

VICENTE PEKALTA, MOVANT AND APPELLANT, VS. JOSE PERALTA, ADMINISTRATOR AND APPELLEE.

G.R. No. 47048. December 13, 1940

Ponente: LAUREL, J.

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LAUREL, J.:

This is an appeal from the order of the Court of First Instance of Occidental Negros, dated March 25, 1939, which reads as follows:

"No encontrando justificada la moción del compañero Sr. Aritao que representa a Vicente Peralta pidiendo que el administrador de este intestado, que ha sido liberado por convenio de las partes de su obligación de presentar cuentas, sea de nuevo requerido a presentarla por el periodo de tiempo mencionado por el en su moción, el Juzgado deniega la misma."

In civil case No. 4399 of the Court of First Instance of Occidental Negros, entitled "Intestate Estate of the deceased Quirino Peralta and Ursula Genii", Jose Peralta, the appellee here, was duly appointed administrator. In that capacity, he submitted to the court below yearly statements of account until the term ending October 14, 1932. Subsequently, on May 5, 1936, said administrator, through counsel and with the conformity of all the heirs, moved that he be relieved of the duty of rendering a final account for the reasons stated in his petition. (Record on Appeal, p. 27.) The lower court granted the motion in its order of May 26, 1936, the dispositive part of which recites as follows:

"Por el presente se provee favorablemente a dicha moción, y se releva al administrador de la obligación de presentar cuenta final en este expediente, para todos los efectos legales."

On August 11, 1936, a project of partition was approved and the properties of the estate were distributed in accordance therewith. Later, on February 24, 1939, Vicente Peralta, one of the heirs, filed a motion praying that the administrator be required to submit a final accounting which would cover the period beginning October 14, 1932, up to the present. As aforesaid, the petition was disallowed and this appeal has been interposed.

Appellant assigns various errors of the court below. The question to be determined, however, is whether or not, upon the facts, the court below erred in not requiring the administrator to submit the final accounting sought. Chapter XXXII of the Code of Civil Procedure which deals with the general duties of executors and administrators, in its section 672, provides that "every executor or administrator shall render an account of his administration within one year from the time of receiving letters testamentary or of administration, unless the court extends the time on account of an extension of the time for selling the estate and paying the debts; and he shall render further accounts of his administration as may be required by the court until the estate is wholly settled." This provision has been reproduced in section 8 of Rule 86 of the New Rules of Court.

The duty of an administrator to prepare periodical reports of the assets and properties under his supervision is one which he owes particularly to a designated group of individuals by law interested in the settlement and distribution of the estate. They may be heirs, legatees or creditors of the deceased. After the submission by the

administrator of his initial report, the parties beneficially interested, provided they are of age and are not suffering from any legal disability, may, with the approval of the court, release him from his obligation to render further accounts either by express agreement or "by implication from long continued acquiescence after the right to demand has fully accrued" (Vide 24 C. J937), and this discharge, not being violative of any rule of law or contrary to public policy, may not be revoked or set aside. "In the administration of estates of deceased persons, the judges enjoy ample discretionary powers and the appellate courts should not interfere with or attempt to replace the action taken by them, unless it be shown that there has been a positive abuse of discretion." *Concepcion P. Vda. de Padilla v. Jugo*, G. R. No. 45617, 38 Off. Gaz., 1.).

The order of the lower court is accordingly affirmed, with costs against the appellant. So ordered.

Avanceña, C.J., Imperial, Diaz, and Horrilleno, JJ., concur.

Order affirmed.

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