

INTESTATE ESTATE OF THE DECEASED LUZ GARCIA. PABLO G. UTULO, APPLICANT AND APPELLEE, VS. LEONA PASION VIUDA DE GARCIA, OPPOSITOR AND APPELLANT.

G.R. No. 45904. September 30, 1938

Ponente: IMPERIAL, J.

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IMPERIAL, J.:

This is an appeal taken by the oppositor from the order of the Court of First Instance of the Province of Tarlac appointing the applicant as judicial administrator of the property left by the deceased Luz Garcia.

Juan Garcia Sanchez died intestate, and in the proceedings instituted in the Court of First Instance of Tarlac for the administration of his property (special proceedings No. 3475), Leona Pasion Vda. de Garcia, the surviving spouse and the herein oppositor, was appointed judicial administratrix. The said deceased left legitimate children, named Juan Garcia, jr., Patrocinio Garcia and Luz Garcia who, with the widow, are the presumptive forced heirs. Luz Garcia married the applicant Pablo G. Utulo and during the pendency of the administration proceedings of the said deceased, she died in the said province without any legitimate descendants, her only forced heir a being her mother and her husband. The latter commenced in the same court the judicial administration of the property of his deceased wife (special proceedings No. 4188), stating in his petition that her only heirs were he himself and his mother-in-law, the oppositor, and that the only property left by the deceased consisted in the share due her from the intestate of her father, Juan Garcia Sanchez, and asking that he be named administrator of the property of said deceased. The oppositor objected to the petition, opposing the judicial administration of the property of her daughter and the appointment of the applicant as administrator. She alleged that inasmuch as the said deceased left no indebtedness, there was no occasion for the said judicial administration; but she stated that should the court grant the administration of the property, she should be appointed the administratrix thereof inasmuch as she had a better right than the applicant. After the required publications, trial was had and the court, on August 28, 1936, finally issued the appealed order to which the oppositor excepted and thereafter filed the record on appeal which was certified and approved.

The oppositor-appellant assigns five errors allegedly committed by the trial court, but these assigned errors raise only two question for resolution, namely: whether upon the admitted facts the judicial administration of the property left by the deceased Luz Garcia lies, with the consequent appointment of an administrator, and whether the appellant has a better right to the said office than the appellee.

1. As to the first question, we have section 642 of the Code of Civil Procedure providing in part that "if no executor is named in the will, or if a person dies intestate, administration shall be granted" etc. This provision enunciates the general rule that when a person dies leaving property in the Philippine Islands, his property should be judicially administered and the competent court should appoint a qualified administrator, in the order established in the section, in case the deceased left no will, or in case he had left one should he fail to name an executor therein. This rule, however, is subject to the exceptions established by sections 596 and 597 of the same

Code, as finally amended. According to the first, when all the heirs are of lawful age and there are no debts due from the estate, they may agree in writing to partition the property without instituting the judicial administration or applying for the appointment of an administrator. According to the second, if the property left does not exceed six thousand Pesos, the heirs may apply to the competent court, after the required publications, to proceed with the summary partition and, after paying all the known obligations, to Partition all the property constituting the inheritance among themselves pursuant to law, without instituting the judicial administration and the appointment of an administrator.

Construing the scope of section 596, this court repeatedly held that when a person dies without leaving pending obligations to be paid, his heirs, whether of age or not, are not bound to submit the property to a judicial administration, which is always long and costly, or to apply for the appointment of an administrator by the court. It has been uniformly held that in such case the judicial administration and the appointment of an administrator are superfluous and unnecessary proceedings (*Ilustre vs. Alaras Frondosa*, 17 Phil., 321; *Malahacan vs. Ignacio*, 19 Phil., 434; *Bondad vs. Bondad*, 34 Phil., 232; *Ealdemor vs. Malangyaon*, 34 Phil., 367; *Fule vs. Fule*, 46 Phil., 317).

In enunciating the aforesaid doctrine, this court relied on the provisions of articles 657, 659 and 661 of the Civil Code under which the heirs succeed to all the property left by the deceased from the time of his death. In the case of *Ilustre vs. Alaras Frondosa*, supra, it was said:

"Under the provisions of the Civil Code (arts. 657 to 661), the rights to the succession of a person are transmitted from the moment of his death; in other words, the heirs succeeded immediately to all of the property of the deceased ancestor. The property belongs to the heirs at the moment of the death of the ancestor as completely as if the ancestor had executed and delivered to them a deed for the same before his death. In the absence of debts existing against the estate, the heirs may enter upon the administration of the said property immediately. If they desire to administer it jointly, they may do so. If they desire to partition it among themselves and can do this by mutual agreement, they also have that privilege. The Code of Procedure in Civil Actions provides how an estate may be divided by a petition for partition in case they can not mutually agree in the division. When there are no debts existing against the estate, there is certainly no occasion for the intervention of an administrator in the settlement and partition of the estate among the heirs. When the heirs are all of lawful age and there are no debts, there is no reason why the estate should be burdened with the costs and expenses of an administrator. The property belonging absolutely to the heirs, in the absence of existing debts against the estate, the administrator has no right to intervene in any way whatever in the division of the estate among the heirs. They are coowners of an undivided estate and the law offers them a remedy for the division of the same among themselves. There is nothing in the present case to show that the heirs requested the appointment of the administrator, or that they intervened in any way whatever in the present action. If there are any heirs of the estate who have not received their participation, they have their remedy by petition for partition of the said estate."

In the cases of *Malahacan vs. Ignacio*, supra, *Bondad vs. Bondad*, supra, and *Baldemor vs. Malangyaon*, supra, the same doctrine was reiterated. And in the case of *Fule vs. Fule*, supra, this court amplified and ratified the same doctrine in the following language:

"Upon the second question—Did the court a quo commit an error in refusing to appoint an administrator for the estate of Saturnino Fule?—it may be said (a) that it is admitted by all of the parties to the present action, that at the time of his death no debts existed against his estate and (b) that all of the heirs of Saturnino Fule were of age.

"In this jurisdiction and by virtue of the provisions of articles 657, 659 and 661 of the Civil Code, all of the property, real and personal, of a deceased person who dies intestate, is transmitted immediately to his heirs. (To *Guioc-Co vs. Del Rosario*, 8 Phil., 546; *Ilustre vs. Alaras Frondosa*, 17 Phil., 321; *Marin vs. Nacianceno*,

19 Phil., 238; Malahacan vs. Ignacio, 19 Phil., 434; Nable Jose vs. Uson, 27 Phil., 73; Bondad vs. Bondad, 34 Phil., 232; Baldemor vs. Malangyaon, 34 Phil., 367.)

"If then the property of the deceased, who dies intestate, Passes immediately to his heirs, as owners, and there are no debts, what reason can there be for the appointment of a judicial administrator to administer the estate for them and to deprive the real owners of their possession to which they are immediately entitled? In the case of Bondad vs. Bondad (34 Phil., 232), Chief Justice Cayetano Arellano, discussing this question, said: 'Under the provisions of the Civil Code (articles 657 to 661), the rights to the succession of a person are transmitted from the moment of his death; in other words, the heirs succeed immediately to all of the property of the deceased ancestor. The property belongs to the heirs at the moment of the death of the ancestor as completely as if the ancestor had executed and delivered to them a deed for the same before his death. In the absence of debts existing against the estate, the heirs may enter upon the administration of the said property immediately. If they desire to administer it jointly, they may do so. If they desire to partition it among themselves and can do this by mutual agreement, they also have that privilege. The Code of Procedure in Civil Actions provides how an estate may be divided by a petition for partition in case they cannot mutually agree in the division.' (Sections 182-184, 196, and 596 of Act No. 190.)

"When the heirs are all of lawful age and there are no debts there is no reason why the estate should be burdened with the cost and expenses of an administrator. The administrator has no right to intervene in any way whatsoever in the division of the estate among the heirs when they are adults and when there are no debts against the estate. (Ilustre vs. Alaras Frondosa, supra; Bondad vs. Bondad, supra; Baldemor vs. Malangyaon, supra.)

"When there are no debts and the heirs are all adults, their relation to the property left by their ancestor is the same as that of any other coowners or owners in common, and they may recover their individual rights, the same as any other coowners of undivided property. (Succession of Story, 3 La. Ann., 502; McIntyre vs. Chappell, 4 Tex., 187; Wood et ux. vs. Ford, 29 Miss., 57.)

"The right of the heirs in cases like the one we are discussing, also exists in the division of personal as well as the real property. If they cannot agree as to the division, then a suit for partition of such personal property among the heirs of the deceased owner is maintainable where the estate is not in debt, the heirs are all of age, and there is no administration upon the estate and no necessity thereof. (Jordan vs. Jordan, 4 Tex. Civ. App. Rep., 559.)

"It is difficult to conceive of any one class or item of property susceptible of being held in common which may not be divided by the coowners. It may be of personal property as well as of real estate; of several parcels as well as of a single parcel, and of non-contiguous as well as of adjacent tracts; or of part only of the lands of the coowners as well as of the whole. (Pickering vs. Moore, 67 N. H., 533; 31 L. R. A., 698; Pipes vs. Buckner, 51 Miss., 848; Tewksbury vs. Provizzo, 12 Cal., 20.)"

We conceive of no powerful reason which counsels the abandonment of a doctrine so uniformly applied. We are convinced that if the courts had followed it in all cases to which it has application, their files would not have been replete with unnecessary administration proceedings as they are now. There is no weight in the argument adduced by the appellee to the effect that his appointment as judicial administrator is necessary so that he may have legal capacity to appear in the intestate of the deceased Juan Garcia Sanchez. As he would appear in the said intestate by the right of representation, it would suffice for him to allege in proof of his interest that he is a usufructuary forced heir of his deceased wife who, in turn, would be a forced heir and an interested and necessary party if she were living. In order to intervene in said intestate and to take part in the distribution of the property it is not necessary that the administration of the property of his deceased wife be instituted—an administration which will take up time and occasion inconveniences and unnecessary expenses.

2. In view of the foregoing, there is no need to determine which of the parties has preferential right to the office of

administrator.

The appealed order should be reversed, with the costs of this instance to the applicant-appellee. So ordered.

Avanceña, C. J., Villa-Real, Abad Santos, Diaz, Laurel, and Conception, JJ., concur.

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