

**INTESTATE ESTATE OF ENCARNACION ELCHICO VDA. DE FERNANDO, DECEASED, NATIVIDAD E. IGNACIO AND LEONOR E. ALMAZAN, ADMINISTRATRICES-APPELLANTS, VS. EDUARDO ELCHICO AND FLORENCIO EL...**

*G.R. No. 18937. May 16, 1967*

Ponente: SANCHEZ, J.

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**SANCHEZ, J.:**

Major heirs, so-called, of the deceased Encarnacion Elchico Vda. de Fernando, are: Jose L. Elchico, Salud Elchico Reyes and Natividad Elchico Ignacio. On March 19, 1956, in the intestate proceedings for the settlement of the estate of the said deceased Encarnacion Elchico Vda. de Fernando,[1] the three (3) heirs submitted a "joint petition for partial partition and distribution" of the estate. This was approved by the Manila probate court on April 3, 1956, upon a bond of P150,000.00 to answer for the obligations of the estate. This bond was filed on May 11, 1956. In consequence, the three (3) heirs entered into the possession of their corresponding shares set forth in the partial partition. To Jose L. Elchico went the Angat transportation business as well as a parcel of land located on Misericordia Street, Manila.

Thereafter, Jose L. Elchico, one of the heirs, died. Settlement of his estate is pending in a different court, the Court of First Instance of Rizal, in two special proceedings, one testate and the other intestate.[2]

In June, 1959, the Angat transportation business was sold by appellees Eduardo Elchico and Florencio Elchico, the co-administrators of Jose L. Elchico, upon the authority of the Rizal probate court given in an order of April 29, 1959. The Misericordia property remains under the administration of Jose L. Elchico's co-administrators. In the court order just mentioned, the Rizal probate court also granted authority to sell the Misericordia property.

Came the motion of appellants-administratrices of the intestate estate of Encarnacion Elchico Vda. de Fernando of March 16, 1961, filed with the Manila probate court, which was supplemented by subsequent pleadings. They pray that the Misericordia lot be turned over to said administratrices, so that the charges which burden the estate (Estate of Encarnacion Elchico Vda. de Fernando) "corresponding to the heir Dr. Jose L. Elchico may be satisfied therefrom, the balance to be returned to his heirs." The administratrices claim that the obligations of the estate - consisting of approved and pending claims - in round figures, amount to almost P400,000.00 (which includes a claim of the Bureau of Internal Revenue for the balance of the estate and inheritances taxes, more or less in the sum of P135,000.00 as of February 13, 1961); that of the amount of P230,000.00, proceeds of the sale of the Angat transportation business, nothing was turned over to the estate of Encarnacion Elchico Vda. de Fernando for the payment of Jose L. Elchico's obligations in said estate; that Jose L. Elchico had no other property except the Misericordia lot; that should the sale of said lot be finally effected, the proceeds thereof could be hidden and dissipated and the estate of Jose L. Elchico would not then be in a position to comply with the latter's commitment in paragraph 3 of the partial partition and distribution of March 19, 1956, approved by the court as aforesaid, viz:

"Par. 3d. - That the above distribution shall not in any manner affect the sufficiency or insufficiency for the payment of any outstanding and/or future obligations and/ or expenses of the remaining estate and which are not, in any manner, related to the above enumerated properties to be distributed. However, in the remote event that such contingencies will arise, the heirs shall all be bound to contribute equally in the payment of said obligations and/or expenses of the estate";

but that the two other heirs of Encarnacion Elchico Vda. de Fernando are solvent "and can meet their respective shares of the obligations as they arise."

The administrators of Jose L. Elchico opposed the motion. They say that the proper procedure to be followed in the premises is outlined in Section 6, Rule 89 of the 1940 Rules of Court. They aver that the Manila probate court has no jurisdiction over the Misericordia lot which is under the control of the Rizal probate court in two special proceedings, testate and intestate, of the deceased Jose L. Elchico. They point to the surety bond of P150,000.00, claim at that time that the same was sufficient to meet the obligations of the estate of Encarnacion Elchico Vda. de Fernando.

On May 12, 1962, the Manila probate court (Sp. Proc. 25256), acting upon the motion and oppositions, issued the following order:

"After considering the motion filed on March 16, 1961, by the administratrices and it appearing that the opposition filed on April 5, 1961, by Eduardo Elchico, the opposition filed on April 13, 1961, by Florencio Elchico, and the supplemental opposition filed on April 13, 1961, by Eduardo Elchico are well-taken, the Court hereby denies the motion under consideration.

This proceeding is hereby set for hearing on June 1, 1961, at 8:30 a.m. for the purpose of determining how much and in what manner heir Jose L. Elchico (now deceased) shall contribute for the payment of the unsettled and unpaid creditors' claims and taxes."

The move to reconsider was rejected by the said court in its order of June 29, 1961.

The case is now before us on the administratrices' appeal from the last two named orders.

1. Section 6, Rule 88 of the Rules of Court,[3] reads:

"SEC. 6. Court to fix contributive shares where devisees, legatees or heirs have been in possession. -Where devisees, legatees, or heirs have entered into possession of portions of the estate before the debts and expenses have been settled and paid, and have become liable to contribute for the payment of such debts and expenses, the court having jurisdiction of the estate may, by order for that purpose, after hearing, settle the amount of their several liabilities, and order how much and in what manner each person shall contribute, and may issue execution as circumstances require."

Concededly, in the situation here presented, where partial partition and distribution were effected, it is within the power of the Manila probate court to issue the order of May 12, 1961 heretofore transcribed. In fact, said disputed order of May 12, 1961 closely hewed the line set forth in Section 6 of Rule 88. For, the court in denying the motion to have the misericordia property turned over to the estate, set the proceedings for hearing precisely "for the purpose of determining how much and in what manner heir Jose L. Elchico (now deceased) shall contribute for the payment of the unsettled and unpaid creditors' claims and taxes."

The court's statutory authority conceded, we next look into the question of whether there was reversible abuse of discretion. The record of this case discloses that there is nothing definite as to the total liabilities of the estate of Encarnacion Elchico Vda. de Fernando. And, naturally, Jose L. Elchico's share in those obligations is unknown, indefinite. Again, while it is true that the administratrices aver that the only remaining property of the estate is a

"piece of unsurveyed and untitled mineral land the value of which is unknown and on the security of which no one is willing to advance a loan," this remains but an allegation. And then, too, there is the P150,000.00-bond to answer for the debts of Encarnacion's estate. On the assumption that the share in the obligation corresponding to Jose L. Elchico is finally cleared up after the projected hearing,[4] then the provisions of Section 6, Rule 88, once again comes into focus, because his obligation to contribute becomes definite. The probate court, under this statute, may then order that a writ of execution issue to compel the three (3) heirs to pay their respective shares in the obligation thus apportioned, to the extent, of course, of the properties that they received from the estate.[5] And, such execution is an expedient remedy.[6] Furthermore, once the total obligation of Jose L. Elchico is known after hearing, the Manila probate court is not precluded from taking other steps towards the satisfaction of his said obligation. Without such hearing, any order for the return of property distributed may appear to be premature. More, the administratrices could easily go to the Rizal probate court or the protection of Encarnacion's estate's claim against the estate of the deceased Jose L. Elchico pending there.

In the posture thus presented, we are unprepared to say that the Manila probate court committed a grave abuse of discretion, which is such capricious and whimsical exercise of judgment as is equivalent o lack of jurisdiction. Citation of jurisprudence is unnecessary to show that this Court should not interfere with the disputed order of May 12.

2. Another roadblock will prevent the grant of the administratrices motion. That motion was filed in Special Proceedings 25256 of the Court of First Instance of Manila (Intestate Estate of Encarnacion Elchico Vda. de Fernando, deceased). The Misericordia property is now in custodia legis of another court, namely, the Court of First Instance of Rizal, acting as a probate court in two special proceedings (2598, In re Testate Estate of Jose L. Elchico, deceased, and 2600, In re Intestate Estate of Jose L. Elchico, deceased.). The Rizal and Manila courts are coordinate. They stand on the same level. The Manila court then may not take that property out of the administration proceedings in the Rizal court, without leave or consent of the latter. Should such interference be sanctioned, confusion may ensue; the administration of justice may be seriously impaired. At least out of respect for the prerogatives of the Rizal court, the Manila court should not intermeddle with the authority of the former. This is especially true here because the Rizal probate court had already directed the sale of the very same Misericordia property to satisfy amongst others the payment of Jose L. Elchico's share in the estate and inheritance taxes due from the estate of the deceased Encarnacion Elchico Vda. de Fernando. The Manila probate court may not nullify this order of the Rizal probate court - directly or indirectly.[7]

Upon the record, we vote to affirm the orders appealed from. Costs against appellants.

### **SO ORDERED.**

Concepcion, C.J., Reyes, J.B.L., Dizon, Regala, Makalintal, Bengzon, J.P., Zaldivar, and Castro, JJ., concur.

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[1] Intestate Estate of Encarnacion Elchico Vda. de Fernando, Special Proceedings 25256, Court of First Instance of Manila.

[2] Special Proceedings 2598, entitled "In re Testate Estate of Jose L. Elchico, deceased"; and Special Proceedings 2600, entitled "In re Intestate Estate of Jose L. Elchico, deceased," both of the Court of First Instance of Rizal.

[3] Formerly Section 6, Rule 89 of the 1940 Rules of Court.

[4] Lopez vs. Enriquez, 16 Phil. 336, 342-343; Espino vs. Rovira, 50 Phil. 152, 158.

[5] "The heir is not liable beyond the value of the property he received from the decedent." Art. 1311, Civil Code.

See also: *Government vs. Pamintuan*, 55 Phil. 13, 17; *Cu Unjieng vs. Tiaoqui*, 64 Phil. 566, 576.

[6] III Moran, *Comments on the Rules of Court*, 1963 Ed., p. 354.

[7] I Martin, *Rules of Court*, 1963 ed., p. 67; *Cabigao vs. Del Rosario*, 44 Phil. 182, 184-185; *Montesa vs. Manila Cordage Co.*, 92 Phil. 25, 28-29; *Philippine National Bank vs. Javellana*, 92 Phil. 525, 527-528; *Ongsingco vs. Tan*, 97 Phil., 330, 336; *Araneta vs. Commonwealth Insurance Co.*, 55 O.G., No. 3, pp. 431, 432-433.

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