

JOSE M. DE AMUZATEGUI, PLAINTIFF AND APPELLANT, VS. JOHN. T. MACLEOD, ASSIGNEE OF THE INSOLVENT ESTATE OF UY YAN AND UY LAC, DEFENDANT AND APPELLEE.*G.R. No. 10629, December 24, 1915*

Ponente: MORELAND, J.

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It seems from the record in this case that in the month of May 1914 Uy Yan began before a court in insolvency a proceeding in voluntary bankruptcy. On his petition he was duly declared a bankrupt; and, after the usual proceedings were had, John T. Macleod was appointed assignee. He at once took possession of the property of the insolvent debtor and proceeded with the administration of the insolvent estate in accordance with law. In the course of the proceedings Jose M. de Amuzategui, who had a claim against the insolvent debtor of something over P2,000, evidenced at the time by an unrecorded second mortgage on real estate, filed a petition in the insolvency court praying that his claim be declared preferred and that he be paid the amount thereof from a certain fund in the hands of the assignee resulting from the collection of a policy of insurance on a building on the lands covered by the mortgage, which had burned after the execution of the mortgage. The insolvency court found, after a hearing, that the claim presented was not a preferred claim and, by an order dated October 24, 1914, denied the prayer of the petition. No appeal was taken from that order. Later and on the 11th of November 1914 the creditor presented to the insolvency court a writing by which he apparently desired to amplify his former petition, alleging, as new matter, that, subsequent to the presentation of his petition, he had obtained registration of the mortgage by which his debt against the insolvent debtor had been secured. Nothing seems to have been done with respect to this writing, for, on the 11th of November 1914, he began the present action in the Court of First Instance of the city of Manila.

The complaint alleges that the insolvent debtor Uy Yan is indebted to the plaintiff in the sum of P2,240, secured by a second mortgage on real estate, duly registered, covering the property located at No. 25 Palacio; that, in the month of April thereafter, one of the buildings of the mortgaged property was destroyed by fire and that the assignee of Uy Yan, defendant, collected the insurance thereon to the amount of P7,000; that plaintiff is entitled to recover from the insurance money so collected the amount of his debt, or P2,240, together with P300 costs and expenses, and the interest on said sum at 1% per cent a month. On these allegations plaintiff prayed that the court declare his right to collect the P2,240 from the insolvent's estate, with interest, and the P300 costs and expenses, and that the defendant assignee be ordered to pay plaintiff said sums.

The trial court, after trial of the issues presented by the pleadings, dismissed the action on the ground that the plaintiff should have gone to the insolvency court to obtain his relief instead of beginning a separate action in the Court of First Instance. From this judgment plaintiff appealed.

We are of the opinion that the trial court properly decided the case.

Section 60 of Act No. 1956, known as the Insolvency Law, provides in part as follows: "No creditor whose debt

is provable under this Act shall be allowed, after the commencement of proceedings in insolvency, to prosecute to final judgment any action therefor against the debtor until the question of the debtor's discharge shall have been determined, and any such suit or proceedings shall, upon the application of the debtor or of any creditor, or the assignee, be stayed to await the determination of the court on the question of discharge: Provided, That if the amount due the creditor is in dispute, the suit, by leave of the court in insolvency, may proceed to judgment for the purpose of ascertaining the amount due, which amount, when adjudged, may be allowed in the insolvency proceedings, but execution shall be stayed as aforesaid."

Section 18 has the following provision with respect to the effect of the order declaring the petitioner insolvent: "Upon the granting of said order all civil proceedings pending against the said insolvent shall be stayed."

From these provisions it is clear that, with the declaration of insolvency, courts in insolvency obtain full and complete jurisdiction over all property of the insolvent and of all claims by and against him, with full authority to suspend, on the application of the debtor, a creditor, or the assignee, any action or proceeding then pending in any court, to await the determination of the court of insolvency on the question of the bankrupt's discharge. The assignee in the case at bar asked that the action be dismissed on the ground that the court in insolvency having complete jurisdiction over the affairs of an insolvent debtor, and particular!}the distribution of his estate for the payment of his debts, an action begun in another court which tends in any material way to interfere with the exercise of that jurisdiction is prohibited either expressly or impliedly by the Insolvency Law and cannot, therefore, be maintained when appropriate objection by the proper parties is interposed. It is evident that if the various courts of the Islands may by action or other proceeding intervene in the affairs of an insolvent debtor and with the administration of the court in insolvency, great confusion would result and the termination of the insolvency proceeding might be delayed unduly. We believe it to be the policy of the Insolvency Law to place the insolvent debtor and all his assets and liabilities completely within the jurisdiction and control of the court in insolvency and not to permit the intervention of any other court in the bankrupt's concerns or in the administration of his estate. In the case of *Bastida vs. Pefialosa* (30 Phil. Rep., 148), there was a motion to the Supreme Court to suspend further proceedings in an action then before the court on appeal on the ground that, after the appeal was taken, the appellant was declared an insolvent and proceedings under the Insolvency Law were then in progress in the insolvency court. That motion was denied by this court on the ground that it appeared from the Insolvency Law that the court in insolvency had full charge of all claims by and against an insolvent debtor; that that court alone could determine whether an action pending against the petitioner at the time of the declaration of insolvency should be prosecuted to final result or should be stayed, and that to that court alone was confided the power of dealing with the estate as well as with the debts of insolvent debtors. We said: "If other courts in which actions against the insolvent might be pending at the time of the order in insolvency were permitted to exercise their own authority and deal with the actions in the manner which to them seemed best, the proceedings in insolvency might be halted, final action therein definitely postponed, and the court in insolvency greatly hampered in the management of the insolvency proceedings. We think it the better practice to require applications of this sort to be made directly to the court in insolvency, that it may determine whether it desires the action stayed or whether it wishes that it proceed for the purpose of fixing the amount of the creditor's claim; and is the practice which seems to be established by the Insolvency Law."

The reasoning in that case can be properly used in the case at bar. It is of prime importance that the proceedings in insolvency follow their course with as great speed as is consistent with conditions in order that a discharge, if the insolvent debtor is entitled to it, shall be decreed as quickly as possible. Proceedings of that nature cannot proceed properly or with due dispatch unless they are controlled absolutely by the court having charge thereof. We have frequently held that probate courts having once acquired jurisdiction of the estate of the deceased cannot be interfered with or deprived by any other court of the right to pass on every question connected with the estate; and

that, having acquired jurisdiction, they preserve it intact until the final settlement of the estate. The same rule, but with even greater rigor, should be applied to courts having jurisdiction of bankrupts and bankrupts' estates.

The judgment appealed from is affirmed, with costs against the appellant. So ordered.

Arellano, C.J., Torres, Carson, Trent, and Araullo, JJ., concur.

Judgment affirmed.

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