

**MARIA LOPEZ, WIDOW OF JOAQUIN GARCIA GUERRERO,
PETITIONER AND APPELLEE, VS. LEONOR GARCIA LOPEZ,
OPPONENT AND APPELLANT.**

G.R. No. 13823. September 22, 1919

Ponente: STREET, J.

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STREET, J.:

On March 31, 1901, Joaquin Garcia Guerrero died in the city of Manila, leaving a surviving widow, Maria Lopez y Coejilo, and seven children as heirs, to-wit: Joaquin, Rosa, Ignacio, Maria, Leonor, Mercedes, and Ricardo, all of the surname Garcia y Lopez. Many years prior to his death, to wit, on March 5, 1892, the deceased had executed a will in accordance with the requirements of article 694 of the Civil Code then in force in these Islands. However, nothing was done for many years after his death looking to the establishment of the will and the judicial distribution of the estate thereunder. On the contrary the parties in interest, the widow and children of the deceased, desiring to keep the property together, entered into an agreement, dated February 15, 1902, wherein they recognized their common ownership of the property and all agreed not to seek a division for two years from that date. On May 7, 1904, the property being still undivided, Maria Garcia Lopez (hija), sold her interest in her father's estate to her coheirs for the sum of P13,186.

On March 31, 1905, another document was executed by the widow and heirs, except Maria Garcia Lopez (hija), similar to that of February 15, 1902, all again recognizing the existence of the community estate and agreeing to postpone division for a period of five years from March 31, 1905. On March 15, 1911, Ignacio Garcia Lopez sold his interest as heir to his coheirs for the sum of P24,500.

On December 15, 1914, the widow, Maria Lopez y Coejilo, filed in the Court of First Instance of the city of Manila a petition for the probate of her husband's will, which was duly proved and allowed by the court, the applicant being appointed administratrix of the decedent's estate.

On January 22, 1915, the widow, Maria Lopez, and all the heirs except the two who had parted with their interest executed a document by which they transferred to Leonor Lopez Garcia certain properties described in the document in payment of her share in the undivided property; and in return Leonor Lopez Garcia renounced her right to intervene in the settlement of the estate of the testator, particularly, the right of objecting to the accounts which might be rendered for the period of administration beginning January 1, 1915. It was, however, also stipulated in said document that the widow should render an accounting of the administration of the property from the death of the testator, i. e., from March 31, 1901, to December 31, 1914, the accounts to be presented in the course of the testamentary proceedings, and that she should pay to Leonor Lopez Garcia what the court might find to be still due her from the estate. Accordingly, on April 24, 1915, the administratrix, Maria Lopez, presented her account of her administration of the property for the period between April 1901 and December 31, 1914.

On January 31, 1916, Leonor Lopez Garcia filed certain objections, or exceptions, to the account thus presented. At the hearing upon these exceptions, the attorney for the administratrix took the position that the court was

without jurisdiction to pass upon the account and was incompetent to entertain the objections. The trial court acceded to his view and ordered the account to be returned to the administratrix. From this order Leonor Garcia Lopez appealed.

It seems to be undisputed, and at any rate the trial court found, that the widow, Maria Lopez, had been in charge of the estate as administratrix or agent of all the parties in interest for the whole period from March 31, 1901, to December 31, 1914, during which the community estate was continued by agreement among the heirs; and the question presented for decision is whether the court wherein an administration is pending has the power to require a judicial administrator to account for acts done in the capacity of manager or administrator, during the period elapsing between the death of the decedent and the formal qualification of the administrator.

We are of the opinion that, under the conditions stated, the court has jurisdiction and that it was error in the present case for the trial court to refuse to consider the account in question in connection with the exceptions presented thereto. It is of no moment that during the period covered by this accounting the accountable party, now formal administratrix, was acting as manager of the estate by agreement among all the parties then having an interest in the estate. When the estate of a deceased person is brought into judicial administration every person having any of the property of the decedent in his hands is required to surrender it to the lawful executor or administrator, and any one who may have squandered assets of the estate or converted the same to his own use is liable to answer for the value thereof. There can in the nature of things be absolutely no exception to this rule for it is inherent in the general jurisdiction of the Court of First Instance "in all matters relating to the settlement of estates." (Sec. 599, Code Civ. Proc.) It cannot be doubted that if the person managing this estate during the period mentioned had been some other than the present administratrix, it would have been the duty of the latter to require such person to account. The first steps to be taken in the process of administering an estate are the making of an inventory and the assembling of the movable assets in the hands of the administrator. It is to this end that the administrator is endowed with such ample power with respect to the commencement and prosecution of actions for the recovery of property pertaining to the estate (secs. 701, 702, and 703, Code Civ. Proc.) and with respect to the institution of proceedings to compel the surrender of any of the money, goods, or chattels of the deceased which may have been concealed, embezzled, or conveyed away. (Sec. 709, Code Civ. Proc.) It is undeniable that all persons who come into possession of property belonging to any decedent are liable therefor and accountable to the lawful Administrator when the estate is finally drawn into judicial administration; and this responsibility extends to the restoration of the fruits, increase, and accessions of such property as well as to the surrender of its proceeds, where it has been sold, or exchanged, and to compensation for its value where it has been appropriated, converted or consumed. When it occurs, as here, that the person qualifying as administrator is the same as the one who acted as custodian and manager prior to the inception of the administration proceedings, his duty to account is no less insistent and inevitable.

It is true that section 672 of the Code of Civil Procedure, which deals with the annual accounting by the administrator, contemplates that he shall account only for such property as may come to his hands as administrator; but this has nothing to do with the initial accounting which should be required of an administrator with respect to property which may have come to his hands as manager prior to the issuance of letters of administration. The accounting, under such circumstances, is necessary to determine what assets pertain to the estate and in this way to establish the initial responsibility of the administrator.

It is suggested in the appellee's brief, as one of the reasons for affirming the judgment, that when the account of Maria Lopez was presented there was no judicial proceeding pending before the court for the settlement of the state of Joaquin Garcia Guerrero; and the decision in the case of *Nepomuceno vs. Carlos* (9 Phil. Rep., 194), is cited as indicating that the court was for this reason without jurisdiction to receive and pass upon the account in

question. The case referred to was one where an executorship instituted under the Spanish law had been terminated as the result of a contract for the partition of the estate, and the judicial proceedings, if any had ever in fact been instituted, had been abandoned for a period of about eleven years before any effort was made by the plaintiff to compel the defendant to account. In the present case the will of the deceased was not proved until the year 1914 or 1915, and the fact that a judicial proceeding was pending at the time the account in question was presented is evident from the circumstance that in disposing of said account the trial court saw fit to make a declaration terminating the administration proceedings and relieving Maria Lopez of further responsibility as administratrix, at the same time declaring her bond as such to be cancelled.

As already stated it is expressly stipulated in the contract of January 22, 1915, between Leonor Lopez Garcia, of the one part, and her mother and coheirs, of the other, that the mother should render an account in the administration proceedings for the period of her management from March 31, 1901, to December 31, 1914. As correctly observed by the trial judge this agreement for an accounting over that period would not have conferred jurisdiction upon the court if jurisdiction had in fact been wanting; since jurisdiction cannot be conferred upon a court by consent of the parties. (Molina vs. De la Riva, 6 Phil. Rep., 12.)

In what has been said we have been discussing the bare question of the jurisdiction of the court, and nothing is in strictness necessary to be said as to the considerations which should govern the court in dealing with an account of the character of that involved in this case. We deem it, however, proper to add that if, as appears to be the case, Maria Lopez, widow, acted as manager of the property in question by consent of the heirs in interest, who have acquiesced in her management and expressly or tacitly conceded to her a scale of remuneration different from or greater than that which the law would allow to a duly authorized administrator, said heirs would necessarily be bound thereby. In other words, the extent of the accountant's responsibility is, in the absence of bad faith, to be discovered in the agreement of the parties in interest deducible from their contract, in relation with all the circumstances of the case. As may readily be discerned, a person called to account under conditions of this kind might find himself at a great disadvantage, if held rigorously responsible without regard to the special conditions under which the administration was conducted. The failure of the heirs during so great a period to attempt to hold their mother accountable in court is, to say the least, indicative of their acquiescence in the general character of her administration; and the stipulation in the contract of January 22, 1915, that she should be liable to account is not to be taken as depriving her of any defense, arising from agreement or acquiescence of the parties or from lapse of time, which she would be otherwise entitled to interpose.

As we understand the case, the heirs, other than the objector, Leonor, are satisfied with what has been done. If this be true, the liability of the accountant is in any event limited to the proportional interest of Leonor in the balance found due from the administratrix to, the estate when the process of accounting is finished.

From what has been said it results that the order appealed from should be reversed, and the cause will be remanded for further proceedings in conformity with this opinion. It is so ordered, without special pronouncement as to costs.

Arellano, C.J., Torres, Araullo, Malcolm, Avanceña, and Moir, JJ., concur.

Order reversed, case remanded for further proceedings.

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