

RAMON ONGPIN, AS ADMINISTRATOR OF THE TESTATE ESTATE OF ROMAN ONGPIN, APPLICANT AND APPELLANT, VS. VICENTA RIVERA, AS GUARDIAN OF THE PERSON OF THE MINOR, CARMEN RIVERA, OPPONEN...*G.R. No. 11409. March 21, 1917*

Ponente: ARAULLO, J.

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Roman Ongpin died on December 10, 1912. In his will he bequeathed to Carmen Rivera, natural daughter of Vicenta Rivera, a legacy equivalent to five per cent of the net amount of the proceeds of the estate, to wit, P9,867.02. Probate proceedings instituted in the Court of First Instance of this city and on June 28, 1915, the attorney of the guardian of the minor petitioned the court to require the administrator of the decedent's estate to deliver said legacy to Carmen Rivera, together with the fruits and other income it had earned since the date of said Ongpin's demise, or to require the heirs to give sufficient security to cover the value of the legacy with its income and other products until the date of its payment. Acting upon this petition, on July 12, the court ordered the administrator to liquidate the legacy and pay the proceeds to the minor's guardian, but directed that delivery should not be made until the guardian of the minor's property should increase the amount of his bond from P1,000 to P10,000.

On July 20th of the same year, the administrator deposited with the clerk of the court P7,737.02—the remainder of the minor's legacy still in his possession; and on the 20th of the following month of October, the court issued an order directing the administrator to pay to Carmen Rivera, besides the said amount deposited with the clerk of the court, the additional sum of P1,160.55, as legal interest on the sum first above-mentioned at the rate of 6 per cent per annum for the period of two and one-half years. The administrator Ongpin excepted to said order and forwarded to this court a transcript of the testimony taken at the trial. In his brief he assigns various errors which he alleges were committed by the court in issuing said order.

The concrete question before this court on this appeal is whether the administrator of Ongpin's estate must deliver said legacy to the minor Carmen Rivera, and whether he must also pay the legal interest fixed by the lower court in its aforementioned order.

From the testimony before us it appears that on June 2, 1914, the court approved the tentative partition presented by the administrator in the probate proceedings and authorized the executor to deliver the property to the heirs in accordance with the terms of said partition; that prior to said date, to wit, on December 31, 1912, a few days subsequent to the death of the administrator Ongpin, by agreement with his heirs, monthly deliveries were made to the minor Carmen Rivera of various amounts, some of P40, others of P50, P100, and P250, up to June 30, 1915; that these sums aggregated P2,040, there remaining, therefore, to be delivered to the legatee P7,737.02; that on July 20th of said year, that is, twenty days after the last partial delivery, said administrator, upon the aforementioned petition filed by the minor's legal representative on the 28th of the preceding month, deposited

with the clerk of the court at the disposal of said minor the remainder of the legacy, to wit, P7,737.02, which deposit was still in the custody of the court when the order appealed from, dated October 20, 1915, was issued, directing the administrator to deliver that sum to the minor, together with the interest aforementioned.

A debtor, or the person obligated to pay to another a specified sum of money, owes interest from the moment the debtor or said person is delinquent in the fulfillment of his obligation. In the present case it was the duty of the administrator to deliver to the minor legatee the legacy bequeathed to her by the deceased, amounting to P9,867.02, and to make such delivery on June 2, 1914; and at the time the court approved the memorandum of partition of the decedent's estate and, in accordance therewith, ordered the delivery of the respective properties to the heirs, not only had said administrator been making partial deliveries of the legacy to the legatee for a long time prior to the issue of said order, that is, since a few days after Roman Ongpin's death—which deliveries amounted to P2,040—but several days after the last partial delivery, he had also deposited with the clerk of the court P7,737.02, the remainder of the legacy, as soon as he was required by the court to make complete delivery thereof. The said administrator was not, therefore, in any way delinquent in the fulfillment of his obligation.

For the foregoing reasons, we affirm the order appealed from, of the date of October 20, 1915, in so far as it directs the delivery to the legatee of the remainder of the legacy, amounting to P7,737.02, now deposited with the clerk of the court, and we reverse said order in so far as it directs that, in addition to said sum, the administrator shall pay to the legatee, Carmen Rivera, P1,160.55, as legal interest on the sum first above-mentioned for the period of two and one-half years, and we hold that the legatee is not entitled to said interest. No special finding is made with respect to the costs of this instance. So ordered.

Torres, Carson, Moreland, and Trent, JJ., concur.

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