

LAUREANO EMBUDO, FILOMENO EMBUDO, ROMAN DELGADO, MATIAS RONQUILLO, GREGORIO GALARIA, AND ILDEFONSO RELENTE, PETITIONERS, VS JUAN G. LESACA, JUDGE OF FIRST INSTANCE OF ALBAY, FRA...

G.R. No. 45712. June 27, 1938

Ponente: AVANCEÑA, C. J.

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AVANCEÑA, C. J.:

In the intestate proceedings of the estate of the deceased Lucas Embudo, case No. 5933 of the Court of First Instance of Albay, claims were filed by Laureano Embudo, Filomeno Embudo, Matias Ronquillo, and Roman Delgado in the respective sums of P1,800, P600, P300, and P200, representing debts incurred by the deceased in his lifetime. On January 3, 1936 the committee on claims forwarded its report to the Court of First Instance, approving the aforesaid claims because it found them to be supported by documents. On March 12, 1936 the heirs of Lucas Embudo filed an opposition to the report, alleging that said claims were not sufficiently established and asked the court to disapprove the same. The court issued an order on July 22, 1936 in which, among other things, it disapproved the report not for the reason alleged by the heirs, but on the ground that it did not include an inventory of the properties of the intestate with their respective assessed valuations and ordered that another report with the said inventory be submitted. On March 16, 1937, as the commissioners had not filed the new report required, the court ordered that they submit said amended report within the period of fifteen days with the warning that they would be punished for contempt in case of noncompliance. Reconsideration of this resolution was asked, but the court denied it on August 21, of the same year.

The present petition for certiorari has been filed by the creditors, whose claims had been approved by the committee, for the purpose of having declared null and void the order of the court of July 22, 1936 disapproving the report and requiring the submission of another duly amended, that of March 16, 1937 reiterating the aforementioned order, and that of August 21, 1937 denying the reconsideration of the previous orders.

Said petition is based on the ground that the court had no jurisdiction to issue the foregoing orders.

An appeal could be taken from the report of the committee approving the claims of the petitioners within the period of twenty five days. When the alleged heirs of Lucas Embudo, respondents herein, filed their opposition to the report, the period of twenty-five days for appeal had already elapsed. They claim, however, that they had not been notified of the submission of the report. Nevertheless, the opposition they filed was not an appeal from the report inasmuch as their prayer was that it be disapproved. And even supposing that it was an appeal, it was never perfected because the bond required by section 774 of the Code of Civil Procedure was not filed.

According to the above, when the court disapproved the report of the committee on July 22, 1936, said report was already final and could no longer be disapproved by the court, aside from the fact that it did not have to approve or disapprove it (*Concepcion vs. Tambunting and Tambunting*, 46 Phil., 457), and much less for the reason stated in its order disapproving the same.

The court, therefore, acted without jurisdiction in disapproving the final decision of the committee on claims and, for this reason, the order of July 22, 1936, insofar as it disapproves the report of the committee, that of March 16, 1937, and that of August 21, 1937 are hereby declared null and of no effect, with costs against the respondents. So ordered.

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

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