

**INTESTATE ESTATE OF THE DECEASED PEDRO DE GALA.
SINFOROSO DE GALA, PETITIONER AND APPELLEE, VS. GENEROSO
DE GALA AND JOSEFA ALABASTRO, OPPOSITORS AND APPELLANTS.**

G. R. No. 40322. August 10, 1934

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

This is an appeal taken by the oppositors Generoso de Gala and Josefa Alabastro from the order of the Court of First Instance of Tayabas, the dispositive part of which reads as follows:

"Wherefore, the administrator Generoso de Gala and his mother Josefa Alabastro are ordered to file with the office of the clerk of this court, within twenty days from receipt of a copy of this order, a detailed account of their administration of the entire estate of the deceased Pedro de Gala, which should embrace the period from July 23, 1919, the date of the death of said deceased, to January 14, 1929, and show separately the annual products of each of the rice and coconut fields, which form the entire intestate estate. The petitioner Sinforoso de Gala is granted a period of 15 days, from the date upon which the administrator and his mother Josefa Alabastro file said accounting, within which to file his written objections or comments thereon. So ordered."

In support of his appeal, the appellant Generoso de Gala assigns the following alleged errors as committed by the trial court in its said order, to wit:

"1. The lower court erred in holding that it had jurisdiction in these proceedings to compel Generoso de Gala to render an accounting covering a period prior to his appointment and qualification as a judicial administrator.

"2. The lower court erred in unduly interpreting the decision rendered by the Supreme Court in the case of Lopez vs. Garcia Lopez (40 Phil., 184), and applying the ruling therein contained to this question on appeal.

"3. The lower court has inadvertently failed to study and ignored some proven questions of fact relative to the disputed point, thus giving rise to that part of its order directing the rendition of separate accounts of the annual products of each of the parcels of land belonging to the estate left by the deceased Pedro de Gala."

In support of her appeal, the appellant Josefa Alabastro, in turn, assigns the following sole alleged error as committed by the trial court in its said order, to wit:

"The Court of First Instance of Tayabas erred in directing Josefa Alabastro, by means of its orders of May 6, 1932, and March 31, 1933, to 'file with the office of the clerk of this court a detailed account of her administration of the entire estate of the deceased Pedro de Gala', from July 23, 1919, to January 14, 1929."

The pertinent facts which are necessary for the resolution of the questions of law raised in this appeal are as follows:

On August 29, 1917, Sinforoso de Gala brought an action in the Court of First Instance of Tayabas (civil case No. 483) against Pedro de Gala, praying that the latter be compelled to acknowledge him as his natural child, basing his claim on an alleged uninterrupted possession of the status of a natural child of said Pedro de Gala. As the case

was decided adversely to Sinforoso de Gala, he brought the same on appeal to this court. On July 23, 1919, and while the appeal was pending, Pedro de Gala died. Inasmuch as the case is not among those that are abated by reason of the defendant's death, the latter's surviving wife Josefa Alabastro and his legitimate son Generoso de Gala were substituted in his place, in accordance with the provisions of section 119 of the Code of Civil Procedure.

Having found, in the course of the appeal, that the petitioner-appellee Sinforoso de Gala had been in the uninterrupted possession of the status of a natural child of Pedro de Gala, this court, on February 15, 1922,[1] entered judgment the dispositive part of which reads as follows:

"For all of the foregoing reasons, the judgment of the lower court is hereby revoked, with the costs of this instance against the appellees, and it is hereby ordered and decreed that a judgment be entered, requiring the appellees, Josefa Alabastro and Generoso de Gala, to recognize and acknowledge the appellant, Sinforoso de Gala, as the natural son of the deceased Pedro de Gala. So ordered."

Having been declared and acknowledged natural child of Pedro de Gala, Sinforoso de Gala, on July 26, 1922, filed with the said Court of First Instance of Tayabas the petition which gave rise to this case, praying for the appointment of Ricardo Nadres as administrator of the estate of the deceased Pedro de Gala.

Josefa Alabastro and Generoso de Gala, legitimate widow and son, respectively, of the deceased Pedro de Gala, as above stated, opposed said petition.

When said petition was called for hearing on July 29, 1922, the parties, in open court, signed the following stipulation of facts:

"Come now the undersigned attorneys for the petitioner and for the oppositors, respectively, and submit the following stipulation of facts:

"1. That all the facts and allegations contained in paragraphs 1, 2, 3, 4, 5, 6 and 11 of the petition are admitted to be true, with the exception of the word 'of the value of approximately Five Hundred Thousand Pesos (P500,000.00)' contained in paragraph 3.

"2. That the widow and the son Generoso de Gala and even the deceased, during his lifetime, have not recognized or cared to recognize Sinforoso de Gala as a natural child of the deceased Pedro de Gala, for which reason the action for acknowledgment of a natural child, referred to in paragraph 4 of the petition, was brought during the lifetime of said deceased, as a result of which a conflicting interest now exists among them in connection with the hereditary portion of the natural child Sinforoso de Gala.

"3. That from the death of Pedro de Gala, the petitioner has not received anything from the oppositors as fruits produced by the property that might be allotted to or constitute the hereditary portion of the petitioner.

"4. That there is a divergence of opinion between the petitioner and the oppositors regarding the value of the estate in question, for while the petitioner estimates it at five hundred thousand pesos, the oppositors maintain that it hardly amounts to forty thousand pesos.

"5. That it is true that the oppositors have to date failed to institute in court intestate proceedings of the deceased Pedro de Gala.

"6. That it is likewise admitted by the petitioner and the oppositors that in or about the middle of the year 1920, Josefa Alabastro and Generoso de Gala executed a contract of partition of the estate left by the deceased Pedro de Gala, stipulating that one-half thereof should belong to Josefa Alabastro and the other half to Generoso de Gala, and in order not to subdivide the parcels of land, they have to date been jointly managing the estate between them, apportioning the fruits pro rata between themselves, and Generoso de Gala delivering to his

mother one-third of one-half of his products as usufruct; that such is the condition of the estate, but Sinforoso de Gala did not intervene in or consent to said partition because his case, No. 483 of this court, for acknowledgment of a natural child, was pending; that his hereditary rights cannot now be affected by said partition and that said Sinforoso de Gala does not consider himself bound thereby.

"7. That it is an admitted fact, having been investigated by all the parties to this case, and it is so agreed, that the deceased left no debts and there are no creditors of the estate or claims for debts against the deceased Pedro de Gala.

"8. That the disputed point between the parties is as follows: The petitioner maintains that the estate of the deceased should be placed under administration and an administrator appointed, who must be neither one of the oppositors; and the latter maintain the contrary, that is, it is not necessary to place the estate under administration or to have an administrator appointed and that the proper proceeding is an action for partition among the parties.

"9. Both parties agree to file their written memorandums within ten days without the necessity of serving copies upon each other, and to refrain, after the filing of the memorandums, from further discussing the case either orally or in writing, thus submitting to the decision of the court the question at issue between the parties."

On September 16, 1922, the court, upon said stipulation of facts and memorandums submitted by the parties, entered an order the dispositive part of which reads as follows :

"Wherefore, the intestate proceeding of the deceased Pedro de Gala is declared open and it is ordered that his estate be placed under administration, thus overruling the opposition of his widow and legitimate son, Josefa Alabastro and Generoso de Gala, respectively.

"As to who should be appointed administrator of the estate of the deceased Pedro de Gala, the attorney for the petitioner is opposed to Josefa Alabastro as well as to Generoso de Gala and proposes Ricardo Nadres, resident of Candelaria, Province of Tayabas, for said post; for which reason, and in order that Josefa Alabastro and Generoso de Gala may have the opportunity of being previously heard, they are given a period of five days to show cause why Ricardo Nadres, who has been proposed by the petitioner, should not be appointed administrator, and for this purpose let a Saturday be set for the hearing of the case."

After several incidents which are of no moment to the resolution of the questions raised herein, the Court of First Instance of Tayabas, on May 6, 1932, entered an order the dispositive part of which has been hereinbefore quoted.

The principal question to be decided in this appeal is whether or not the court a quo had jurisdiction to compel the oppositor-appellant Generoso de Gala to render an accounting of his administration of that portion which had been allotted to him in an extra judicial partition between him and his mother, of the estate of said deceased Pedro de Gala, prior to his appointment as judicial administrator of said estate, and the oppositor Josefa Alabastro, of her administration of the estate of her deceased husband Pedro de Gala, prior to said partition, and of one-half of the conjugal property which had been allotted to her in the liquidation made by her.

In maintaining the negative, Generoso de Gala alleges that "the courts of justice lack jurisdiction to order the rendition of accounts in testamentary cases when no case or special proceeding for the settlement of an estate is pending before them," citing in support of his contention the doctrine laid down by this court in the case of *Nepomuceno vs. Carlos* (9 Phil., 194), which reads as follows:

"1. WILLS; NECESSARY CONDITION FOR THE EXERCISE OF PROBATE JURISDICTION.—In order that a Court of First Instance may exercise its probate jurisdiction, as conferred by section 599 of the Code of Civil Procedure which went into effect on October 1, 1901, it is essential that there should be pending in the court some judicial proceeding for the settlement of the estate of a deceased person."

However, he admits that in subsequent decisions, particularly in that rendered in the case of *Lopez vs. Garcia Lopez* (40 Phil., 184), wherein the above cited case of *Nepomuceno vs. Carlos* was discussed and differentiated, the following doctrine was laid down:

"1. EXECUTORS AND ADMINISTRATORS; EXTRAJUDICIAL MANAGEMENT PRIOR TO APPOINTMENT OF ADMINISTRATOR; LIABILITY OF ADMINISTRATOR TO ACCOUNT.—By agreement among the numerous children of a deceased person, the management of the estate was confided to the widow, their mother, who accordingly administered the property extrajudicially for many years. Finally the will of the decedent was proved, and the widow was appointed administratrix. Held: That the Court of First Instance, in the exercise of its probate authority, has jurisdiction to require such administratrix to account for her management of the estate during the time she acted as extrajudicial manager prior to her appointment as administratrix.

"2. ID. ; ID. ; ACCOUNTABILITY OF CUSTODIAN OR MANAGER QUALIFYING AS ADMINISTRATOR.—All persons who come into possession of property belonging to any decedent are liable therefor and accountable to the lawful administrator when the estate is finally drawn into judicial administration; and this responsibility extends to the restoration of the fruits, increase, and accessions of such property as well as to the surrender of its proceeds, where it has been sold, or exchanged, and to compensation for its value where it has been appropriated, converted or consumed. When it occurs, as here, that the person qualifying as administrator is the same as the one who acted as custodian and manager prior to the inception of the administration proceedings, his duty to account is no less insistent and inevitable."

Generoso de Gala's contention, therefore, is unfounded and is contrary to the rulings of this court.

As to the question raised by Josefa Alabastro, it is well first to determine the time from which the declaration of this court in its decision rendered on February 15, 1922, in the case of *De Gala vs. De Gala* (42 Phil., 771), cited above, to the effect that the petitioner Sinforoso de Gala is an acknowledged natural child of the deceased Pedro de Gala, which is based on the fact that said Sinforoso de Gala had been found to be in the uninterrupted possession of the status of a natural child of said deceased Pedro de Gala, justified by the latter's own conduct and that of his family (article 135, Civil Code), legally took effect.

Article 134 of the Civil Code provides that an acknowledged natural child is entitled, in such case, to reserve the hereditary portion determined by said Code, and article 657 of the same Code provides that the rights to the succession of a person are transmitted from the moment of his death.

It will be noted that the law is silent as to the time from which a judicial declaration regarding the existence of the acknowledgment of a natural child, inferred from the uninterrupted possession of the status thereof, justified by the conduct of the father himself and that of his family, should take effect. If an acknowledged natural child is entitled to inherit from its natural parent and its right to the succession of its said parent is transmitted from the moment of the latter's death, the legal effects of the judicial declaration of the existence of a tacit acknowledgment of a natural child should retroact not only to the date on which said decedent died, but to the date of the child's birth, at which time there already existed an expectant right of said child to succeed by reason of its natural filiation, which right becomes vested from the date of the judicial declaration, inasmuch as the uninterrupted possession of the status of a natural child begins from the date of its birth (1 *Colin y Capitan*, *Derecho Civil*, paragraph 557; 1 *M. Planiol*, *Traite Elementaire de Droit Civil*, 494). If the judicial declaration to the effect that a person is an acknowledged natural child were to take effect only from the date of its promulgation, the provisions of article 137 of the Civil Code, which, in certain cases, authorize the commencement of an action for the acknowledgment of a natural child even after the death of the father or mother, would be nugatory because if said declaration did not have a retroactive effect, the natural child, if of age, or its guardian, if a minor, would be

unable to intervene in the settlement of the estate of its deceased natural parent at the latter's death, in order to protect its hereditary rights.

According to repeated rulings of this court interpreting section 685 of the Code of Civil Procedure, when the husband dies, the conjugal property must be liquidated by the administrator appointed in his testamentary or intestate proceedings, not by the surviving wife (*Enriquez vs. Victoria*, 10 Phil., 10; *Alfonso vs. Natividad*, 6 Phil., 240). It is true that according to section 596 of the Code of Civil Procedure, whenever all the heirs of a decedent are of lawful age and legal capacity and there are no debts due from the estate, they may apportion and divide the estate among themselves, as they may see fit, without proceedings in court. Although in this case the widow and the legitimate son of the deceased Pedro de Gala are of lawful age and no debts are due from the estate, however, when, as here, there was pending an action for the acknowledgment of a natural child brought against the deceased, during his lifetime, and continued against his widow and son, in his stead, after his death, which action affected the estate of said deceased, a petition should have been filed for the appointment of an administrator to manage the estate of the deceased Pedro de Gala until said action is decided. Inasmuch as the liquidation by Josefa Alabastro, widow of Pedro de Gala, of the conjugal partnership formed by the two, as well as the extrajudicial partition of the half allotted to the deceased under such liquidation, is illegal, each of the oppositors, upon taking possession of his respective portion, became an officious manager of said portion (article 1888, Civil Code), under obligation to render an accounting of his administration thereof to the court which takes cognizance of the intestate proceedings of the deceased.

The herein oppositor-appellant Josefa Alabastro is, therefore, bound to render an accounting to the trial court of her administration of the entire estate of the decedent Pedro de Gala from July 25, 1919, the date on which the latter died, to January 14, 1929.

As to the appeal of the other oppositor-appellant Generoso de Gala, all that has been said relative to the appeal of his mother Josefa Alabastro, is applicable to him.

Neither the oppositor-appellant Josefa Alabastro nor her son, the other oppositor-appellant Generoso de Gala, can invoke in their favor acquisition by prescription through possession of the property for more than ten years inasmuch as their character of officious managers and their inclusion as defendants instead of their deceased husband and father, respectively, in the action for acknowledgment of a natural child instituted by the petitioner-appellee Sinforoso de Gala, estop them from invoking in their favor uninterrupted possession (article 1945, Civil Code). ^In View of the foregoing considerations, this court is of the opinion and so holds: (1) That the liquidation of the conjugal property by the widow upon her husband's death, not being authorized by section 685 of the Code of Civil Procedure, is illegal and null (*Alfonso vs. Natividad*, 6 Phil., 240; *Enrique vs. Victoria*, 10 Phil., 10); (2) that the effects of a judicial declaration that a person is a natural and acknowledged child, made after the death of the defendant parent, retroact to the date of the said child's birth; (3) that an extrajudicial partition made among themselves by heirs of legal age, pending an action for the acknowledgment of a natural child brought against the predecessor of the inheritance during his lifetime, and his heirs, by substitution, after his death, is illegal and null (section 596, Act No. 190), inasmuch as said action implies a claim for inheritance, and (4) that the possession by the widow, of one-half of the illegally liquidated conjugal property as well as that by the heir, of the hereditary portion which was allotted to him in the illegal extrajudicial partition, is that of an officious manager under obligation to render an accounting of his administration to the probate or intestate court.

Wherefore, finding no error in the appealed order, the same is affirmed in all its parts, with costs against the appellants. So ordered.

Malcolm, Imperial, Butte, and Goddard, JJ., concur.

[1] De Gala vs. De Gala, 42 Phil., 771.

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