

**EDUARDA BENEDICTO, ADMINISTRATRIX OF THE ESTATE OF
MAXIMINO JALANDONI, PLAINTIFF AND APPELLEE, VS. JULIO
JAVELLANA, DEFENDANT AND APPELLANT.***G.R. No. 3751. February 21, 1908*

Ponente: TORRES, J.

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For the purpose of enforcing the terms of the will made on the 26th of June, 1903, by Maximo Jalandoni, resident of Jaro, the brother of the testator, Maximino Jalandoni, petitioned, by a writing dated August 20, 1906, that the administrator or executor, Julio Javellana, be directed to pay him the sum of 985 which he held, in lieu of the land donated to petitioner. To this end he alleged that, according to the said will, one-half of the hacienda "Lantad," situated in the pueblo of Silay, Occidental Negros, had been bequeathed to him, which gift was subject to the payment of certain debts and expenses of the estate, with respect to the products of the years 1903 and 1904 only, and which had already been applied to that object by the administrator, Javellana; that one-half of said hacienda was sold with the consent of the administrator, the sum of 985 remaining in the possession of the latter, from the entire proceeds of the sale, to meet any just or lawful claim which might arise against the gift made to him, or until such time as the court should confirm the legacy; that, as the administrator had already received the products of the hacienda, he is no longer entitled to retain any portion of the legacy, nor demand that he should respond for other debts or expenses of the estate, because, with the value of the portion inherited by the heirs Francisco Jalandoni and Sofia Jalandoni, there was more than would be required to pay the other debts of the estate, and the expenses.

Owing to the death of the plaintiff, Eduarda Benedicto, the administratrix of his estate, represented him.

The administrator of the estate, Julio Javellana, in answer to the above motion, alleged that it was not proper to ask, by means of a motion, for the relief that Maximino Jalandoni claimed, but that a complaint should have been filed and action brought against the other legatees, or rather against all the parties concerned in the estate, and not against the administrator alone; that Francisco Jalandoni and Sofia Jalandoni should not be considered as heirs but simply as the legatees of the testator, and that they are in the same position as the petitioner, Maximino Jalandoni, with respect to the charges against the estate; that the obligation to pay all the debts of the same was imposed on the entire inheritance, and not any particular property, nor on any determined party in interest named in the will; and that the amount in deposit with the administrator was not P985 but P949.29, voluntarily deposited not only to pay certain debts but also to meet all the charges against the estate and proportionately by the share allotted to Maximino Jalandoni, as had been done by applying the said sum toward the payment of debts, and for other reasons appearing therein.

The pertinent clauses or paragraphs of the will above referred to are as follows:

"The hacienda 'Malogo,' owned by me and situated in the pueblo of Eustaquio Lopez, Province of Occidental Negros, P. I., and one parcel of land situated in the pueblo of Mandurriao, Province of Iloilo, P. I., I bequeath

to Jose Jalbuena, the son of Benito Jalbuena, to whom I profess particular affection, having taken care of him in my own house from his most tender age.

"I institute Francisco Jalandoni and Sofia Jalandoni, the children of my late brother Nicolas Jalandoni, whose memory is so dear to me for the favors I have received of him, as heirs to all the property, real and personal, which I own in the Province of Iloilo, P. I., with the exception of the parcel of land previously assigned to Jose Jalbuena, which property shall be divided between the above-mentioned heirs in equal parts.

"It is my will that my hacienda denominated 'Lantad' shall be divided, one half to my brother, Maximino Jalandoni, and the other half to the sisters Maria, Felisa, and Pelicidad Jalandoni, daughters of Nazaria Hojilla.

"On my entire estate I impose the obligation that, out of the products thereof, all my debts shall be paid, the same being about 2,300 pesos which I owe Francisco Villanueva, without interest, and 2,550 pesos which I received on loan from Julio Javellana with interest thereon at the rate of 10 per cent per annum, provided, however, that one-half of the products which each parcel of land pertaining to the estate may yield this year shall be devoted to the payment of said debts, and should the said one-half not prove sufficient to meet the liabilities, two-thirds of the said products, or the total amount thereof, shall be applied; and provided, further, that in any case, the balance of such products shall remain in charge of the administrator for the settlement of such other charges as the estate may be subjected to.

"And further, on Francisco and Sofia Jalandoni I particularly impose the obligation to pay Teodora Berola, for a period of ten years, an annuity of 300 pesos, Mexican currency, or the equivalent thereof in Philippine currency; said obligation becoming extinguished by the death of the said Teodora, in case of her demise before the expiration of the said period of ten years."

The judge, in view of the result of the proceedings issued an order on the 27th of October, 1906, granting the motion filed by the legatee Maximino Jalandoni, as stated therein, from which order the opponent appealed to this court.

From the printed and certified copy of the proceedings, and from the will inserted therein, it appears that the testator, Maximo Jalandoni, on his death, left no lawful ascendants or descendants having any direct claim as hereditary successors.

It also appears, by the will in question, that the testator has distributed all his property in legacies, and that, notwithstanding the manner in which he designates his nephews Francisco and Sofia Jalandoni in paragraph 3 of the same, in order to leave in their favor all the real and personal property that he owned in Iloilo, with the exception of the parcel of land situated in Mandurriao, bequeathed to Jose Jalbueira, the truth is that such nephews of the testator are likewise legatees the same as the last beneficiary under paragraph two of the said will.

Respect for the will of a testator as expressed in his last testamentary disposition, constitutes the principal basis of the rules which the law prescribes for the correct interpretation of all of the clauses of the will; the words and provisions therein written must be plainly construed in order to avoid a violation of his intention: and real purpose.

The will of the testator clearly and explicitly stilted must be respected and complied with as an inviolable law among the parties in interest. Such is the doctrine established by the supreme court of Spain, constantly maintained in a great number of decisions, among which are those of March 24, 1803, April 28, 1882, and December 16, 1903.

The testator, under clause 5 of his will, has imposed on his entire estate the obligation to pay his debts with the products of the same, and has prescribed the manner in which the same shall be done until all obligations are extinguished.

Such a testamentary disposition is not contrary to law, and as a matter of fact article 1027 of the Civil Code provides that—

"The administrator can not pay the legacies until he has paid all the creditors."

Section 728 of the Code of Civil Procedure provides as follows:

"If the testator makes provision by his will, or designates the estate to be appropriated for the payment of his debts and the expenses of administration or family expenses, they shall be paid according to the provisions of the will. But if the provision made by the will or the estate appropriated is not sufficient for that purpose, such part of the estate of the testator, real or personal, as is not disposed of by will, if any, shall be appropriated for that purpose."

Therefore, in accordance with the above legal provisions and with the doctrine established by the courts, the aforesaid will of the late Maximo Jalandoni must be complied with and carried into execution; and, considering that all those who are benefited thereby have not received from the testator a universal succession to his estate, but certain property expressly stated in his will, they should, under the law, be considered merely as legatees, without the right to receive their share of the property of the deceased until after his debts have been paid. (Sees. 729, 731, and 754, Code of Civil Procedure.)

None of the parties interested in the will of Maximo Jalandoni is invested with the character of heir designated by law, and consequently, the provisions he has incorporated in his last will do not injure any of the rights covered by the law which protects the legitimate portions of such heirs. Article 858 of the Civil Code reads:

"A testator may charge with legacies and bequests, not only his heir, but also the legatees.

"The latter shall not be liable for the charge except to the extent of the value of the legacy."

Article 859, following, provides:

"When the testator charges one of the heirs with a legacy the latter only shall be obliged to fulfill the same.

"Should he not charge any one in particular, all shall be liable in the same proportion in which they may be heirs."

It is to be noticed that in the present case, where the whole of the inheritance was distributed by legacies, the parties in interest are indiscriminately designated as heirs or legatees.

As to specific devises; section 729 of the Code of Civil Procedure provides exemption from the payment of debts and expenses, if there is sufficient other property and if it appears to the court necessary to carry into effect the intention of the testator; and, as the legacies stated in the aforesaid will consist of specific property, less the annuity provided for by clause 6, which is made a special lien upon the property bequeathed to Francisco and Sofia Jalandoni, it is unquestionable that in this case the debts and expenses of the estate must be paid pro rata by the legatees in the manner provided in the will, or in accordance with the provisions of sections 753 and 754 of the Code of Civil Procedure.

On the other hand, and for such effects as may be proper, it should be stated herein that any challenge to the validity of a will, any objection to the authentication thereof, and every demand or claim which any heir, legatee, or party in interest in a testate or intestate succession may make, must be acted upon and decided within the same special proceedings, not in a separate action, and the same judge having jurisdiction in the administration of the estate shall take cognizance of the question raised, inasmuch as when the day comes he will be called upon to make distribution and adjudication of the property to the interested parties, as may be seen in part II of the Code of Civil Procedure, from section 551 forward.

By the foregoing it has been shown that the judgment appealed from is not in accordance with the law, therefore it is our opinion that the same should be reversed, and that the request of the representative of Maximino Jalandoni, now sustained by Eduarda Benedicto, the administratrix of his estate, should be dismissed without any special ruling as to costs. So ordered.

Arellano, C. J., Mapa, Johnson, Carson, Willard, and Tracey, JJ., concur.

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