

F. M. YAPTICO & CO., LTD., PLAINTIFF AND APPELLEE, VS. MARINA YULO ET AL., DEFENDANTS AND APPELLANTS.*G.R. No. 35876. February 09, 1933*

Ponente: HULL, J.

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On October 14, 1910, plaintiff loaned Gregorio Yulo a certain sum of money and took as security therefor a mortgage on properties belonging to Gregorio Yulo and his wife, Filomena Ortiz. This mortgage was due and payable May 31, 1911. The mortgage was not paid upon maturity. Filomena Ortiz died about January 13, 1911. Plaintiff and Gregorio Yulo continued their transactions and from November 14, 1912, until July 30, 1918, plaintiff advanced to Gregorio Yulo some P19,725 and delivered to him various amounts of sugar in part payment of his account, the last loan in 1918, and the last delivery of sugar on the 30th of May, 1915.

Some time after the death of Filomena Ortiz her husband Gregorio Yulo started intestate proceedings in the Court of First Instance of Iloilo and there is, in the record, an undated inventory of the estate of Filomena Ortiz showing assets of P216,815.07 and obligations amounting to P132,524.74 in which account Francisco M. Yaptico is stated to have an account against her estate in the sum of P23,412.76.

It is conceded by all that the properties of Filomena Ortiz, which are now in the possession of the defendants, as her heirs, at the time of her death pertained to the conjugal partnership.

As early as June 25, 1913, certain parcels of land in cadastral proceedings were registered as one-half belonging to Gregorio Yulo and one-half belonging to the heirs of Filomena Ortiz. (See Exhibit V, also Exhibits X, Y, Z, A A, BB, and CC.)

Gregorio Yulo died in the month of November 1923, and plaintiff-appellee filed his entire claim with the committee appointed in the intestate proceedings of Gregorio Yulo. The claim being rejected, plaintiff-appellee brought suit in the Court of First Instance of Iloilo against Jose Lopez Vito in his capacity as administrator of the estate of Gregorio Yulo and secured a partial judgment. Both parties appealed to this court and in August of 1926, judgment was given for plaintiff-appellee against the estate of Gregorio Yulo for P65,071.56 with interest thereon from March 26, 1925, at the rate of 10 per cent per annum and for costs.[1]

While the case against the estate of Gregorio Yulo was pending in this court on appeal, the then administrator reported certain facts to the probate court of Iloilo. It was reported among other things that, as much of the property had been registered jointly with one-half in the name of Gregorio Yulo and the other half in the names of the heirs of his deceased wife, it was impossible to sell the property on advantageous terms.

The court approved and ordered an exchange (permuta) or distribution between the heirs of Filomena Ortiz and the estate of Gregorio Yulo and such exchange was duly registered in the register of deeds. This exchange has heretofore been considered by this court, G. R. No. 32638,[1] in which Jose Jimenez de la Peña and Maria Ines Jimenez de la Pena claimed an unpaid credit against the deceased spouses, Gregorio Yulo and Filomena Ortiz,

and asked that the orders approving the barter or exchange of properties be set aside and that the lands in the hands of these same defendants (who are in this case defendants as heirs of their mother), be liable for the debt of the plaintiffs.

This court denied such application and held that the creditor could have put in a timely appearance to object to the orders of the court. The orders must stand like any other judicial order legally issued. The court further said:

"Moreover, the orders referred to, Exhibits N and O, dated August 7, 1926, and September 1, 1926, were already final and irrevocable when the instant action was filed, having been neither excepted to nor appealed from in due time.

"From this it follows that, as these orders are valid, they subsist fully, and the legal condition of the lands concerned as mentioned therein cannot now be altered. Consequently, the lots, which, by virtue of the barter approved in these orders, passed to the ownership of the defendants herein cannot now be deemed subject to a lien for the amount of P3,261.59 owed to the plaintiffs.

"Although this property was originally conjugal property of Gregorio Yulo and Filomena Ortiz, nevertheless, it was not included in the mortgage executed in favor of the plaintiffs' predecessors in interest, and even before the orders, Exhibits N and O, were issued, that property and the other involved in the barter had been recorded under the Land Registration Law as property of the defendants free from any encumbrance in favor of the plaintiffs or their predecessors in interest."

While the plaintiffs in that case had no notice of the orders of the probate court, the plaintiff-appellee herein knew of such orders, filed an application for their annulment, and upon said motion being denied, took no further action. The present action was instituted February 1, 1930, and the De la Peñas were made party defendants in the wording of the complaint.

"* * * solely for the reason that they pretend to have a lien on certain parcels of land described in this complaint, over which this plaintiff claims to have equal rights by virtue of transactions and indebtedness incurred under and in connection with the mortgage Annex A attached to and made a part of this complaint." After the decision of this court, in the De la Pena case, a second amended complaint was presented in which all reference to the De la Peñas was omitted. It was claimed that while the judgment was against the estate of Gregorio Yulo only, that it was for the indebtedness for which the estate and property of the deceased, Filomena Ortiz, was also jointly and severally liable inasmuch as it was claimed that the indebtedness of the plaintiff-appellee was incurred in connection with the exploitation, cultivation, and operation of the hacienda and other properties of the conjugal partnership of the spouses Gregorio Yulo and Filomena Ortiz.

While there is some indication in Exhibits A and B that the original amounts loaned in 1910 and 1911 were for the operation of the haciendas of the conjugal partnership, there is no proof in the record that the P19,000 subsequently advanced was not for the personal use of Gregorio Yulo.

So far as the record discloses, no claims were filed in the intestate proceedings of Filomena Ortiz nor was that proceeding properly terminated. It was dismissed as a separate proceeding in January 1926, and apparently from that time her estate was jointly administered with the intestate proceedings of the husband.

It is evident that plaintiff believed that the estate of Gregorio Yulo was solvent, and it was almost twenty years after the death of Filomena Ortiz that plaintiff-appellee realized that it would be to his benefit to hold her interest in the conjugal partnership liable for his claims although a large portion thereof was created after her death.

At no time did plaintiff-appellee file his claim or any portion thereof as a claim against the estate of Filomena Ortiz. At no time did he bring suit against the administrator of the estate of Filomena Ortiz. Not until 1930 did he assert any right against the heirs of Filomena Ortiz. At all times he looked to Gregorio Yulo, or to the estate of

Gregorio Yulo as his sole debtor.

Appellee, in this court, asserts:

"III. Plaintiff has final judgment against the conjugal partnership.

"It is unnecessary to go back of the decision of the Supreme Court in case G. R. No. 24988 (Exhibit I), because the decision in that case (against Jose Lopez Vito in his official capacity, he being administrator of the conjugal partnership property) was a decision not only against the estate of Gregorio Yulo, but also was necessarily a decision against the conjugal partnership. Accordingly the defendants herein are all bound firmly by that decision." (Page 24—Brief.)

Although this doctrine is not self-evident, appellee cites no authority in support thereof notwithstanding on this record such a doctrine is essential if this suit is to be successfully maintained.

It is obvious that plaintiff-appellee has been guilty of laches so far as the estate of Filomena Ortiz is concerned. It would be inequitable and unjust to permit him to revive any such rights as he might have had and now enforce them against the heirs of Filomena Ortiz. His entire conduct over a long period of years is not consonant with his present pretensions.

During the period of two and a half years of the administration of the estate of Gregorio Yulo, the two administrators, under orders of the court, paid to the five children allowances for maintenance amounting to P6,864.83. There was no question raised during the administration to the right of maintenance. There was no objection to the orders of the court or the accounts of the administrator. Such accounts were paid, became final, can not be attacked collaterally, nor can repayment be enforced.

"Funds paid out of a solvent estate by order of court to the widow and minor children for their support during its settlement need not be repaid because the estate has become insolvent. Frey vs. Eisenhardt, 116 Mich., 160; 74 N. W., 501." (24 Corpus Juris, p. 272 [footnote 98a].)

It is, therefore, our opinion that plaintiff-appellee can not recover from the heirs, either the value of their inheritance which they secured through their mother, or the amount that was paid to them by the administrator for maintenance. The judgment, of the Court of First Instance of Iloilo, in favor of plaintiff-appellee is therefore reversed, and defendants absolved from liability on the complaint. Costs against the appellee. So ordered.

Street, Villamor, Vickers, and Imperial, JJ., concur.

[1] G. R. No. 25158, F. M. Yaptico & Co. vs. Lopez Vito, promulgated August 20, 1926, not reported.

[1] 55 Phil., 274.

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