

INTESTATE ESTATE OF THE DECEASED MARIANO COTIA. ELENA COTIA, ET AL., PETITIONERS AND APPELLANTS, VS. MARIA JIMENEZ, ET AL., OPPOSITORS AND APPELLEES.

G. R. No. 12132. December 22, 1958

Ponente: PARAS, C.J.

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PARAS, C.J.:

This is an appeal from the order of the Court of First Instance of Manila relieving the petitioner-appellant, Elena Cotia, as administratrix of the estate of the deceased Mariano Cotia and appointing in her stead the Philippine Trust Company.

It appears that Elena Cotia was appointed administratrix on June 13, 1950. Failing to submit an account of her administration up to June 18, 1955, she was ordered by the lower court, on motion of the oppositors-appellees to submit said accounting. During the hearing of the statement of accounts subsequently presented by Elena Cotia, it was established that she spent for family expenses and attorney's fees the total sum of P64,650 without prior judicial authority. The oppositors-appellees therefore filed a motion for her removal as administratrix not only because she neglected to submit the accounting required by the Rules and to settle the estate, but because she had made unauthorized disbursements.

We are of the opinion that the lower court did not abuse its discretion in removing the administratrix, Elena Cotia. The appealed order finds express sanction in Section 2, Rule 83, of the Rules of Court, which provides that the court may remove an administrator who neglects to render his account and settle the estate according to law. What is more, the family expenses and attorney's fees in the aggregate amount of P64,650 paid by the administratrix out of the estate without previous authority of the court, is seemingly in disregard of Section 3, Rule 84, of the Rules of Court, to the effect that the widow and minor or incapacitated children of a deceased person shall receive, under- the direction of the court, such allowances as are provided by law.

Wherefore, the appealed order is affirmed with costs against the appellants. So ordered.

Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

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