

GERVASIA DE LOS SANTOS, JUDICIAL ADMINISTRATRIX OF THE ESTATE OF RAMON OCAMPO, PLAINTIFF AND APPELLANT, VS. VICENTE REYES, JUDICIAL ADMINISTRATOR OF THE ESTATE OF RAYMUNDA YAPTI...

G.R. No. 10509. November 03, 1917

Ponente: TORRES, J.

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TORRES, J.:

In the proceedings had for the probate of the will of the decedent Ramon Ocampo, widow of Raymunda Yaptinchay and administrator of the estate left by the latter at her death, the Court of First Instance of Laguna, ruling upon a motion made by counsel for Gervasia de los Santos, mother of the minor Alfredo Ocampo who claims to be the natural son and sole heir of the said decedent Ramon Ocampo, by an order of September 2, 1914, denied totally all the petitions made in said motion- From this ruling said counsel excepted, and, after the deposit of a bond in the sum of P1,000, the present appeal was admitted, on the 17th of September of said year.

In a decision of the date of August 10, 1910, the judge of the Court of First Instance of the Sixth Judicial District, in view of the evidence taken in the proceedings, decreed the probate of the will executed by the said Ramon Ocampo as being the expression of his last wishes, and at the same time appointed as the testamentary executor of the decedent's state the institutor of the probate proceedings, Francisco Yaptinchay, after the deposit of a bond for the value of P500. Pascual Salandanan and Lorenzo Gana were likewise appointed commissioners of appraisal and claims, and, on August 15, 1910, took the required oath for the proper discharge of their respective duties and afterwards proceeded to publish in a newspaper of this city the proper notice and to post the required proclamations in public places of the pueblo of Binan, wherein it was recited that, as commissioners of appraisal and claims, they were ready to receive and decide all claims for the collection of credits against the estate of the decedent Ocampo that might be presented to them from said date of August 15, 1910, until the end of a period of six months therefrom.

By a written petition of December 2 of the same year, the administrator of the estate of the decedent Raymunda Yaptinchay requested said commission of appraisal to approve the payment of the sum of P4,017.14 which he claimed against the estate of the said Ramon Ocampo and favorably to report this claim to the Court of First Instance. In support of his petition he alleged that on August 28, 1905, said Ramon Ocampo, as the administrator of the estate of his deceased wife Raymunda Yaptinchay, filed in the Court of First Instance of Laguna an inventory of this decedent's private property which he had been administering since then; that, on February 12, 1907, the administrator Ocampo rendered accounts to the court of the estate of his administration, which showed that said property administered by him had produced a net income of P1,070.99, as attested by the attached certified copy, Exhibit A; that, from 1908 to May, 1910, the administrator Ocampo received P946.15 from the bookkeeper of the rice-hulling concern in which his deceased wife Raymunda Yaptinchay was interested as a stockholder, as shown by Exhibit B; that, according to said Exhibit A, Ocampo had in his possession P2,000 in cash which had belonged to his deceased wife Raymunda Yaptinchay, wherefore the total sum said Ocampo had

in his charge, of the property that had belonged to this decedent, amounted to P4,017.14; that, on July 1, 1910, Ramon Ocampo died, leaving a will in which he made mention of his private property and of the property administered by him that had belonged to his deceased wife, but did not state who had all the cash or the sum aforementioned; that the administrator Vicente Reyes had in his possession only the jewels and the other personal property left by the said deceased Raymunda Yaptinchay; and that, from the investigations made it was ascertained that said sum in cash was in the possession of the administrator Ocampo during- his lifetime and was invested by him in the purchase of property specified as his own in his will.

On February 11, 1911, said commissioners submitted to the judge of the Court of First Instance a report in which they stated that, in consideration of the reasons and proofs presented by the claimant Reyes and by Francisco Yaptinchay, the administrator of the estate of the decedent Ocampo, they were of the opinion that said administrator Yaptinchay should pay the P4,017.14 claimed by the administrator of the deceased Raymunda Yaptinchay, although there should be deducted from this sum that of 50 Spanish gold coins of the nominal value of \$2 each, equivalent, on reduction to Philippine currency, to P200, which was delivered by Gervasia de los Santos to the said administrator Yaptinchay, who testified that it belonged to Raymunda Yaptinchay's estate; and that, besides, there should be deducted from the sum claimed the percentage which pertained to the decedent Ocampo, as the administrator of the estate of the deceased Yaptinchay, in addition to the amount of the usufruct to which he was entitled as the latter's lawful husband that he was.

The committee was also of the opinion that the sum of P3.06, mentioned in the due bill given by the debtor, should be paid as a lawful debt that was owing by the deceased Ocampo to Vicente Almeda, and, finally, that an iron bed belonging to Salvadora Ocampo, as proven by Jose Ocampo, a brother of the deceased Ramon Ocampo, should be excluded from the inventory presented by the administrator Francisco Yaptinchay and be delivered to its owner, the said Salvadora Ocampo.

The administrator of Ocampo's estate, Francisco Yaptinchay, in answer to the motion made by Vicente Reyes, the administrator of the estate of Raymunda Yaptinchay, alleged that, pursuant to article 837 of the Civil Code, the decedent Ocampo was entitled to one-half of the estate in usufruct left by his deceased wife Raymunda Yaptinchay, who died without leaving ascendants or descendants; that such usufructuary property should be deducted from the property that belonged to his said wife Raymunda from the year 1904 to July, 1910; and that Alfredo Ocampo, as the testamentary heir of his deceased father Ramon Ocampo and in his representation, was entitled to collect legal fees for the services rendered by the deceased Ramon Ocampo as the administrator of the estate of his intestate wife, which services, set forth in detail, gave rise to the fees that amounted to P292.07

By an order of August 11, 1911, the court ordered the administrator Francisco Yaptinchay to proceed to pay the sum of P4,017.14, less P200, the equivalent of fifty Spanish gold coins, to Vicente Reyes, the administrator of the estate of the deceased Raymunda Yaptinchay, and the sum of P3.06 to Vicente Almeda; and, by another order of October 12, 1911, authorized him to sell under the most advantageous terms such part of the property as might be necessary for the purpose of paying the claims presented, which sale should be made by public auction in accordance with law; and, as no bidders appeared, the administrator Yaptinchay, upon his own motion and by art order of July 24th, was authorized again to offer for sale in the same manner certain property of the estate for the purpose of meeting claims of credit against the same.

In this status of the case, Gervasia de los Santos, natural mother and guardian of her minor son Alfredo Ocampo, natural son of the deceased Ramon Ocampo, presented a petition requesting that she be appointed guardian of said minor; that all the proceedings had by the commissioners be declared null and void, and that other commissioners be appointed in their stead to hear claims against the Ocampo estate; that the administrator Francisco Yaptinchay be removed, and that the sale at public auction of the two parcels of land that had belonged to the decedent

Ocampo, and of the other property, set for the 17th of August, 1912, in the pueblo of Binan, be suspended, for the reason that such property had been appraised by the commissioners at a price lower than its true value; that the decedent Ocampo was during his lifetime the judicial administrator of the estate left by his wife Raymunda Yaptinchay at her death; that the administrator who succeeded Ramon Ocampo, at the latter's death, in the administration of the property of the estate of his deceased wife, presented before the commissioners of appraisal, on December 2, 1910, a claim for the payment of P4,017.14, against which claim the administrator of the Ocampo estate, Francisco Yaptinchay, made no objection, though it was not even proven what percentage pertained to the decedent Ocampo for the administration of the estate of his deceased wife, and did not defend the interests of the estate which he represented; that said Francisco Yaptinchay, as the nephew of the deceased Raymunda, had a personal interest opposed to the interests of the minor Ocampo, wherefore a motion had previously been presented for the removal of said administrator, although said motion was not heard, through carelessness on the part of the attorneys of said Yaptinchay, though he had a good defense against the claim of the administrator of the estate of Raymunda Yaptinchay, if he had been given an opportunity to prove that such claim was absolutely unfounded; for all of which reasons said Gervasia de los Santos believed that her petition should be granted.

By a decree of August 16th, among other things it was ordered that the sale at public auction of the property of the decedent Ramon Ocampo be suspended, and Gervasia de los Santos was appointed guardian of her minor son Alfredo Ocampo, in order that she might intervene in these proceedings.

Francisco Yaptinchay, the testamentary executor of the estate of the decedent Ocampo, by a written motion of August 2, 1913, petitioned the court to accept his resignation as administrator, and to appoint another person in his stead. By an order of October 10, 1913, the court, in view of the result of the probate proceedings, approved in all its parts the final account presented by the administrator Yaptinchay, accepted the latter's resignation as executor, relieving him from all subsequent liability and canceling his bond, and in his stead Jose Ocampo was appointed, who was to give a bond for a P500. This new administrator was authorized, among other things, to pay out of the funds of the estate all claims approved by the committee of appraisal, and, in default of funds, to sell such property of the estate as might be necessary and in the form and conditions as might be advantageous to the estate.

In view of the fact that Jose Ocampo did not appear, so that, upon giving bond and taking oath, he might discharge the duties of administrator, Gervasia de los Santos was appointed judicial administratrix of the estate of the decedent Ramon Ocampo, and as such, after giving a bond for P500, the property of the estate was turned over to her.

In this status of the proceedings, counsel for the said administratrix and guardian of the minor Alfredo Ocampo, by a written motion of August 8, 1914, and reproducing her previous motion of August 15, 1912, prayed the court to annul the report of the commissioners and several orders based thereon, issued in the present proceedings, and to appoint new commissioners in accordance with law, with the costs against the petitioning administrator. In support of this motion he alleged various defects and omissions which he claimed had been committed both by the court and by the committee of appraisal in violation of sections 686, 687, 693, and 694 of the Code of Civil Procedure, for said committee admitted proofs manifestly improper and the former administrator of the Ocampo estate did not oppose the claim presented nor the admission of said proofs; that the claim which the deceased Ocampo had against the estate of his wife, Raymunda Yaptinchay, for the expenses incurred in the matter of the estate and for his fees as administrator, was not opportunely submitted to said committee; that the committee's report was submitted to the court four days before the expiration of the period of six months arbitrarily fixed, and that, consequently, all the said proceeding and claims, as well as also the report presented to the court, were null and void and of no value. Counsel for said testamentary executor also filed a memorandum setting forth the legal

grounds in support of the foregoing averments.

In the memorandum presented by counsel for the administrator Reyes it was alleged that Gervasia de los Santos had no personality nor right to impugn the proceedings of the committee of appraisal, nor to ask for the annulment of all the proceedings had by said committee, nor for the appointment of other new commissioners, for the reason that said Santos was neither a creditor, heir, administratrix, nor even legal guardian, on August 15, 1915, the date when she filed her motion; that the truth was entirely contrary to what she had alleged, inasmuch as the administrator, Yaptinchay, opposed the claim of the creditor estate, which claim appeared to be supported by documentary evidence, and that Yaptinchay asked for the percentage that pertained to the decedent Ocampo and complied with his trust honestly and faithfully, the court having approved the final rendition of the accounts presented by the said Yaptinchay upon his resignation of his charge as administrator, and his bond having been cancelled without any protest whatever on the part of the said Santos; that, therefore, even though the said Gervasia de los Santos had had personality as the administratrix or guardian of her minor child, nevertheless she did not appeal from the decision of the committee of appraisal, in accordance with the provisions of section 774 of the Code of Civil Procedure, and that, on account of the lapse of the period fixed for the purpose, the said report became final and definitive; that said counsel believed, however, that she did not appeal because her attorneys had not found a reasonable ground whereupon to appeal to the Court of First Instance, for the period of six months allowable for the purpose of reviewing said report had expired; that the defects and omissions alleged by the appellant did not constitute essential errors such as might imply annulment of the proceedings had by said commissioners and give rise to the appointment of other commissioners besides the fact that the greater part of said allegations were disproved by data shown in the record, for this latter shows that the notices not only were published in the newspaper La Vanguardia, but were also posted in the pueblo of Birian, and that such publications made could not be deemed null and void for the reason of their not having been ordered by the court, inasmuch as they were made in accordance with law, so that this procedure was had with the knowledge of both the creditor and, like Gervasia de los Santos, noncreditor commissioners, and that therefore the commissioners had complied with the provisions of section 687 of the Code of Civil Procedure. Counsel for Gervasia de los Santos was unable to cite any law or precedent in support of her completely untimely and gratuitous claims, wherefore said counsel for the administrator Reyes asked that the motion be overruled, and that Gervasia de los Santos, as administratrix, be ordered to proceed with the sale of the property of the estate of the decedent Ocampo, for the purpose of the payment of the sum claimed by Reyes, the administrator of the estate of the deceased wife of said decedent Ocampo, and that the orders issued in this sense be affirmed. The court, therefore, by an order of September 2, 1914, overruled said motion in all its parts, and from this ruling Gervasia de los Santos appealed. Section 687 of the Code of Civil Procedure provides as follows:

"The committee so appointed shall appoint convenient times and places for the examination and allowance of claims, and, within sixty days from the time of their appointment, shall post a notice in four public places in the province stating the times and places of their meeting, and the time limited for creditors to present their claims, and shall publish the same three weeks successively in a newspaper of general circulation in the province, and give such other notice as the court directs. The court, in the commission issued to the committee, shall designate the paper in which the notice shall be published, and the number of places in the province in which it shall be posted, and any other mode of notice which the court directs."

Section 693 of the same Code prescribes:

"At the expiration of the time limited or as soon thereafter as they are able to complete the hearing of the claims presented, the committee shall make report of their doings to the court, with lists of the claims presented, or exhibited in offset, stating how much was allowed, and how much disallowed, with the final balance, whether in

favor of the creditor or the estate; and the report shall state the manner in which notice was given to the claimants."

From the careful examination made of the record in this case it appears that the proceedings had by the trial court, as well as those by the committee of appraisal and claims, were in accordance with law, as the preinserted provisions and others of the Code of Civil Procedure were substantially complied with, and it cannot be affirmed on good grounds that the irregularities complained of by counsel for the minor Alfredo Ocampo were essentially such or that they in any manner prejudiced his rights and interests, for both he and his mother Gervasia de los Santos, as well as their attorneys, knew positively and certainly that two commissioners of appraisal had been appointed, had commenced to discharge their duties, had published notices, by means of edicts posted in public places, including the pueblo of Binan, and by publications in the newspaper *La Vanguardia*, calling the creditors of the estate of the decedent Ramon Ocampo. If the mother of the minor Ocampo had actually had justifiable grounds whereupon to oppose by a just and good defense the claim presented by the administrator of the estate of the deceased wife of the decedent Ocampo, in behalf of the rights and interests of her minor son, she would have filed her objections opportunely during the period of the six months fixed by the commissioners and on the day and hour set by them. Moreover, after the report of the commissioners, dated February 15, 1911, had been approved by an order of the court of the date of August 11th of the same year, neither Gervasia de los Santos nor any of her several attorneys thought of appealing from said report or of exercising the right granted her by section 774 of the Code of Civil Procedure, within the period fixed in the following section 775, in order to have prosecuted the action referred to in section 776 of the same code, during the long period of time of about seven months, and not until August 16, 1912, that is, more than one year afterwards, did she present a written petition impugning the legality of the judicial proceedings and the report of the commissioners in respect to the claim presented by the administrator of the estate of Raymunda Yaptinchay, and afterwards took no steps whatever until August 5, 1914, the day set for the hearing of the motion for annulment.

Said section 774 prescribes that if the executor or administrator does not appeal from the allowance of any claim against the estate by the committee, as occurred in the case at bar, any heir or creditor may appeal to the Court of First Instance from such allowance and prosecute the appeal in the name of the executor or administrator, upon filing a bond approved by the court. The appeal provided for in this section and in the preceding one, No. 773, must be filed in the Court of First Instance within twenty-five days after the committee's report is filed therein, in which case, pursuant to section 776, *aforecited*, proceedings similar in form to those of ordinary actions shall be followed, and the judgment rendered therein is appealable before the Supreme Court by means of the proper bill of exceptions.

If counsel for the minor Alfredo Ocampo had had well-founded reasons for rejecting the claim of the administrator of the estate of the woman, now deceased, who was the legitimate wife of his natural father, also now deceased, he would have assailed the decision of the said committee and appealed from it to the Court of First Instance and therein pursued the action allowed by law to enable him to make full defense of his injured rights.

Any error, fraud, deceit, defect or vice, of a substantial nature and productive of annulment, found in the committee's report, may serve as a ground for appeal, be pleaded in the trial had in the Court of First Instance, and be a subject matter of the final judgment rendered in the proceedings. It has already been stated hereinabove that neither the committee's report nor the order approving it has been appealed.

It is not sufficient to plead that an objector had a good defense, but he must plead it in due time and set forth the facts that constitute the grounds on which he intends to rest it. In the case at bar, in spite of the objector's extensive petition and memorandum, the record does not disclose the slightest proof that the estate of the decedent

Ramon Ocampo did not actually and lawfully owe P4,017.14 to the estate of the woman who was his wife, Raymunda Yaptinchay—a debt that was perfectly proven at trial by means of documents which were neither contradicted nor assailed as false, criminally or civilly.

Furthermore, were it true that the administrator Yaptinchay had failed faithfully to discharge the duties of his office, the appellant should have addressed her claims against him, which she did not do, and it is to be noted that neither did she make any protest against the order approving the final account rendered by the said Yaptinchay on his resignation and canceling the bond given by him. If the purpose sought by Gervasia de los Santos tended absolutely to avoid payment by the estate of the father of her natural son, of the debt due to the woman who was, during her lifetime, his legitimate wife, or at least to delay indefinitely said payment, such a purpose would be defeated by the provision of law relative to the ineludibility of the obligation to pay the debts of the testator before the instituted heir can succeed to his inheritance and receive it.

For the foregoing reasons, whereby the errors assigned to the final order appealed from are deemed to have been refuted, said order should be, as it is hereby, affirmed, with the costs against the appellant. So ordered.

Arellano, C. J., Carson, Araullo, Street, and Malcolm, JJ., concur.

Johnson, J., did not take part.

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