hereby reversed and set aside and another one entered dismissing the complaint and the counterclaim. No costs.

SO ORDERED.

Plana and Relova, JJ., concur.

Teehankee, (Chairman), J., in the result.

Melencio-Herrera, J., concurring in the result in a separate opinion.

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CONCURRING IN THE RESULT**MELENCIO-HERRERA, J.:**

I concur in the result.

In this case, the deceased Numeriano Bautista was a passenger in a public utility jeepney owned by the deceased Rosendo de Guzman and whose driver was Eugenio Medrano. It was a vehicular accident involving the jeep which caused the death of Numeriano.

The driver was prosecuted for criminal negligence resulting in death, and he was sentenced, inter alia, to pay a civil liability of P3,000.00 to the heirs of Numeriano. Since the driver could not pay that civil liability adjudged in the criminal case, Rosendo, or his estate, became subsidiarily liable for the amount.

In the case at bar, after the estate of Rosendo de Guzman had been judicially settled and closed, plaintiff heirs of Numeriano had sued defendant heirs of Rosendo de Guzman in a separate action, before the then Court of First Instance in Pasay City (a) for settlement of the subsidiary liability of P3,000.00, (b) as well as for damages resulting from the death of Numeriano. The Trial Court gave judgment to the plaintiffs for the P3,000.00, but did not grant the claim for damages for the death of Numeriano pursuant to the provisions of Section 5, Rule 86. The heirs of the deceased passenger accepted the judgment of the trial Court, but the heirs of Rosendo de Guzman appealed to the Intermediate Appellate Court which subsequently endorsed the case to us as only a question of law was involved.

The civil liability adjudged in the criminal case, and for which Rosendo de Guzman or his estate became subsidiary liable, is plainly a money claim. On the other hand, any direct liability of Rosendo de Guzman or his estate, for damages for the death of the passenger Numeriano, is not a claim for damages for injury to person, which should be filed under Section 1, Rule 87. Rosendo de Guzman was not personally responsible for the death of Numeriano. The claim of the heirs of Numeriano is one arising from the contract of transportation. (*Vda. de Medina, et al. v. Cresencia, et al.*, 99 Phil. 506). In the case of *Gutierrez vs. Barreto Datu* (115 Phil. 741), it was held that a claim for damages arising from breach of contract is within the purview of Section 5, Rule 86.

The claim of plaintiff heirs of Numeriano should have been presented in the judicial proceedings for the settlement of the estate of Rosendo de Guzman and, not having been so presented, has already been barred. It was clear error on the part of the Trial Court not to have summarily dismissed the complaint for lack of cause of action.

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