

SERGIO F. DEL CASTILLO, PETITIONER, VS. EDUARDO D. ENRIQUEZ, ET AL., RESPONDENTS.*G.R. No. 11440. September 30, 1960*

Ponente: BAUTISTA AUGELO, J.

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On September 12, 1944, Clemente del Castillo died intestate leaving as heirs his widow and six children, namely, Mariano, Emma, Enrique, Sergio, Eduardo and Raul. As most of the properties left by the deceased are located in Negros Occidental, intestate proceedings were instituted in the court of that province by the widow who in due time was appointed administratrix of the estate.

On August 16, 1946, the court issued an order requiring the creditors, if any, to file their claims against the estate within a period of 6 months from August 22, 1946. Accordingly, the Bachrach Motors Company, Inc. filed its claim with the court in the amount of P4,017.20. Since the administratrix was slow in discharging her duties as such as well as in taking steps leading to the speedy settlement of the estate, it was agreed among the heirs to liquidate said account in the manner proposed by Sergio whereby each would pay his share after obtaining certain rebate in the interest from the creditor which would reduce the claim from P4,017.20 to P3,181.93. The agreement was submitted to the court and was approved on October 7, 1953. Because only Enrique and Sergio were able to pay their shares of the account, in order that the reduction obtained from the creditor may not be jeopardized, Sergio paid the shares of the other four heirs with the result that the claim of the creditor became fully settled.

In the meantime, even if no order of partition has as yet been issued by the court because the administratrix had not as yet submitted a project of partition to the court as required by law, the real estate, including the sugar quota rights appurtenant thereto, remained in possession of the heirs by virtue of a partial partition executed by and between them which was approved by the court. In order that he may be reimbursed for what he had advanced on account of the shares of his other heirs, Sergio, on November 17, 1955 filed a motion with the court praying that the administratrix be required to take steps so that he may be paid, which motion was approved by the court on April 14, 1956. And when this order became final, Sergio filed a motion for execution which however was disapproved by the court. Sergio was about to submit a motion for reconsideration, but the judge suggested that he defer its filing until after he had a chance to talk to the administratrix and the other heirs regarding the matter.

A conference was, held wherein the judge advised the heirs of the necessity of paying the claim of Sergio in order that the estate may be closed and to that effect the heirs met in the house of Enrique to further discuss the matter and there it was agreed to authorize the administratrix to sell the sugar quota of about 1,200 piculs which were then leased to Enrique or so much thereof as may be necessary to pay the claim, including the expenses of administration. And so on July 13, 1956 Sergio filed a motion praying that the administratrix be authorized to carry out the agreement by selling the quota of sugar abovementioned, which motion was approved by the court. Later, however, Enrique changed his mind and so the authority given to the administratrix could not be implemented, whereupon Sergio filed another motion on September 4, 1956 praying that the administratrix be authorized to repossess the sugar quota which she illegally leased to Enrique in order to enable her to carry out its

sale and pay his claim, to which the administratrix objected saying that she did not authorize Sergio to file such motion. Thereupon, Sergio filed another motion on September 13, 1956 wherein he made a narration of the different steps he had taken leading to the payment of his claim which until then remained unpaid in view of the indifference and refusal of the administratrix to pay the same, for which reason he prayed that the court reconsider its order of July 14, 1956 denying his motion for execution and issue instead a writ of execution of its previous order of April 14, 1956, but after hearing the parties the court issued an order on September 22, 1956 denying the motion for reconsideration of Sergio dated September 13, 1956. Hence the present petition for certiorari.

It is undisputed that the claim of Bachrach Motors Company, Inc. for P4,017.20 was duly filed and admitted by the administratrix so much so that the same was compromised by reducing it to P3,181.93 in view of a proposal submitted to the heirs which was approved by them and the same was in turn approved by the court. It likewise appears that because of the desire of Sergio to have this claim paid in order that the advantage gained by the heirs as a result of the compromise may not be jeopardized, he offered to pay as he did the shares of the other heirs and so the claim was paid in full. But when he took steps to secure the reimbursement of what he had advanced he was met by the reluctance of the heirs to reimburse to him the shares corresponding to them thus forcing him to ask the help of the court. So on November 17, 1955 petitioner filed a motion in court praying that the administratrix be required to take steps to liquidate her account and the same was readily approved by the court on April 14, 1956. To this order no one objected and so it became final and executory.

But what puzzles this Court is that notwithstanding the fact that the claim of petitioner met no opposition whatever from the heirs nor from the administratrix and that the same has become final long ago, the trial court has not deemed fit to see that it be paid as required by law. It should be noted that the motion of petitioner for execution of said order dated June 15, 1956 was denied by the court without stating any plausible reason for such denial, and that far from taking the steps necessary to have the claim of petitioner paid, it has entertained dilatory moves taken by the administratrix. This is somewhat unusual considering that this is the only claim filed against the estate and there is seemingly no further action to be taken except to pay the same in order that the estate may be settled, and distributed and the administration closed. Apparently, the trial court has overlooked the primordial purpose of the law relative to the settlement of estates which is none other than to strive to have the estate settled in a speedy manner so that the benefits that may flow therefrom may be immediately enjoyed by the heirs and beneficiaries. It is therefore not strange that petitioner should not come to this Court to ask for relief from an act of unfairness which he believed was committed against him by the trial court.

"The speedy settlement of the estates of deceased persons for the benefit of creditors and those entitled to the residue by way of inheritance or legacy after the debts and expenses of administration have been paid, is the ruling spirit of our probate law. (*Sikat vs. Viuda de Villanueva*, 57 Phil., 486.)" (*Magbanua, et al. vs. Akol, et al.*, 72 Phil., 567.)

"While these sections may be considered as only directory, all Courts of First Instance should exert themselves to close up estate within twelve months from the time they are presented, and they may refuse to allow any compensation to executors and administrators who do not actively labor to that end, and they may even adopt harsher measure." (*Lizarraga Hermanos vs. Abada*, 40 Phil., 124, 134-135; See also *Mendoza vs. Pacheco*, 64 Phil., 134.)

Wherefore, petition is granted. The trial court is hereby ordered to issue immediately a writ of execution of its order of April 14, 1956 admonishing the administratrix that if she should fail to carry out the directive in said order within a peremptory period a more drastic action will be taken against her until said order is complied with. No costs.

Paras, C. J., Bengzon, Padilla, Labrador, Concepcion, Reyes, J. B. L., Barrera, Gutierrez David, and Dizon, JJ.,

concur.

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