

THE GOVERNMENT OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. CLARA SANTOS, AS GUARDIAN OF AMBROSIA, LUIS, ANDRES, ROQUE, AND FELISA, ALL SURNAMED CEPILLO CRUZ.*G. R. No. 34152. December 15, 1931*

Ponente: STREET, J.

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This action was instituted by the Attorney-General on behalf of the Government of the Philippine Islands to recover from Clara Santos, as guardian of Ambrosio, Luis, Andres, Roque, and Felisa, of the surname Cepillo Cruz, a sum of money alleged to be owing as income tax of their father for the years 1923 and 1925. Upon hearing the cause the trial court gave judgment for the plaintiff to recover of the defendant the sum of P318.43 as income tax for the year 1923 and the sum of P710.04 for the year 1925, with the surcharges and interest as fixed by law, with costs against the defendant. From this judgment the defendant guardian appealed on behalf of her wards.

No question is made as to the fact that for the years mentioned income accrued against Felix Cepillo Cruz, the father of the minor defendants, or against his estate, after his death, in the amount found by the trial court and that said income taxes have not been paid. Only two questions of moment are raised in the appellant's brief, which, are, first, that the claim should have been filed with the commissioners appointed to receive and report upon claims against the estate, and, secondly, that an action will not lie against the heirs, the administrator being the person primarily chargeable with this obligations.

These two points are fully met by two decisions of this court. The first is *Pineda vs. Court of First Instance of Tayabas*, 27 O. G. 1272, and the second is *Government of the Philippine Islands vs. Pamintuan*, G. R. Ho. 33139. It appears that the property belonging to the estate of Felix Cepillo Cruz has been distributed among his children, the minor defendants in this case, who are his heirs; and the propriety of permitting this action directly against the guardian of the heirs follows from that fact. It is really an action for equitable contribution from the heirs. Of course their liability could not be extended beyond the amount of the property severally received by them, but no question is made that the guardian is in possession of ample means to meet the obligations.

Furthermore, ample authority for the maintenance of this action is contained in section 731 of the Code of Civil Procedure, as interpreted by this court in *Lopez vs. Enriquez*, 16 Phil. 336. Said section clearly recognizes the obligation of heirs and legatees who have come into the possession of property subject to any liability chargeable against the estate of their testator to contribute ratably, according to the amount of property which has come into their hands, to the satisfaction of such liability; and in the last clause of said section it is said: "and the persons who, as heirs, have received the estate not disposed of by will, shall be liable to contribute like the devisees or legatees."

The judgment appealed from will be affirmed, and it is so ordered, with costs against the appellant guardian.

Ten days after the publication of this decision final judgment will be entered, and five days thereafter the record

will be remanded to the court below.

JUDGMENT AFFIRMED .

Avanceña, C.J., Malcolm, Romualdez, and Imperial, JJ., concur.

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