

ESTATE OF THE DECEASED ANTONIO TANPOCO. VICENTE GOTAMCO, ADMINISTRATOR, VS. CHAN SENG, GUARDIAN OF TAN KIM CHOO, OPPONENT AND APPELLEE; JOSE RAZON, GUARDIAN AD LITEM OF THE MINO...

G.R. No. 22737. November 28, 1924

Ponente: STATEMENT Antonio Tanpoco died in the year 1920 and left a will dividing his estate of over P300,000 among four sons, one-half of which he bequeathed to Tan Kim Hong, the claimant, whom he described in his will as his legitimate son, and the other half he left in equal shares to his three adopted sons, Tan Kimco, Tan Kimbio and Tan Kim Choo, and appointed Go Siu San, a resident of Manila, as executor of his will, which provided that no bond should be required. November 22, 1920, two Chinese named Tan Kim Lay and Te Sue, one of Tarlac and the other of Manila, were appointed and qualified as commissioners, and later they published the usual notice to creditors to present their claims within six months at the office of Attorney M. G. Goyena, of Manila. June 29, 1921, the commissioners presented their report to the court in which, among others, they reported the allowance of the claim here in question. At that time all of the heirs, including Tan Kim Hong, were minors and had lived in China since the death of Antonio Tanpoco, as also had the widow of the deceased. On June 29, 1921, the date the commissioners' report was filed, the executor filed a motion asking for the appointment of an attorney of his own choice as curador ad litem for the minor heirs which, among other things, recites as follows: "2. That the heirs who are interested in the estate of the above entitled action are all minors, to wit: Tan Kimco, age 20; Tan Kim Hong, age 12; Tan Kimbio, age 11; and Tan Kim Choo, age 4; and that all the above heirs are now in China, and the day of their return to the Islands is unknown to the administrator of the estate." The court ignored the request of the executor, and on July 2, 1921, upon its own motion, appointed Mr. Felipe Canillas, who treated his appointment as a formality and did not make any investigation of the facts, and hence the report of the commissioners was approved on July 14, 1922. During all of this time the minor heirs were still in China. In September, 1922, they arrived in Manila and employed counsel to represent and protect their interests, and it was then that Chan Seng learned for the first time of the allowance of the claim in favor of Tan Kim Hong. Upon her motion, on November 27, 1922, Judge Harvey ordered an investigation of the administration of Go Siu San as executor, which was made by Mr. Felipe Canillas, who still held the position of curador ad litem of all the minor heirs, including the claimant, who made a written report to the court, the material portion of which is as follows: "In the salary ledger of 1920 there appears to have been credited, without expressing their origin, - in favor of Tan Kim Hong the following sums: January 25 P20,000.00 February 7 10,000.00 February 13 10,000.00 _____ Total 40,000.00 and in the salary ledger of 1921 this amount was reduced to the sum of P38,766.69 (P33,766.69) which is exactly the amount of the claim which is said to have been presented and admitted against the estate (see the report of the commissioners) . Now, who is this Tan Kim Hong? He is just one of the children of the deceased, a minor who is now 13 years old and who has been made the heir to one-half of all the property mentioned in clause 'A' of the will of the deceased. Insofar as the basis of this claim is concerned and insofar as the person who pretends to have represented the minor in the presentation of the claim is concerned nothing is explained in the record nor in the books of the administrator. Therefore, this claim should be discarded by reason of its illegality and nullity and the administrator required to explain its presentation and admission. If, as the administrator pretends, this sum was credited in the books by the deceased himself in favor of his boy Tan Kim Hong by reason of his being a favorite son, and if the latter legally accepted the donation, such an act could only amount to a donation 'inter vivos' and the authority to determine the rights of the donee are not within the attributes of commissioners on valuation and claims." The report concluded with a recommendation for the removal of the executor for gross misconduct and fraud, and the annulment of the claim of Tan Kim Hong. After the report was filed, a hearing was had and testimony was taken, and Judge

Harvey removed Go Siu San as executor, and in his order of removal, among other things, said: "The commissioner Te Sue said that he had not received any claim; that the claims which appear in the report were taken from the books of the business of the deceased, Antonio Tanpoco (p. 16, s. n.); nevertheless, the claim of Tan Peng Sue does not appear in the report of these commissioners on claims although it appears in the books and was afterwards accepted by the commissioners last appointed. In the report of the first commissioners on valuation and claims there appears a claim of Tan Kim Ho (Tan Kim Hong) for the sum of P38,766.69 without any voucher (pp. 11-12, s. n.). This claimant is a minor and was not represented by any guardian or curador. The commissioner Te Sue testified that he had gone to Tarlac but once and in the year 1922 to attend the claims, but the report of the commissioners bears date previous to that time which demonstrates evidently that the administrator Go Siu San was the person who furnished the data upon which the supposed claims which appear in the report of the commissioners were based notwithstanding the fact that they received no claims." After such proceedings, nothing was further done until November 14, 1923, when the present administrator applied to the court for authority, among other things, to pay the claim in question, to which the appellee appeared and objected. The court denied the application of the present guardian of the claimant to require the administrator to pay the claim in question upon the ground that it was void and fictitious, from which Tan Kim Hong appeals, contending that the lower court erred in hearing and sustaining the objections to the allowance of the claim, and in denying the motion of the administrator for authority to pay the claim. JOHNS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-22737/>

STATEMENT

Antonio Tanpoco died in the year 1920 and left a will dividing his estate of over P300,000 among four sons, one-half of which he bequeathed to Tan Kim Hong, the claimant, whom he described in his will as his legitimate son, and the other half he left in equal shares to his three adopted sons, Tan Kimco, Tan Kimbio and Tan Kim Choo, and appointed Go Siu San, a resident of Manila, as executor of his will, which provided that no bond should be required.

November 22, 1920, two Chinese named Tan Kim Lay and Te Sue, one of Tarlac and the other of Manila, were appointed and qualified as commissioners, and later they published the usual notice to creditors to present their claims within six months at the office of Attorney M. G. Goyena, of Manila.

June 29, 1921, the commissioners presented their report to the court in which, among others, they reported the allowance of the claim here in question.

At that time all of the heirs, including Tan Kim Hong, were minors and had lived in China since the death of Antonio Tanpoco, as also had the widow of the deceased.

On June 29, 1921, the date the commissioners' report was filed, the executor filed a motion asking for the appointment of an attorney of his own choice as curador ad litem for the minor heirs which, among other things, recites as follows:

"2. That the heirs who are interested in the estate of the above entitled action are all minors, to wit: Tan Kimco, age 20; Tan Kim Hong, age 12; Tan Kimbio, age 11; and Tan Kim Choo, age 4; and that all the above heirs are now in China, and the day of their return to the Islands is unknown to the administrator of the estate."

The court ignored the request of the executor, and on July 2, 1921, upon its own motion, appointed Mr. Felipe Canillas, who treated his appointment as a formality and did not make any investigation of the facts, and hence the report of the commissioners was approved on July 14, 1922.

During all of this time the minor heirs were still in China. In September, 1922, they arrived in Manila and

employed counsel to represent and protect their interests, and it was then that Chan Seng learned for the first time of the allowance of the claim in favor of Tan Kim Hong. Upon her motion, on November 27, 1922, Judge Harvey ordered an investigation of the administration of Go Siu San as executor, which was made by Mr. Felipe Canillas, who still held the position of curador ad litem of all the minor heirs, including the claimant, who made a written report to the court, the material portion of which is as follows:

"In the salary ledger of 1920 there appears to have been credited, without expressing their origin,- in favor of Tan Kim Hong the following sums:

January 25

P20,000.00

February 7

10,000.00

February 13

10,000.00

Total

40,000.00

and in the salary ledger of 1921 this amount was reduced to the sum of P38,766.69 (P33,766.69) which is exactly the amount of the claim which is said to have been presented and admitted against the estate (see the report of the commissioners) . Now, who is this Tan Kim Hong? He is just one of the children of the deceased, a minor who is now 13 years old and who has been made the heir to one-half of all the property mentioned in clause 'A' of the will of the deceased. Insofar as the basis of this claim is concerned and insofar as the person who pretends to have represented the minor in the presentation of the claim is concerned nothing is explained in the record nor in the books of the administrator. Therefore, this claim should be discarded by reason of its illegality and nullity and the administrator required to explain its presentation and admission. If, as the administrator pretends, this sum was credited in the books by the deceased himself in favor of his boy Tan Kim Hong by reason of his being a favorite son, and if the latter legally accepted the donation, such an act could only amount to a donation 'inter vivos' and the authority to determine the rights of the donee are not within the attributes of commissioners on valuation and claims."

The report concluded with a recommendation for the removal of the executor for gross misconduct and fraud, and the annulment of the claim of Tan Kim Hong.

After the report was filed, a hearing was had and testimony was taken, and Judge Harvey removed Go Siu San as executor, and in his order of removal, among other things, said:

"The commissioner Te Sue said that he had not received any claim; that the claims which appear in the report

were taken from the books of the business of the deceased, Antonio Tanpoco (p. 16, s. n.); nevertheless, the claim of Tan Peng Sue does not appear in the report of these commissioners on claims although it appears in the books and was afterwards accepted by the commissioners last appointed. In the report of the first commissioners on valuation and claims there appears a claim of Tan Kim Ho (Tan Kim Hong) for the sum of P38,766.69 without any voucher (pp. 11-12, s. n.). This claimant is a minor and was not represented by any guardian or curador. The commissioner Te Sue testified that he had gone to Tarlac but once and in the year 1922 to attend the claims, but the report of the commissioners bears date previous to that time which demonstrates evidently that the administrator Go Siu San was the person who furnished the data upon which the supposed claims which appear in the report of the commissioners were based notwithstanding the fact that they received no claims."

After such proceedings, nothing was further done until November 14, 1923, when the present administrator applied to the court for authority, among other things, to pay the claim in question, to which the appellee appeared and objected. The court denied the application of the present guardian of the claimant to require the administrator to pay the claim in question upon the ground that it was void and fictitious, from which Tan Kim Hong appeals, contending that the lower court erred in hearing and sustaining the objections to the allowance of the claim, and in denying the motion of the administrator for authority to pay the claim.

JOHNS, J.:

The appellant cites and relies upon sections 773, 774 and 775 of the Code of Civil Procedure as follows:

"SEC. 773. An appeal from allowance or disallowance of claim.—Any executor or administrator may appeal to the Court of First Instance from the allowance of any claim against the estate by the committee appointed for the purpose of allowing claims against the estate of deceased persons, or from the disallowance, in whole or in part, of any offset presented by the executor or administrator to such claim; any creditor may appeal to the Court of First Instance from the disallowance of the whole or any part of his claim by such committee, or the allowance of the whole or a part of any claim in offset to his claim against the estate by such committee.

"SEC. 774. If administrator does not appeal, heir or creditor may.—If the executor or administrator does not appeal from the allowance of any claim against the estate by the committee, or the disallowance in whole or in part by it of any offset in behalf of the estate against such claim, any heir or creditor may appeal to the Court of First Instance from such allowance or disallowance, and prosecute the appeal in the name of the executor or administrator, upon filing in court a bond to the administrator or executor, to be approved by the court, conditioned that he will prosecute the appeal to effect, and indemnify the administrator or executor against all costs and expenses, by reason of the appeal, and will likewise pay to the claimant such costs as may be ultimately awarded to him by reason of such appeal. The bond shall be available for such claimant as well as for the executor or administrator.

"SEC. 775. Perfecting appeal.—The appeal provided in the two preceding sections shall be perfected by filing with the clerk of the Court of First Instance that has jurisdiction of the estate, within twenty-five days after the committee's report is filed therein, a statement that the person so appealing is dissatisfied with the action of the committee in respect to the item or items complained of, and appeals therefrom to the court."

He points out that the report of the committee allowing the claim was made and filed on June 29, 1921, and contends that it became automatically final on July 14, 1921; that the opponent should have made her opposition within the time specified in the Code, and that her failure to take the statutory appeal is a bar to all defenses, citing and relying upon the case of *De los Santos vs. Reyes* (37 Phil., 104) the syllabus of which is as follows:

"1. DESCENT AND DISTRIBUTION; CLAIMS AGAINST ESTATES OF DECEASED PERSONS.—It is not

sufficient to plead on the part of an objector, to the allowance by the committee of appraisal of a credit against a testate or intestate succession, that he had a good defense, but he must plead it in due time and set forth the facts and grounds on which he intends to rest it, especially when the credit allowed appears to have been proven at trial by means of documents which were neither contradicted nor assailed as false, criminally or civilly.

"2. ID. ; ID.—Any error, fraud, credit, defect, or vice, of a substantial nature and productive of annulment, found in the committee's report, may serve as a ground for appeal. be pleaded in the trial had in the Court of First Instance, and be a subject-matter of the final judgment rendered in the proceedings, provided that the person who believed himself to have been prejudiced shall have appealed from the report of the commissioners and from the order approving it, for, if he does not do so, after the lapse of the period fixed by law, all claims made for reasons of the annulment of the proceedings had, will be valid."

On page 113 of the opinion in that case, the court says:

"From the careful examination made of the record in this case it appears that the proceedings had by the trial court, as well as those by the committee of appraisal and claims, were in accordance with law, as the preinserted provisions and others of the Code of Civil Procedure were substantially complied with, and it cannot be affirmed on good grounds that the irregularities complained of by counsel for the minor Alfredo Ocampo were essentially such or that they in any manner prejudiced his rights and interests, for both he and his mother Gervasia de los Santos, as well as their attorneys, knew positively and certainly that two commissioners of appraisal had been appointed, had commenced to discharge their duties, had published notices, by means of edicts posted in public places; including the pueblo of Binan, and by publications in the newspaper La Vanguardia, calling the creditors of the estate of the decedent Ramon Ocampo. If the mother of the minor Ocampo had actually had justifiable grounds whereupon to oppose by a just and good defense the claim presented by the administrator of the estate of the deceased wife of the decedent Ocampo, in behalf of the rights and interests of her minor son, she would have filed her objections opportunely during the period of the six months fixed by the commissioners and on the day and hour set by them. * * *" (37 Phil., 113.)

In other words, the court found as a fact that in the De los Santos vs. Reyes case, supra, there was a substantial compliance with all of the statutory requirements, and the decision in that case was based upon that fact. But there is a marked distinction between the facts there and those in the instant case. Here, all of the parties in interest were minors. The evidence is conclusive that at the time the alleged claim was allowed, Tan Kim Hong was only twelve years of age, and that all of the other parties were minors. There is no claim or pretense that Tan Kim Hong had a guardian or that anyone had the legal authority to appear for and present his claim or to represent him, or that his claim was ever presented. There is no claim or pretense that any of the parties in interest had any knowledge of the fact that the claim was presented and allowed before they came to Manila from China in September, 1922. As a matter of fact, there is no evidence that the claim in question in any manner, shape or form was ever presented to the commissioners by anyone. For aught that appears in the record, the claim was allowed by the commissioners on their own motion and of their own volition. It also appears that the entries which were made in the books of the deceased were made by his bookkeeper, and there is nothing to show that they were made by the authority of the deceased. It is very significant that the will of the deceased was made sometime after the entries were made, and that no reference whatever is made in the will to the claim in question.

The authorities cited by the appellant upon the question of res judicata are good law, but are not in point. Here, there was no claim presented to the commissioners. Hence, there was nothing for them to adjudicate. Neither the claimant nor anyone on his behalf made or presented a claim. Hence, it must follow that the commissioners did not have any authority to allow or reject the claim, and that they were without jurisdiction to act in the premises. Neither is the evidence in the record sufficient to sustain the claim. Outside of the fact that the above entries' were

made in the books of the deceased by his bookkeeper, there is nothing in the record upon which to base the claim, and it does not even appear that such entries were authorized by the deceased.

Giving full force and effect to the provisions of the Code of Civil Procedure above quoted, all of the prerequisites and essential elements of a judgment are wanting.

Ruling Case Law, volume 15, page 569, says:

"A judgment is the law's last word in a judicial controversy. It may therefore be defined as the final consideration and determination of a court of competent jurisdiction upon the matters submitted to it, in an action or proceeding. A more precise definition is that a judgment is the conclusion of the law upon the matters contained in the record, or the application of the law to the pleadings and to the facts, as found by the court or admitted by the parties, or deemed to exist upon their default in a course of judicial proceedings. It should be noted that that only is a judgment which is pronounced between the parties to an action upon the matters submitted to the court for decision. * * *"

In the instant case there was no claim made, filed or presented by anyone. Legally speaking, the allowance of the claim would be like rendering a judgment without the filing of a complaint, or even the making or presentment of a claim.

Upon the facts shown, to legalize the allowance of the claim with all of the formalities and requisites of a final judgment, would be a travesty upon justice. It appears from the record before us that the commissioners did not have any jurisdiction to allow the claim; that as to the claim in question their proceedings were null and void ab initio, and hence they were not res judicata, and in addition to that, it clearly appears that the allowance of the claim was a fraud upon the appellee.

The judgment of the lower court is affirmed, with costs. So ordered.

Street, Malcolm, Avanceña, Villamor, Ostrand, and Romualdez, JJ., concur.

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.