

**IN THE MATTER OF THE TESTATE ESTATE OF THE LATE
MARGARITA DAVID, GONZALO T. DAVID, PETITIONER AND
APPELLEE, VS. CARLOS M. SISON, DEFENDANT AND APPELLANT.**

G.R. No. L-1399. April 27, 1949

Ponente: PERFECTO, J.

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PERFECTO, J.:

On August 8, 1946, petitioner and appellee Gonzalo T. David prayed the trial court to order executor Jose Teodoro and appellant Carlos M. Sison to pay him the sum of P10,000, with legal interests thereon from September 2, 1943, alleging that said amount was fixed as his attorney's fees by the Supreme Court in a decision promulgated on April 9, 1946 (G. R. 49108), said decision having become final and executory. Petitioner further alleged that the market value of the properties of the deceased Margarita David, to whose estate he rendered professional services as a lawyer, is around P4,000,000.

Carlos M. Sison, judicial administrator representing the interests of Priscila F. de Sison, opposed the motion alleging that petitioner's attorney's fees must be paid by all the heirs including the legatees who must contribute in proportion to their shares of the inheritance. That it is not true that the market value of the properties of Margarita David is around P4,000,000; that excluding the donated properties, the value of the estate involved in the proceedings is P116,054.18; that the participation of Narcisa F. de Teodoro and Priscila F. de Sison, is approximately one-half of the estate which amounts to P62,845.93, and that their liability amounts to P5,415.21, and Priscila F. de Sison has no objection to paying as her share the amount of P2,707.60.

On September 9, 1946, the lower court ordered the executor of the estate of Margarita David to pay to petitioner the sum of P10,000.

On September 17, 1946, appellant filed a motion for reconsideration praying that the payment of attorney's fees of petitioner be suspended in virtue of the moratorium provided by executive order and at the same time that the Court declare as the share of Priscila F. de Sison the payment of said attorney's fees in the sum of P2,707.60.

The motion for reconsideration was denied in an order issued on October 3, 1946, and appeal was taken.

Appellant assigns as first error of the lower court, when it ordered the payment of the sum of P10,000 to Gonzalo T. David as attorney's fees without determining and fixing the proportionate amounts thereof which each of the heirs, legatees and devisees of the estate should pay in accordance with the value of their respective inheritance, it appearing that they have already taken physical possession and administration of the corresponding portions of the estate allotted to them even before the estate's liability for attorney's fees has been determined.

Appellant's contention has no merit. Whether the heirs, legatees and devisees have already taken physical possession and administration of their respective portions of the inheritance or not may not interfere in any way with appellee's right to collect without delay the attorney's fees in question and for the estate of Margarita David to effect said payment. The obligation to pay the fees in question devolves to the estate. The right of appellee to

collect them may not be suspended or in any way made to depend on the fixing of the shares to be paid by the heirs, legatees and devisees. Considering the fact that said attorney's fees have been fixed in a decision of the Supreme Court rendered since March 28, 1946, three years ago, there is no valid reason why the payment should be delayed further. The lower court should have taken adequate measures to avoid that such a shocking delay could have happened in disrepute to the Philippine system of administering justice.

Appellant's second contention that the payment of said attorney's fees should have been suspended under the moratorium provided by Executive Order No. 25, as amended by Executive Order No. 32, is equally without merit. The attorney's fees in question are not money debts and other monetary obligations contemplated in the moratorium provided by Executive Orders Nos. 25 and 32. Said attorney's fees are part of the administration expenses of the estate of Margarita David, aside from the fact that the obligation to pay said attorney's fees became effective only since March 28, 1946, when the Supreme Court rendered the decision fixing said attorney's fees, and said date is well beyond the time fixed in the moratorium of the executive orders. The President who issued said orders could never have entertained the idea of suspending the payment of administration expenses in testate proceedings, because it would be simply absurd.

The appealed order of the lower court dated October 9, 1946, is affirmed, modified by including legal interests from the date of the decision of the Supreme Court, March 28, 1946, with costs against appellant.

Paras, Feria, Pablo, Bengzon, Briones, Tuason, Montemayor, and Reyes, JJ., concur.

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