

MELECIO R. DOMINGO, ETC., PETITIONER, VS. HON. JUDGE S. C. MOSCOSO, ETC., ET AL., RESPONDENTS.

G.R. No. 14674. January 30, 1960

Ponente: BENGZON, J.

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BENGZON, J.:

The Commissioner of Internal Revenue asks for certiorari to annul the orders of the respondents judge of the Leyte court of first instance setting aside a previous order of the same court dated December 17, 1956, in Special Proceedings No. 14 entitled "In the Matter of the Intestate Estate of the late Walter Scott Price."

The petition rests on the allegation that such orders had been entered without or in excess of jurisdiction, inasmuch as the order of December 17, 1956, had already become final and executory.

It appears that after the Collector of Internal Revenue had submitted in the said intestate proceedings a "proof of claim" for estate and inheritance taxes in the sum of P40,058.55, the court on December 17, 1956, ordered the administratrix to pay such amount. Copy of the order was sent by registered mail on December 18, 1956, to the attorney of the administratrix. It was received on December 26, 1956. (Annex 2)

On June 14, 1957, the Collector of Internal Revenue asked for execution of the order of payment, inasmuch as no appeal had been taken therefrom. This gave ground to an opposition and a motion for reconsideration by the administratrix, which was granted by the respondent judge, who ruled in his questioned order of June 22, 1957, that,

"* * * It appears that the proof of claim submitted by the Collector of Internal Revenue Silverio Blaquera was filed in this Court on December 7, 1956, without a copy having been furnished to the administratrix or to her attorney. In equity the Court sets aside its order dated December 17, 1956, and orders the claimant to furnish a copy of the said claim to the administratrix or to her attorney before the Court will again act on said claim."

Two motions for revocation of this order were overruled in subsequent orders.

Hence this petition.

Considering the circumstances above related, we think the respondent judge exceeded his jurisdiction in issuing the questioned order of June 22, because the decree of payment of December 17 had already become final and executory. Counsel for the administratrix, it will be recalled, received copy of such payment order on December 26, 1956. For six months thereafter he made no move either to reconsider or to appeal. (He could not even request relief under Rule 38, because more than sixty days had passed.)

The failure to serve copy of the Collector's claim to the administratrix might, at most, be a legal error corrigible on appeal. But it had no effect of depriving the court of jurisdiction as we held in a parallel situation in *Pineda vs. Court of First Instance*, 52 Phil., 803. This last case even went so far as to hold that claims for taxes due and assessed after the death of the decedent need not be presented in the regular form of claims in the testate or intestate proceeding. Which holding means, as applied to the instant lawsuit, that it was unnecessary to furnish

copy to the administratrix; so the order revoking payment stands on no juridical ground.

Wherefore, the set-aside orders, particularly the order of June 22, 1957, are hereby annulled. As a consequence, the order dated December 17, 1956, is declared final and executory. Costs against respondent Simeona K. Price.

So ordered.

Paras, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Barrera, and Gutierrez David, JJ., concur.
Montemayor, Reyes, J.B.L., and Endencia, JJ., took no part.

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