

MARIA CALMA, AS ADMINISTRATRIX OF THE TESTAMENTARY PROCEEDINGS OF FAUSTA MACASAQUIT, PLAINTIFF AND APPELLANT, VS. ESPERANZA TAÑEDO, ASSISTED BY HER HUSBAND FELIPE MAMAUAL, AND B...

G.R. No. 44602. November 28, 1938

Ponente: AVANCEÑA, C.J.

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AVANCEÑA, C.J.:

The spouses Eulalio Calma and Fausta Macasaquit were the owners of the property described in the complaint, being their conjugal property. They were also indebted to Esperanza Tañedo, chargeable against the conjugal property, in the sums of P348.34 and P247, with interest thereon at 10 per cent per annum. On October 10, 1933, Fausta Macasaquit died leaving a will wherein she appointed her daughter, Maria Calma, as administratrix of her properties. Upon the commencement of the corresponding probate proceedings in the Court of First Instance of Tarlac, the said daughter, Maria Calma, was appointed judicial administratrix of the properties of the deceased.

While these probate proceedings of the deceased Fausta Macasaquit were pending, Esperanza Tañedo, on January 27, 1934, filed a complaint against Eulalio Calma for the recovery of the sums of P948.34 and P247. The Court of First Instance of Tarlac rendered judgment for the payment of this sum. In the execution of this judgment, despite the third party claim filed by Fausta Macasaquit, the property described in the complaint was sold by the sheriff.

Maria Calma, as administratrix of the estate of Fausta Macasaquit, now brings this action and asks that the sale made by the sheriff of the property described in the complaint be annulled and that the estate of Fausta Macasaquit be declared the sole and absolute owner thereof.

The court absolved the defendants from this complaint.

The probate proceedings of the deceased Fausta Macasaquit were instituted in accordance with Act No. 3176 reading:

"Sec 685. When the marriage is dissolved by the death of the husband or wife, the community property shall be inventoried, administered, and liquidated, and the debts thereof shall be paid, in the testamentary or intestate proceedings of the deceased spouse, in accordance with the provisions of this Code relative to the administration and liquidation of the estates of deceased persons, or in an ordinary liquidation and partition proceeding, unless the parties, being all of age and legally capacitated, avail themselves of the right granted to them by this Code of proceeding to an extrajudicial partition and liquidation of said property.

"In case it is necessary to sell any portion of said community property in order to pay the outstanding debts and obligations of the same, such sale shall be made in the manner and with the formalities established by this Code for the sale of the property of deceased persons. Any sale, transfer, alienation or disposition of said property effected without said formalities shall be null and void, except as regards the portion that belonged to the vendor at the time the liquidation and partition was made."

Prior to this Act, the liquidation of conjugal property was made under section 685 of the Code of Civil Procedure. Interpreting the scope of Act No. 3176, this court, in the case of *Caragay vs. Urquiza* (53 Phil., 72), said that the amendment introduced by this Act consists in authorizing the institution of testate or intestate proceedings for the settlement of the estate of a deceased spouse or of an ordinary action for the liquidation and partition of the property of a conjugal partnership. It should be understood that these remedies are alternative, and not cumulative, in the sense that they cannot be availed of at the same time, inasmuch as an anomalous and chaotic situation would result if conjugal property were administered, liquidated and distributed at the same time in a testamentary proceeding and in an ordinary action for liquidation and partition of property. Consequently, the testamentary proceedings of Fausta Macasaquit having been instituted, the liquidation and partition of the conjugal property by reason of her marriage to Eulalio Calma should be made in these proceedings, to the exclusion of any other proceeding for the same purpose.

Interpreting this same Act No. 3176 in another decision, this court, in the case of *Cruz vs. De Jesus* (52 Phil., 870) said that when the marriage is dissolved by the death of the wife, the legal power of management of the husband ceases, passing to the administrator appointed by the court in the testate or intestate proceedings instituted to that end if there be any debts to be paid. This doctrine has been confirmed in the other case of *Ona vs. De Gala* (58 Phil., 881).

From the foregoing it follows that when Esperanza Tañedo brought suit against Eulalio Calma for the payment of the sums of P948.34 and P247, which were debts chargeable against the conjugal property, the power of Eulalio Calma, legal administrator of the conjugal property while Fausta Macasaquit was living, had ceased and passed to the administratrix Maria Calma appointed in the testamentary proceedings of Fausta Macasaquit. Hence, this being an indebtedness chargeable against conjugal property, no complaint for its payment can be brought against Eulalio Calma, who had already ceased as administrator of the conjugal property; the claim for this amount had to be filed in the testamentary proceedings of Fausta Macasaquit.

Having to be filed according to Act No. 3176 under the provisions of the Code of Civil Procedure relative to the administration and liquidation of properties of deceased persons, it should be filed before the committee on claims in said testamentary proceedings and, at all events, thereafter, by appeal to the corresponding Court of First Instance, in an ordinary action against the judicial administratrix.

On the other hand, the property described in the complaint is included among the inventoried properties subject to the testamentary proceedings of Fausta Macasaquit because, belonging as it does to the conjugal property, it should, under Act No. 3176, be included among the properties of the testamentary proceedings.

We conclude that, Eulalio Calma having ceased as legal administrator of the conjugal property had with his wife Fausta Macasaquit, no complaint can be brought against him for the recovery of an indebtedness chargeable against said conjugal property, and that the action should be instituted in the testamentary proceedings of the deceased Fausta Macasaquit in the manner provided by law, by filing it first with the committee on claims.

Wherefore, we hold that the sale of the property described in the complaint, made by the sheriff in execution of the judgment rendered against Eulalio Calma for the collection of the indebtedness chargeable against the conjugal property, is void and said property should be deemed subject to the testamentary proceedings of the deceased Fausta Macasaquit for all the purposes of that case.

The appealed judgment is reversed, without special pronouncement as to the costs. So ordered.

Villa-Real, Abad Santos, Imperial, Diaz, Laurel, and Concepcion, JJ., concur.

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