INTESTATE ESTATE OF SATURNINO FULE, DECEASED. CIRIACO FULE, PETITIONER AND APPELLANT, VS. ANASTASIO FULE ET AL., OPPONENTS AND APPELLEES.

G.R. No. 21859. September 30, 1924

Ponente: JOHNSON, J.

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JOHNSON, J.:

The record in this case presents two questions:

First. Was the appeal from the decision of the lower court perfected within the time required by law? And,

Second. Did the court a quo commit an error in refusing to appoint an administrator for the estate of Saturnino Fule, deceased?

FACTS

Saturnino Fule died on the 4th day of April, 1923, intestate. On the 2d day of July, 1923, Ciriaco Fule, one of the heirs, presented a petition in the Court of First Instance of the Province of Laguna for the appointment of an administrator of the estate of Saturnino Fule, deceased, and prayed specially for the appointment of Cornelio Alcantara as such administrator. The petitioner further prayed that during the pendency of the petition for the appointment of an administrator, the said Cornelio Alcantara be then and there appointed as special administrator for said estate. The petitioner alleged that at the time of the death of Saturnino Fule, he was the owner of real and personal property located in the municipality of San Pablo, Province of Laguna, of the value of P50,000 with a rental value of about P8,000 and that, in addition to said real and personal property, he also left about P30,000 in cash. The lower court on the day of the presentation of the petition appointed Cornelio Alcantara as special administrator and required him to give a bond of P8,000. On the 26th day of July, 1923, the special administrator presented in court an inventory of the alleged property of the deceased.

On the 31st day of July, 1923, the oppositors, through their attorney Mr. Ramon Diokno, appeared and presented a motion alleging that they were children of Saturnino Fule and that they were all of age; that they opposed the appointment of an administrator upon the ground that the deceased had left no debts and that his property had already been partitioned among his children during his lifetime in conformity with article 1056 of the Civil Code; that the special administrator had taken possession of property of large value belonging to them, and had thereby deprived them of their means of livelihood, and prayed that the order appointing a special administrator be denied. To said motion there was annexed Exhibit A, containing a list of property, personal and real, which the special administrator had taken possession of, belonging to the oppositors.

On the 4th day of August, 1923, the oppositors, through their attorney, presented a further opposition to the appointment of an administrator for said estate, alleging again that the heirs of Saturnino Fule were all of age; that the deceased had left no debts; that the property had been divided among his heirs during his lifetime; that the special administrator had been appointed without any notification whatever, neither personal nor by publication,

to the heirs of the deceased, and that there was no necessity for the appointment of a special administrator during the pendency of the question, nor for the appointment of an administrator.

On the 14th day of August, 1923, the petitioner answered the motion of the oppositors and opposed their petition for the revocation of the appointment of a special administrator. He alleged that the oppositors had been requested to make a partition of the property of the deceased; that no partition of the property of the deceased had been made during the lifetime of the deceased; that the property described in Exhibit A attached to the motion of the oppositors was the exclusive and absolute property of the petitioner, who had for more than forty years been in the quiet, public, and exclusive possession of the same, as owner; and prayed that the motion of the oppositors be denied.

Upon the issue thus presented, the Honorable Isidro Paredes, judge, on the 15th day of August, 1923, revoked the appointment of the special administrator and ordered him to render an account. On the same day (August 15, 1923) Judge Paredes denied the appointment of an administrator, and suggested to the petitioner that within thirty days from that date he should amend his petition and present an ordinary action for the partition of the property of the estate of the deceased, and in case he should fail to do so it would be understood that the petition for the appointment of an administrator is denied.

On the 5th day of September, 1923, the petitioner excepted to the orders of the court of the 15th day of August, 1923, and on the same day presented a motion for reconsideration, or new trial, and prayed that the court declare without effect the orders of the 15th day of August and proceed to the appointment of an ordinary administrator who should present to the court a project of partition of the property involved, for approval. On the 11th day of September, 1923, the oppositors, through their attorney, opposed the motion for reconsideration or new trial upon the ground that the judgment of the court of the 15th day of August had become final and non-appealable.

On the 17th day of September, 1923, the court a quo, considering said motion for reconsideration or new trial and the opposition thereto, annulled and set aside that part of the order of the court of the 15th day of August, which granted to the petitioner the right to aniend his petition, and fixed the 4th day of October, 1923, for a continuation of the proof upon the question of the appointment of an administrator. On the 26th day of October, 1923, and after hearing the respective parties, the Honorable Isidro Paredes, denied the petition for the appointment of an administrator upon the principal ground that all of the property of Saturnino Fule had been in the possession of his heirs for many years before his death; and that at the time of his de&th there were no debts and no property to be administered. From that judgment the petitioner appealed.

In this court the oppositors renewed their motion to dismiss the appeal for the reason that it had not been presented within the period of twenty days as provided in section 783 of Act No. 190. Said section provides that: "Any person legally interested in any other order, decree, or judgment (other than those mentioned in sections 781 and 782) of a court of first instance in the exercise of its jurisdiction in special proceedings in the settlement of the estates of deceased persons or the administration of guardians and trustees, may appeal to the Supreme Court from such order, decree, or judgment, when such order, decree, or judgment constitutes a final determination of the rights of the parties so appealing, and the appeal shall be effected in the manner provided in the two preceding sections: * * *" (within twenty days).

The appellees argue that the appeal was not perfected within twenty days from the 15th day of August, 1923. They evidently overlooked the fact that the decree was not a final decree for the reason that it gave the petitioner thirty days within which to decide whether he would amend his petition or present an ordinary action. Inasmuch, therefore, as the petitioner had thirty days within which to decide just what course he would pursue, said decision could not become final until after the expiration of thirty days or until the petitioner had decided just what course

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he desired to take. That order of the court conceding him thirty days to decide the option therein given, continued in force until the 17th day of September, when the court decided the motion for reconsideration and granted to the petitioner a part of his prayer. From that date the cause proceeded to a final hearing and judgment on the 26th day of October, 1923, and the appeal from the final judgment of that date was perfected within the time provided for in the above-quoted provision of Act No. 190.

Our conclusion, therefore, is that the judgment of the 15th day of August, 1923, was not final; that the final judgment rendered in the cause was on the 26th day of October, 1923; that the appeal from the final judgment was perfected within time, and therefore, the motion to dismiss the appeal for failure to perfect the same within the statutory period is hereby denied.

Upon the second question—id the court a quo commit an error in refusing to appoint an administrator for the estate of Saturnino Fule?—it may be said (a) that it is admitted by all of the parties to the present action, that at the time of his death no debts existed against his estate and (b) that all of the heirs of Saturnino Fule were of age. In this jurisdiction and by virtue of the provisions of articles 657, 659 and 661 of the Civil Code, all gf the property, real and personal, of a deceased person who dies intestate, is transmitted immediately to his heirs. (To Guioc-Co vs. Del Rosario, 8 Phil., 546; Ilustre vs. Alaras Frondosa, 17 Phil., 321; Marin vs. Nacianceno, 19 Phil., 238; Malahacan vs. Ignacio, 19 Phil., 434; Nable Jose vs. Uson, 27 Phil., 73; Bondad vs. Bondad, 34 Phil., 232; Baldemor vs. Malangyaon, 34 Phil., 367.)

If then the property of the deceased, who dies intestate, passes immediately to his heirs, as owners, and there are no debts, what reason can there be for the appointment of a judicial administrator to administer the estate for them and to deprive the real owners of tKeir possession to which they are immediately entitled? In the case of Bondad vs. Bondad (34 Phil., 232), Chief Justice Cayetano Arellano, discussing this question, said: " 'Under the provisions of the Civil Code (articles 657 to 661), the rights to the succession of a person are transmitted from the moment of his death; in other words, the heirs succeed immediately to all of the property of the deceased ancestor. The property belongs to the heirs at the moment of the death of the ancestor as completely as if the ancestor had executed and delivered to them a deed for the same before his death. In the absence of debts existing against the estate, the heirs may enter upon the administration of the said property immediately. If they desire to administer it jointly, they may do so. If they desire to partition it among themselves and can do this by mutual agreement, they also have that privilege. The Code of Procedure in Civil Actions provides how an estate may be divided by a petition for partition in case they cannot mutually agree in the division.' " (Sections 182-184, 196, and 596 of Act No. 190.)

When the heirs are all of lawful age and there are no debts there is no reason why the estate should be burdened with the cost and expenses of an administrator. The administrator has no right to intervene in any way whatsoever in the division of the estate among the heirs when they are adults and when there are no debts against the estate. (Ilustre vs. Alaras Frondosa, supra; Bondad vs. Bondad, supra; Baldemor vs. Malangyaon, supra.)

When there are no debts and the heirs are all adults, their relation to the property left by their ancestor is the same as that of any other coowners or pwners in common, and they may recover their individual rights, the same as any other coowners of undivided property. (Succession of Story, 3 La. Ann., 502; Mclntyre vs. Chappell, 4 Tex., 187; Wood et ux. vs. Ford, 29 Miss., 57.)

And even when there are debts against the estate, the heirs, all being of age, may pay the debts and divide the property among themselves according to their respective rights, as heirs or as legatees in case of a will, without probating the same, and the effect of such division is to invest each party with a complete equitable title to their particular share of the estate. (Carter vs. Owens, 41 Ala., 217.)

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The right of the heirs in cases like the one we are discussing, also exists in the division of personal as well as the real property. If they cannot agree as to the division, then a suit for partition of such personal property among the heirs of the deceased owner is maintainable where the estate is not in debt, the heirs are all of age, and there is no administration upon the estate and no necessity thereof. (Jordan vs. Jordan, 4 Tex. Civ. App. Rep., 559.)

It is difficult to conceive of any one class or item of property susceptible of being held in common which may not be divided by the coowners. It may be of personal property as well as of real estate; of several parcels as well as of a single parcel, and of non-contiguous as well as of adjacent tracts; or of part only of the lands of the co-owners as well as of the whole. (Pickering vs. Moore, 67 N. H. 533; 31 L. R. A., 698 Pipes vs. Buckner, 51 Miss., 848; Tewksbury vs. Provizzo, 12 CaL, 20.)

Therefore, and for all of the foregoing reasons, the judgment appealed from is hereby affirmed, without any finding as to costs, and without prejudice to the right of the petitioner to commence a new action for a partition of any property left by Saturnino Fule which had not already been partitioned among hid heirs. So ordered.

Avanceña, Villamor, and Romualdez, JJ., concur.

DISSENTING

MALCOLM and OSTRAND, JJ.:

There are cases where the insignificance of the estate and the disproportionate expenses of the administration proceedings, together with the fact that the parties are of age and that there appear to be no debts, may justify the denial of a petition for an administration, but such is not the present case. Here the estate is alleged to be worth P80,000. The inventory shows a very large quantity of personal property, thirty-one parcels of land, and outstanding credits to the amount of P13,454. It is asserted that the deceased left no debts, but it is not unreasonable to suppose that a person with such large property interest may have had dealings with others from which claims against the estate may arise, the existence of which cannot be definitely ascertained until the publication of notice to claimants and creditors has been made, pursuant to the provisions of section 687 of the Code of Civil Procedure. In these circumstances it would seem to be to the interest of all parties concerned to have the estate definitely settled and that can only be done properly through administration proceedings.

That the distribution of the property which is alleged to have been made by the deceased by means of informal donations a few years before his death can be of no legal effect, will not be disputed and it clearly appears from the record that there is no probability of an amicable distribution of the estate and that it will be necessary to have recourse to the courts ipr a settlement of the dispute. Considering the character of the property, partition proceedings are likely to be more complicated and expensive than administration proceedings and will settle nothing definitely. Claims against the estate may be presented at any time within the Statute of Limitations and may lead to litigation and possibly to the subsequent throwing of the estate into administration when a redistribution of the property may have to be made. In the meantime some of the distributees may have become insolvent or the property received by them otherwise dissipated, thus rendering an equitable settlement of the estate difficult if not impossible.

An examination of the cases cited in the decision of the court reveals that only three of them have any bearing on the question here discussed. These cases are Ilustre vs. Alaras Frondosa (17 Phil., 321); Bondad vs. Bondad (34 Phil., 232) and Baldemor vs. Malangyaon (34 Phil., 367). The case of Mclntyre vs. Chappell (4 Tex., 187), which, at first sight, appears to be in point, is based on a statute which requires the appointment of an administrator only in case one or more of the creditors of the estate demands it. We have been unable to find any decision of a court

in the United States where, under a statute similar to ours, the existence of known debts has been regarded as a necessary prerequisite for the appointment of an administrator in cases where the heirs are of age.

It may further be observed that in none of the cases in this jurisdiction in which the appointment of an administrator has been held unnecessary, has the court gone as far as it has in the present case. In the case of Ilustre vs. Alaras Frondosa the heirs were of age and had made an amicable partition of the property left by the deceased, and the petition for the appointment of the administrator was presented nearly six years after the death of the deceased. In the case of Bondad vs. Bondad, supra, there had also been an amicable partition of the property and the administrator was appointed nine years after the death of the deceased; and in the case of Baldemor vs. Malangyaon, supra, it also appears that there had been a partition by agreement among the heirs. In all three of the cases it is admitted that there were no debts and considering the long period which had elapsed since the death of the deceased, there could be but little probability of any new claimants appearing. Under such circumstances the court might well be justified in holding that the appointment of an administrator was unnecessary. In the present case we are confronted with an entirely different situation. Here there has been no partition or distribution by agreement among the heirs, the petition for administration was presented within three months after the death of the deceased, and the estate is large and its settlement may give rise to unexpected complications.

The Code of Civil Procedure devotes one hundred sixty-nine sections to proceedings for the settlement of the estates of deceased persons. The remedies there provided are founded on experience and are undoubtedly the most practicable for a definite settlement of all estates of any importance. It seems to us that the court is going beyond its proper sphere when it, by what amounts to judicial legislation, makes the remedies prescribed by the Code unavailable to persons interested in such estates. Instead of discouraging definite and final settlements the courts should encourage them.

The order appealed from should be reversed and the petition for the appointment of an administrator granted. Judgment affirmed.

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