

**IN THE MATTER OF THE TESTATE ESTATE OF THE LATE DA.
MARGARITA DAVID, CARLOS MORAN SISON, JUDICIAL
ADMINISTRATOR, PETITIONER AND APPELLANT, VS. NAKCISA F.
TEODORO, HEIRESS, OPPOS...**

G. R. No. L-9271. March 29, 1957

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

On December 20, 1948, the Court of First Instance of Manila, which has jurisdiction over the estate of the late Margarita David, issued an order appointing Carlos Moran Sison as judicial administrator, without compensation, after filing a bond in the amount of P5,000. The next day, Carlos Moran Sison took his oath of office and put up the requisite bond which was duly approved by the court. On the same day, letters of administration were issued to him.

On January 19, 1955, the judicial administrator filed an accounting of his administration which contains, among others, the following disbursement items:

"13. Paid to Visayan Surety & Insurance Corporation on August 6, 1954, as renewal premiums on the Administrator's bond of Judicial Administrator Carlos , Moran Sison covering the period from December 20, 1949 to December 20, 1954, inclusive

P380.70

"15. Paid to Visayan Surety & Insurance Corporation on December 21, 1954, for premiums due on the Administrator's bond of Judicial Administrator Carlos Moran Sison for the period from December 21, 1954 to December 21, 1955

76.14"

(p. 3, Brief of Appellant)

Narcisa F. Teodoro, one of the heirs, objected to the approval of the above-quoted items on the ground that they are not necessary expenses of administration and should not be charged against the estate. On February 25, 1955, the court approved the report of the administrator but disallowed the items objected to on the ground that they cannot be considered as expenses of administration. The administrator filed a motion for reconsideration and when the same was denied, he took the present appeal.

The only issue to be determined is "whether a judicial administrator, serving without compensation, is entitled to charge as an expense of administration the premiums paid on his bond."

The lower court did not consider the premiums paid on the bond filed by the administrator as an expense of administration taking into account undoubtedly the ruling laid down in the case of Sulit vs. Santos, 56 Phil., 626.

That is a case which also involves the payment of certain premium on the bond put up by the judicial administrator and when he asked the court that the same be considered as an expense of administration, it was disapproved for the same reasons advanced by the trial court. In sustaining this finding, this Court ruled that the "expense incurred by an executor or administrator to produce a bond is not a proper charge against the estate. Section 680 of the Code of Civil Procedure (similar to section 7, Rule 86) does not authorize the executor or administrator to charge against the estate the money spent for the presentation, filing, and substitution of a bond." And elaborating on this matter, the Court made the following comment:

"The aforementioned cases, in reality, seem superfluous in ascertaining the true principle. The position of an executor or administrator is one of trust. In fact, the Philippine Code of Civil Procedure so mentions it. It is proper for the law to safeguard the estates of deceased persons by requiring the executor or administrator to give a suitable bond. The ability to give this bond is in the nature of a qualification for the office. The execution and approval of the bond constitute a condition precedent to acceptance of the responsibilities of the trust. If an individual does not desire to assume the position of executor or administrator, he may refuse to do so. On the other hand, when the individual prefers an adequate bond and has it approved by the probate court, he thereby admits the adequacy of the compensation which is permitted him pursuant to law. It would be a very far-fetched construction to deduce that the giving of a bond in order to qualify for the office of executor or administrator is a necessary expense in the care, management, and settlement of the estate within the meaning of section 680 of the Code of Civil Procedure, for these are expenses incurred after the executor or administrator has met the requirements of the law and has entered upon the performance of his duties. (See *In re Eby's Estate* [1894], 30 Atl., 124.)

We feel that the orders of Judge Mapa in this case rested on a fine sense of official duty, sometimes lacking in cases of this character, to protect the residue of the estate of a deceased person from unjustifiable inroads by an executor, and that as these orders conform to the facts and the law, they are entitled to be fortified by an explicit pronouncement from this court. We rule that the expense incurred by an executor or administrator to procure a bond is not a proper charge against the estate, and that section 680 of the Code of Civil Procedure does not authorize the executor or administrator to charge against the estate the money spent for the presentation, filing, and substitution of a bond."

It is true that the *Sulit* case may be differentiated from the present in the sense that, in the former the administrator accepted the trust with the emolument that the law allows, whereas in the latter the administrator accepted the same without compensation, but this difference is of no moment, for there is nothing in the decision that may justify the conclusion that the allowance or disallowance of premiums paid on the bond of the administrator is made dependent on the receipt of compensation. On the contrary, a different conclusion may be inferred considering the ratio decidendi on which the ruling is predicated. Thus, it was there stated that the position of an executor or administrator is one of trust; that it is proper for the law to safeguard the estates of deceased persons by requiring the administrator to give a suitable bond, and that the ability to give this bond is in the nature of a qualification for the office. It is also intimated therein that "If an individual does not desire to assume the position of executor or administrator, he may refuse to do so," and it is far-fetched to conclude that the giving of a bond by an administrator is a necessary expense in the care, management and settlement of the estate within the meaning of the law, because these expenses are incurred "after the executor or administrator has met the requirements of the law and has entered upon the performance of his duties."

Of course, a person may accept the position of executor or administrator with all the incidents appertaining thereto having in mind the compensation which the law allows for the purpose, but he may waive this compensation in the same manner as he may refuse to serve without it. Appellant having waived compensation, he cannot be heard to complain of the expenses incident to his qualification.

The orders appealed from are hereby affirmed, without costs.

Paras, C J., Bengzon, Reyes, A., Labrador, Conception, Reyes, J. B. L., Endencia, and Felix, JJ., concur.

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