

GREGORIO MONTINOLA, PLAINTIFF AND APPELLEE, VS. MARIA PIEDAD VILLANUEVA ET AL., DEFENDANTS AND APPELLANTS.*G. R. No. 26008. November 04, 1926*

Ponente: VILLAMOR, J.

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In the proceeding for the settlement of the intestate estate of Manuel Seijo, deceased, in the Court of First Instance of Iloilo, bearing No. 850, the herein plaintiff Gregorio Montinola presented a claim for P16,337.70 which said estate owed him, to the committee on appraisal and claims. The claim was approved by said committee, its report having been approved by the Court of First Instance, without any appeal having been taken from said approval either by the administrator of the estate or the heirs of Manuel Seijo.

Judging from the record, it appears that while said claim was pending payment, cadastral proceedings Nos. 6 and 9, which included lots Nos. 3792, 4499, 4330 and 3302, and lots 207, 210, 277, 306 and 1040, were being held in the same court. These nine lots were claimed by Maria Piedad Villanueva in her own behalf and that of her minor children Jose, Benjamin, Fe, Esperanza and Lourdes Seijo, had with her deceased husband Manuel Seijo. The court ordered the adjudication and registration of said lots in said cadastral proceedings in the name of the children of Manuel Seijo, subject to the usufructuary right of the widow Maria Piedad Villanueva. (Exhibit H.)

On April 6, 1922, in the proceeding for the settlement of the intestate estate of the deceased Manuel Seijo, the court' authorized the administrator to sell the nine lots above-mentioned for the purpose of paying the expenses of the administration and the claim of Gregorio Montinola for the amount of P16,337.70. Said administrator, however, could not make the sale for the reason that the lots appeared to be the individual property of the heirs of Manuel Seijo in said cadastral proceedings, for which reason the administrator applied for the cancellation of said titles and the issuance of new ones in his name, which application was denied by the lower court, its judgment having later been affirmed by this court.[1]

In view of the fact that the titles to said lots were issued in the name of the heirs of the deceased Manuel Seijo, the court, in said intestate proceeding No. 850, ordered the administrator to return the ownership of all the lots to the persons to whom they were adjudicated in the cadastral proceedings, without having paid the claim of Gregorio Montinola, which gave rise to this action.

The plaintiff prays that his claim for P16,337.70 be declared a legal lien on the lands described in certificates of title Nos. 21523 (Exhibit H), 9498 (Exhibit I), 10926 (Exhibit J), 9493 (Exhibit K) and 7573 (Exhibit L), and that the defendants be sentenced to pay, jointly and severally, the amount of P16,337.70 and the costs of this action.

The defendants set up a counterclaim against the plaintiff for the sum of P46,938.39, the balance resulting in favor of the estate from the liquidation, of account made by the heirs of Manuel Seijo, alleging that the property to which the plaintiff refers having been adjudicated in favor of the defendants, without any lien on said property appearing on the respective titles, the same cannot be sold and the proceeds applied to the payment of the alleged indebtedness.

The lower court rendered judgment in favor of the plaintiff, ordering the defendants Maria Piedad Villanueva, Jose, Benjamin, Fe, Esperanza and Lourdes, surnamed Seijo, jointly to pay the plaintiff Gregorio Montinola the sum of P16,337.70, with legal interest from the date of the filing of the complaint, and costs.

The appellants allege that the lower court erred: (a) In holding in its decision that the debt claimed by Gregorio Montinola is indisputable as *res judicata*; (b) in holding in its decision that the properties adjudicated to the minors Jose, Benjamin, Fe, Esperanza and Lourdes, surnamed Seijo, covered by titles Nos. 3792, 4499, 4330, 3302, 207, 210, 297, 306 and 1040 are subject to the payment of Manuel Seijo's debt, and (c) in not admitting the evidence presented by the defendants tending to show that Gregorio Montinola far from being a creditor is, on the contrary, a debtor of the defendant minors.

The contention of the appellants in these three assignments of error is not tenable.

Section 70 of Act No. 496 provides:

"SEC. 70. Registered land, and ownership therein, shall in all respects be subject to the same burdens and incidents attached by law to unregistered land. Nothing contained in this Act shall in any way be construed to relieve registered land or the owners thereof from any rights incident to the relation of husband and wife, or from liability to attachment on mesne process or levy on execution, or from liability to any lien of any description established by law on land and the buildings thereon, or the interest of the owner in such land or buildings, or to change the laws of descent, or the rights of partition between coparceners, joint tenants and other cotenants, or the right to take the same by eminent domain, or to relieve such land from liability to be appropriated in any lawful manner for the payment of debts, or to change or affect in any other way any other rights or liabilities created by law and applicable to unregistered land, except as otherwise expressly provided in this Act or in the amendments hereof"

On the other hand, section 731 of the Code of Civil Procedure, among other things, says:

"* * * The persons who as heirs, have received the estate not disposed of by will, shall be liable to contribute like the devisees or legatees."

In accordance with these statutory provisions, this court, in the case of *Pavia vs. De la Rosa* (8 Phil., 70), held:

"In accordance with the provisions of the aforesaid Act No. 190, it is understood that testate or intestate succession is always accepted with benefit of inventory, and the heirs, even after taking possession of the estate of the deceased, do not make themselves responsible for the debts of the deceased with their own property, but solely with that property coming from the testate or intestate succession of the deceased"

Said doctrine was confirmed in *Suiliong & Co. vs. ChioTaysan* (12 Phil., 13), in which it was said:

"Under the provisions of the new Code of Civil Procedure, the heir is not as such personally responsible for the debts and obligations of the deceased, in whole or in part; and, on the other hand, the property of the deceased comes to him charged with the debts of the deceased, so that he cannot alienate or charge it free of such debts, until and unless they are extinguished either by payment, prescription, or satisfaction in one or the other of the modes recognized by law."

And in *Lopez vs. Enriquez* (16 Phil., 336), this court stated:

"Heirs are not required to respond with their own property for the debts of their deceased ancestors. But even after the partition of an estate, heirs and distributees are liable individually for the payment of all lawful outstanding claims against the estate in proportion to the amount or value of the property they have respectively received from the estate. The hereditary property consist only of that part which remains after the settlement of all lawful claims against the estate, for the settlement of which the entire estate is first liable. The heirs cannot, by any act of their own or by agreement among themselves, reduce the creditors' security for the

payment of their claims."

What has been said resolves the first two assignments of error. As to the third ground of the appeal, it is to be observed that section 696 of the Code of Civil Procedure provides:

"When a creditor against whom the deceased has claims presents a claim to the committee, the executor or administrator shall exhibit the claims of the deceased in offset to the claims of the creditor, and the committee shall ascertain and allow the balance for or against the estate, as they find the same to be.

"Claims in favor of the estate and against a creditor who presents a claim for allowance against the estate shall be barred, unless so presented by the executor or administrator as an offset; but the committee shall have no jurisdiction over claims in favor of the estate, except as offsets to claims presented against the estate."

The counterclaim of the defendants not having been presented in due time to the committee on appraisal and claims, which considered the claim of the plaintiff, this question cannot now be raised. (Bayot vs. Zurbito, 39 Phil., 650.)

For the foregoing, the assignment of errors of the appellants cannot be sustained and the indebtedness of the intestate estate claimed in this proceeding must be, as it is hereby, held to be a legal lien on the property described in certificates of title Nos. 21523 (Exhibit H), 9498 (Exhibit I), 10926 (Exhibit J), 9493 (Exhibit K) and 7573 (Exhibit L), and, therefore, the judgment appealed from is modified to the effect that the amount claimed by the plaintiff must be paid out of the property aforesaid, but only to the extent of the value of the same, with the costs against the appellants. So ordered.

Avanceña, C. J., Johnson, Street, Ostrand, Johns, Romualdez, and Villa-Real, JJ., concur.

[1] Director of Lands vs. Abdon, G.. R. No. 20625, promulgated August 27, 1923, not reported.

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