

**IN THE MATTER OF THE INTESTATE ESTATE OF THE DECEASED
HUGO OCAMPO CU JONGCO. REMIGIA VALUIS, ADMINISTRATRIX
AND APPELLANT, VS. VIUDA E HIJOS DE CU TOCO, REPRESENTED BY
TAN LET, ...**

G.R. No. 47193. January 27, 1941

Ponente: LAUREL, J.

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LAUREL, J.:

This appeal was interposed from the order of the Court of First Instance of Camarines Sur dated December 15, 1937, holding that the resolution of the committee on claims and appraisal granting Vda. e Hijos de Cu Toco the sum of P1,416.83 had become final and executory and commanding the administratrix to pay the said amount to the claimant.

On September 10, 1936, Sy Cong Bieng & Co., Inc., through counsel, presented a petition in the Court of First Instance of Camarines Sur for the issuance of letters of administration of the estate of the deceased Hugo Ocampo Cu Jongco, alleging, among other things, that the said Hugo Ocampo Cu Jongco died intestate in 1933 in Tinanbac, Camarines Sur, leaving real property valued at P14,880; that he was survived by his wife, Remigia Valuis, and three or four children; and that he was indebted to the petitioner in the amount of P3,560.24.

On December 5, 1936, the court appointed Remigia Valuis, widow of the deceased Hugo Ocampo Cu Jongco, administratrix of the estate and named Jose Sy Ping, Sy Tangco and Joaquin Cardena members of the committee on claims and appraisal. On motion of the administratrix, the court, in its order of February 20, 1937, appointed Martin Don member of the committee to succeed Jose Sy Ping.

Shortly thereafter, the committee on claims and appraisal, through the columns of the "Tigñog Nin Bunuaan," a weekly newspaper of general circulation in the province, announced that it was ready to receive for consideration claims against the estate under administration. On June 19, 1937, Vda. e Hijos de Cu Toco, the appellees here, filed its claims amounting to 1,718.89, representing the balance of a current account which the deceased had with it. The other creditors who submitted their claims were the "Tigñog Nin Bunuaan," Mariano Dy-Liac & Sons, and the Collector of Internal Revenue through the provincial fiscal.

On July 28, 1937, the committee rendered its report approving all the submitted claims, except that of the herein appellee to whom was allowed only P1,416.06 in view of a deduction in the amount of P302.83 which was the value of lumber previously delivered by the deceased. Upon being notified of this report, Vda. e Hijos de Cu Toco filed an appeal with the Court of First Instance of Camarines Sur, where, pending its resolution, they moved for the execution of the sum awarded to it by the committee on claims and appraisal. The administratrix opposed the motion, and, on December 15, 1937, the court, "considerando que la resolucion de dicha Comision tocante a la expresada suma de P1,416.83 ha adquirido caracter de firme por no afectarla la apelacion interpuesta por los mismos reclamantes contra la mencionada resolucion en cuanto esta ha desestimado en parte la citada reclamacion," directed the payment of the amount claimed. Administratrix's motion for reconsideration having

been denied, the case is now before us on appeal. Appellant claims that the lower court erred:

"1. In holding in its order of December 15, 1937, that the resolution of the committee on claims and appraisal granting claimant Vda. e Hijos de Cu Toco the sum of P1,416.83 had already become final and executory.

"2. In ordering the administratrix to pay claimant Vda. e Hijos de Cu Toco the said sum of P1,416.83 pending final adjudication of the appeal taken by Vda. e Hijos de Cu Toco from the resolution of the committee on claims and appraisal rejecting a portion of its claim.

"3. In not holding that payment of the aforesaid sum of P1,416.83 is premature and may prejudice the interest of the other creditors of the estate of the deceased Hugo Ocampo Cu Jongco."

Categorically stated, the sole question to be decided is whether or not an appeal by a creditor from the partial disallowance of his claim by the committee on claims and appraisal, in the absence of any timely appeal by the administratrix, has the effect of staying the execution of the amount awarded by the committee pending its final determination.

From an examination principally of sections 740, 773, and 775 of the Code of Civil Procedure, it is clear that any administrator or creditor may, within twenty-five days after the filing of the committee report, appeal from that report to the Court of First Instance: the administrator from the allowance of any claim against the estate or from the disallowance, in whole or in part, of any offset; the creditor from the disallowance of the whole or any part of his claim, or the allowance of the whole or any part of any claim in offset, and that when such an appeal has been taken, the court may order the suspension of the payment of the debts or the distribution among the creditors whose claims are allowed. In this case, however, while the creditor appealed from the partial disallowance of his claim to the Court of First Instance, the administratrix did not interpose any such appeal from the resolution of the committee. By her failure to exercise the right of appeal, the report of the committee as to the items allowed by it acquired due finality and these became lawful liens on the decedent's estate subject to execution under the terms of section 443 of the Code of Civil Procedure, (*Felisa Camia de Reyes vs. Juan Reyes de llano*, G. R. No. 42092, promulgated October 28, 1936; *Montinola vs. Villanueva*, 49 Phil., 528; *De la Vina vs. Yaptico & Co.*, 48 Phil., 204.) We have not overlooked well considered decisions to the contrary notwithstanding absence of any reference thereto in the briefs of the parties (*Woodbury v. Woodbury Estate* 48 Vt. 36; *Probate Court v. Kent*, 49 Vt. 379). Nevertheless, the administratrix not having appealed, the failure should be construed as acquiescence on her part to the item awarded and which is now executory.

The effect of execution upon a pending appeal is not here involved. (*Verches vs. Rios*, 48 Phil., 16.)

The order appealed from is hereby affirmed, with costs against the appellant. So ordered.

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

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