

**TRINIDAD FARNASO ISIP, FERNANDO F. ISIP, GAUDENCIA F.I. HERNANDEZ, JESUS F. ISIP, JR. II, JESUSA F.I. PONCE, CLEOFE F.I. SEAL, MA. THERESA F.I. SAN DIEGO, GILBERT M. ISIP, JOSEP...**

Ponente: DACUDAO, J.

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**DACUDAO, J.:**

Impugned in this special civil action for certiorari, as tainted with grave abuse of discretion, amounting to lack or excess of jurisdiction, are (1) the Order issued on June 30, 2004[1] by the Regional Trial Court of Manila, Branch 32, in Special Proceedings No. 03-105793, entitled “IN THE MATTER OF THE PROBATE OF THE WILL OF JESUS TUANA ISIP AND APPOINTMENT OF ADMINISTRATION PENDENT LITE, JESUS LARAYA ISIP, a.k.a. Petitioner,” denying petitioners' Motion to Dismiss the said petition; and (2) the Order issued by the same respondent court on September 22, 2005,[2] denying petitioners' Motion for Reconsideration thereon.

This case had its genesis in a Petition[3] for Probate of the Last Will and Testament of the late Jesus Tuana Isip with Prayer for Issuance of Letters Testamentary. Sued out by the therein petitioner, now the herein private respondent JESUS LARAYA “BOBOT” ISIP, it is essentially alleged therein, that the probable value of the two (2) real estate properties, including the old building structure erected thereon, is conservatively estimated at Three Million Pesos (Php3,000,000.00); and that aside from these real properties, the testator also left personal properties consisting of bank deposits in the United Coconut Planters Bank.

On April 1, 2003, the probate court issued an Order setting the petition for hearing on May 30, 2003, on which date and time all persons concerned were asked to appear and contest the allowance of the will.

On June 16, 2003, herein petitioners, as oppositors, filed their Opposition[4] to the Petition for Probate on the ground that the subject will is spurious and simulated; and that at the time of the making of the alleged will, the deceased was already of unsound mind and that moreover, the signature of the deceased was forged.

On June 27, 2003, the so-called “Second Family–Oppositors,” composed of Jesusa D. Isip, Doris D. Isip, George D. Isip, Nenita D. Isip and Jesus D. Isip (deceased), acknowledged natural children of the testator with Adorefera Dancel, likewise filed their Comment/Opposition[5] to the Petition for Probate.

On August 27, 2003, herein petitioners filed a Motion to Dismiss[6] on the ground that the probate court had not acquired jurisdiction over the subject matter of the case for failure of private respondent to pay the prescribed docketing fees.

Via an order dated June 30, 2004, the probate court denied the Motion to dismiss, to wit:

“Reading the records of this case finds that the allegation of deliberately defrauding the government of the legal fees by declaring that the value of the subject property(s) involved in this case is of the moment has no legal basis. The petition stated that the probable value of the property is conservatively estimated at Three Million (Php3,000,000.00) Pesos. However, this amount to the understanding of the Court, is but a conservative estimate. It did not declare that it is the true valuation of the properties involved. Further, the cited

case of Manchester Dev't Corp. Et. Al. vs. C.A. Et. Al. is not applicable in this case. The Ruling in the said case has been relaxed in the case of Sun Insurance Office, Ltd. vs. Asuncion, wherein the Court has ruled that the Court acquires jurisdiction over the case even if the docket fees as computed by the Office of the Clerk of Court and as of this moment, they (petitioner) shall be considered to be in good faith and merely relied on the assessment of the Clerk of Court. Hence, in accord with the said Ruling, this Court hereby Declares that it has jurisdiction over the present case.

"WHEREFORE, the Motion to Dismiss is hereby DENIED.

"Oppositors, Trinidad F. Isip (surviving wife), Legitimate Children, Jesus 'Totoy' Isip represented by Gilbert, Joseph and Jessie all surnamed Isip, Gaudencia 'Bebe' Isip Hernandez, Jesus 'Bodgie' Isip, Jesusa 'Susan' Isip, Fernando 'Boy' Isip, Cleofe Isip Seal, Maria Theresa Isip San Diego of the deceased Jesus Tuana Isip, are hereby Directed to file their Answer within then (10) days from receipt of this Order.

"SO ORDERED.

"Manila, Philippines, June 30, 2004.

"(SGD) JUAN C. NABONG, JR.

"Presiding Judge"

Herein petitioners moved for reconsideration[7] thereon, but their motion was by the respondent court denied. Thusly:

"As argued by the petitioner, should the property be found of greater value by the Court later, the deficiency in the filing fees, if any, could be collected later under Rule 141 of the Rules of Court.

"Under Rule 76, the basis of the computation in the filing fees is based upon the probable value and the character of the property or estate.

"It is the observation of the Court in several jurisprudence on the matter that if the filing fee is fixed and not dependent on any other factor, the filing fee becomes jurisdictional.

"However, if the filing fee for example would depend upon the probable value of the estate, etc. it all comes about the at (sic) the payment of the docket fee is not anymore jurisdictional as it will depend on the assessment of the Office of the Clerk of Court who initially accepts the filing of the pleadings that gives due course to the case filed in Court.

"WHEREFORE, the Motion for Reconsideration is DENIED for lack of legal basis.

"SO ORDERED.

"Given in open court this 22nd day of September 2005, in Manila, Philippines.

"(SGD) RENO E. CONCHA

"Acting Judge"

Hence, the present recourse with the petitioners now contending, that:

"RESPONDENT JUDGE ACTED WITHOUT OR IN EXCESS OF JURISDICTION AND WITH GRAVE ABUSE OF DISCRETION IN THE DENIAL OF THE MOTION TO DISMISS AS WELL AS THE MOTION FOR RECONSIDERATION FILED BY PETITIONERS DESPITE ITS APPARENT LACK OF JURISDICTION OVER THE SUBJECT MATTER OF THE CASE FOR PRIVATE RESPONDENT'S DELIBERATE FAILURE TO PAY THE CORRECT AND PRESCRIBED DOCKET FEES." [8]

This petition is untenable.

In *Manchester Development Corporation v. Court of Appeals*,<sup>[9]</sup> the Supreme Court ruled that “(t)he Court acquires jurisdiction over any case only upon the payment of the prescribed docket fee.” However, the Supreme Court subsequently relaxed this ruling by permitting a liberal interpretation of the rule that payment of docket fee is jurisdictional.

Thus, in *Sun Insurance Office, Ltd., (SIOL) v. Asuncion, G.R. Nos. 79937-38, February 13, 1989*,<sup>[10]</sup> the Supreme Court clarified that:

“1. It is not simply the filing of the complaint or appropriate initiatory pleading, but the payment of the prescribed docket fee, that vests a trial court with jurisdiction over the subject matter or nature of the action. Where the filing of the initiatory pleading is not accompanied by payment of the docket fee, the court may allow payment of the fee within a reasonable time but in no case beyond the applicable prescriptive or reglementary period.

“2. The same rule applies to permissive counterclaims, third-party claims and similar pleadings, which shall not be considered filed until and unless the filing fee prescribed therefor is paid. The court may also allow payment of said fee within a reasonable time but also in no case beyond its applicable prescriptive or reglementary period.

“3. Where the trial court acquires jurisdiction over a claim by the filing of the appropriate pleading and payment of the prescribed filing fee but, subsequently, the judgment awards a claim not specified in the pleading, or if specified the same has been left for determination by the court, the additional filing fee therefor shall constitute a lien on the judgment. It shall be the responsibility of the Clerk of Court or his duly authorized deputy to enforce said lien and assess and collect the additional fee.”

Thus, while the payment of the prescribed docket fee is a jurisdictional requirement, even its non-payment at the time of filing does not automatically cause the dismissal of the case, as long as the fee is paid within the applicable prescriptive or reglementary period,<sup>?</sup> more so when the party involved demonstrates a willingness to abide by the rules prescribing such payment.<sup>[11]</sup>

In this case, there is no dispute that private respondent paid the corresponding docketing fees. The only issue is whether the docketing fees paid by private respondent is sufficient. Petitioners argue that private respondent knowingly, deliberately and with intent to defraud the government undervalued the estate in order to deprive the government of its right to assess and collect the correct and prescribed docket fees. They contend that the subject properties have a total estimated market value of Fifteen Million Fifty Thousand Pesos (Php15,050,000.00). In addition, they insist that despite private respondent’s knowledge of the actual amount of the bank deposits in the United Coconut Planters Bank Makati City Main Branch, private respondent failed to disclose this information in his petition in order to avoid payment of the docketing fees. According to petitioners, the total amount of bank deposits in said bank is Two Million Pesos (Php2,000,000.00).

We are not persuaded.

The probate court correctly cited and applied Rule 76 and Rule 141 of the Revised Rules of Court.

Section 2 of Rule 76 reads:

SECTION 2. Contents of petition. — “A petition for the allowance of a will must show, so far as known to the petitioner:”

“xxx xxx xxx

“(c) The probable value and character of the property of the estate;

“xxx xxx xxx

Upon the other hand, Section 2, Rule 141 of the same Revised Rules provides that:

“SECTION 2. Fees as lien. — Where the court in its final judgment awards a claim not alleged, or a relief different or more than that claimed in the pleading, the party concerned shall pay the additional fees which shall constitute a lien on the judgment in satisfaction of said lien. The clerk of court shall assess and collect the corresponding fees.” (n)

From the above quoted provisions, it is clear that in a petition for probate, only the probable value of the estate, so far as known to the petitioner, is required to be alleged; and that any unpaid additional docket fees shall be considered as a lien on the judgment.

Also worth mentioning in this connection is that under Section 1 of Rule 83 of the Revised Rules of Court, “three (3) months after his appointment every executor or administrator shall return to the court a true inventory and appraisal of all the real and personal estate of the deceased which has come into his possession or knowledge. In the appraisal of such estate, the court may order one or more of the inheritance tax appraisers to give his or their assistance.”

Simply put, private respondent’s valuation of the subject properties, which he based on the current Tax Declarations of the properties, is not final. Neither would it prevent the government from collecting additional docket fees, if it finds out later that the estimated amount of the subject properties is not accurate. For this reason, the government could not, in any way, be cheated or “short-changed” of what is correctly or rightfully due it.

On top of these, there was here no showing at all that private respondent intended to defraud the government. On the contrary, private respondent had impliedly or tacitly signified or indicated that in the event that the probate court finds the docket fees insufficient, it could still collect the deficiency. Hence, the Manchester rule is inapplicable to this case.

UPON THE VIEW WE TAKE OF THIS CASE, THUS, the instant petition is hereby DENIED DUE COURSE, and consequently DISMISSED. Costs shall be taxed against the petitioners.

**SO ORDERED.**

Carandang and Arevalo-Zenarosa, JJ., concur.

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[1] Rollo, p. 21.

[2] Id., pp. 20 – 20a.

[3] Id., pp. 22 – 28.

[4] Id., pp. 37 – 47.

[5] Id., pp. 71 – 75.

[6] Id., pp. 76 – 80.

[7] Id., pp. 92 – 99.

[8] Id., p.6.

[9] Manchester Development Corporation v. Court of Appeals, No. L-75919, May 7, 1987, 149 SCRA 562.

**[10] 170 SCRA 274, 285.**

[11] Heirs of Bertuldo Hinog v. Melicor, G.R. No. 140954, April 12, 2005, 455 SCRA 460.

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