IN RE ESTATE OF J. F. H. HASEMEYER, DECEASED. JULIA HASEMEYER, ADMINISTRATRIX AND APPELLEE, VS. PHILIPPINE NATIONAL BANK, CREDITOR AND APPELLEE, COMPANIA MARITIMA ET AL., CREDIT...

G.R. No. 20813. February 02, 1924

Ponente: ROMUALDEZ, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-20813/

ROMUALDEZ, J.:

The committee appointed in this proceeding for the settlement of the estate of the deceased J. F. H. Hasemeyer filed in court on October 17,1922, its report containing the following:

"The following claims were duly presented to the commissioners, and allowed or rejected as follows:

Allowed

Provincial government of Sulu

P1,009.13

Do

61.75

Do

590.20

Do

4.95

Paris-Zamboanga

58.90

Jolo Garage, Inc

7,268.00

Tan Dico

3,000.00

Do

240.00

Tan Dico, for Ghee Liong & Co

13,647.93

Philippine National Bank (secured by mortgage of all properties mentioned in the inventory hereafter shown)

66,313.61

Levy Hermanos, Manila

456.84

———————

Total

92,856.80

Rejected

Philippine Education Co., Inc., Manila

P16.28

P. D. Rogers (see same amount awarded to Province)

1,009.13"

The lower court entered an order on October 23, 1922, which, among other things, provides as follows:

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

"The court, therefore, orders the administratrix to pay all the debts of the estate approved by the committee on claims and appraisal and which have not been appealed; and to render an account from the date she took possession of her office as such administratrix to the present time."

On the following day, October 24, 1922, the committee filed, with regard to the credit of the Philippine National Bank, the following amendatory report:

"Come now the undersigned commissioners in the above entitled case, and to this Honorable Court respectfully ex- pound :

"That the original report of the undersigned having been already filed and considered in this court without any opposition from the creditors of the estate, we pray for a modification of the said report by the exclusion therefrom of the account of the Philippine National Bank in the amount of sixty-six thousand three hundred thirteen pesos and sixty-one centavos (P66,313.61). This account appears in our original report as approved. The agent of the Philippine National Bank, after a conference with his attorney, having now decided to withdraw his claim in view of the fact that it is already secured by first mortgage on all the properties pertaining to this estate, which mortgage is duly registered in the office of the register of deeds of this province, we, therefore, pray that this petition be considered as an amendment to the original report, and that this claim be considered as never having been either presented or approved by the undersigned commissioners.

(Sgd.) "Carl M. Moore

"L. Palileo

"Commissioners

"Sworn and subscribed to before me this 24th day of October, 1922.

(Sgd.) "H. C. Rodriguez

"Deputy Clerk of Court

"Received copy:

(Sgd.) "J. S. Alano

"Attorney for the administratrix."

After a hearing upon this report, the court below on October 28, 1922, approved the same by an order of the following tenor:

"The matter is before the court upon an additional report presented by the committee on claims and appraisal appointed in this proceeding, wherein it is prayed that the credit of the Philippine National Bank against the estate of the deceased J. F. H. Hasemeyer, amounting to P66,313.61 and which had been presented to the aforesaid committee on claims and appraisal, and was approved by it, be considered as if not presented to it on the ground that said credit is secured by a mortgage registered in the office of the registrar of deeds of this province.

"The fiscal appeared on behalf of the Philippine National Bank and stated that he agrees with the aforesaid report of the committee on claims and appraisal and Mr. Alano who was present did not object thereto.

"The court, in view of these facts and circumstances, approves the additional report of the committee on claims

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

and appraisal presented in this proceeding.

"So ordered.
"Jolo, Sulu, P. I., October 28, 1922.

(Sgd.) "A. HORRILLENO

"Judge, 26th Judicial District

"Received copy November 1, 1922.

(Sgd.) "J. S. Alano

"Vicente Bautista

"Fiscal

(Sgd.) "Carl M. Moore

"L. Palileo"

Under date of April 24, 1923, Paris-Zamboanga, Philippine Refining Corporation, Compania Maritima, Fernandez Hermanos, Philippine Steamship Co., Tan Dico, and Ghee Liong & Co. filed a motion praying, among other things, that the order of October 28, 1922, above set out be annulled and set aside. After hearing the parties, the court passed upon this motion in an order dated April 28,1923, which is literally as follows:

"The motion of the attorneys P. H. Young and Pablo Lorenzo dated April 24, 1923, was finally heard yesterday. The said attorneys represent the following corporations: Paris-Zamboanga, Philippine Refining Corporation, Compania Maritima, Fernandez Hermanos, Philippine Steamship Company, Tan Dico, and Ghee Liong & Co., and are praying the court that the 'auto' of this court dated October 28, 1922, approving the additional report of the commissioners in this case be declared null and void, that the prayer contained in the additional report of said commissioners dated April 24, 1923, be disapproved, and that the executrix in this estate be directed to recover whatever money has been paid to the Philippine National Bank, and that the money proceeds from the sale which is to take place on April 28, 1923, be distributed among the creditors in proportion to their claims.

"This motion is based on section 708 of the Code of Civil Procedure as already interpreted by the Supreme Court in its decisions reported in vol. 25, Phil. Rep., page 404 and vol. 33, Phil. Rep., page 306, wherein it was held that once a creditor has elected to present its claim before the committee it is considered that the creditor has renounced his mortgage security.

"The commissioners in this case filed a memorandum regarding the petition of the attorneys above referred to and stated that the Bank did not abandon its security on the mortgage as it was expressly stated on the commissioners' report that such indebtedness was secured by first mortgage. The Court after examining the commissioners' report found out that said report really states that said indebtedness was secured by first mortgage. The committee further states in their memorandum that the National Bank merely desired to have the mortgage taken into consideration if the properties of the estate were to be sold later.

"The court believes that no one is qualified to clarify this case than the commissioners themselves who are presumed to know what had taken place in their meetings.

"According to section 708 and to the decisions of the Supreme Court above referred to, a creditor may rely on whatever action he desired, and it appears from the 'auto' of Honorable Judge Horrilleno dated October 28, 1922,

which is the subject of this controversy, that the Philippine National Bank relied on the mortgage security in its favor.

"The undersigned does not doubt in the least that Honorable Judge Horrilleno was well aware of the facts and circumstances of the case when he allowed the Philippine National Bank to rely on its mortgage security and dictated the 'auto' of October 23, 1922, above referred to.

"Wherefore, the court hereby denies the motion above referred to.

"It is so ordered.
"Jolo, Sulu, P. I., April 28, 1923.

(Sgd.) "Delfin Jaranilla

"Auxiliary Judge, 7th Group and Acting as Judge in the 26th Jud. Dist"

This is the order appealed from, the appellants Compania Maritima, Fernandez Hermanos, Philippine Steamship Co., Tan Dico, Paris-Zamboanga, and Philippine Refining Corporation, represented by their respective attorneys, contending that the trial court erred: (a) In not holding that the Philippine National Bank, by presenting its claim to the committee, waived the mortgage in its favor; (b) in permitting the withdrawal of said claim after it was approved by the committee and its payment ordered by the court; (c) in entering the order appealed from; and (d) in not ordering the administratrix to recover from said bank the amounts that might have been paid to it on account of said mortgage.

Appellants' claim is based on the provision of section 708 of the Code of Civil Procedure, construed by this court in the sense that if the mortgage creditor of a deceased elects to present his claim to the committee in the proceeding, he cannot make use of the remedy of the foreclosure of the mortgage and vice versa.

The grounds for the amendatory report of the committee, excluding from their report the credit of the National Bank, are given in the memorandum filed by said committee, and found on pages 42 and 43 of the Bill of Exceptions, and which says;

"The board was expressly made to understand that the mortgage was relied upon, and it was simply an error in the original report to have the amount of such mortgage included as one of the ordinary claims approved, instead of merely making a statement that all the properties of this estate are mortgaged to the Bank."

This statement of the committee is sufficiently clear and there exists in the record no circumstance whatsover tending to overthrow or destroy it. There is no proof or circumstance indicative of collusion between the committee and the bank in question, and the presumption that the committee has complied with its duty in this respect stands unrebutted and unassailed.

If, as appears, the intention of the said bank in appearing before the committee was not to present said claim but to have it included among the ordinary claims, it cannot be said that said bank elected such a remedy before the committee, nor can it therefore be held to have waived its remedy based on the security.

If that credit was included as such in the original re- port of the committee, it was an error of the latter, as appears from the aforesaid memorandum, and not of the bank. But even if it were an error of the bank, the election of the remedy was not yet conclusive for the attention of the committee was called on time and the latter amended its report on time, excluding the credit in question therefrom.

We find, therefore, no sufficient merit in the first assignment of error.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

As to the second, which has reference to the action of the trial court in allowing that said claim of the bank be withdrawn from the committee, there exists no reason why the court should have prevented the withdrawal of the claim, included under the aforesaid circumstances in the original report, which was amended in due season, by the filing in court of the proper amendment before the order approving said first report became final. The court had full jurisdiction and ample authority to amend the order of approval by entering another that was more in consonance with the facts and the requirements of justice. So it did, and in doing so, it did not commit any error.

The cases of Osorio vs. San Agustin (25 Phil., 404), and Veloso vs. Heredia (33 Phil., 306), have no application in this case. In those cases the creditors made a conclusive and final election of both remedies, whereas here the filing of the claim with the committee, which was lawfully withdrawn on time, does not constitute a final or conclusive election.

The other assignments of error are but a consequence of the preceding ones.

The order appealed from is affirmed with the costs against the appellants. So ordered.

Araullo, C. J., Johnson, Malcolm, Avanceña, Ostrand, and Johns, JJ., concur.

Street, J., reserves his vote.

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.