

**INTESTATE ESTATE OF THE DECEASED CONSUELO SYYAP.
FRANCISCO QUISUMBING, ADMINISTRATOR AND APPELLANT, VS.
MARIANO GUISON, CLAIMANT AND APPELLEE.**

G.R. No. 49022. May 31, 1946

Ponente: FERIA, J.

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FERIA, J.:

This case is here on appeal from the Court of First Instance of Manila.

The deceased, Consuelo Syyap, during her life time executed a promissory note dated November 9, 1940 for P3,000 in favor of Leonardo Guison payable sixty (60) days from the date thereof, with interest at the rate of 12 Per cent per annum.

The debtor Consuelo Syyap died on November 30, 1940. On December 5 of the same year, intestate proceedings were instituted and notice given to creditors to file their claim within six (6) months, which period for filing claims expired on August 31, 1941.

In the inventory filed on April 30, 1941, by the administrator of the estate of the deceased, the said obligation of P3,000 was acknowledged as one of the liabilities of the decedent.

The creditor Leonardo Guison died on December 31, 1941, and his son Mariano Guison, who was appointed as administrator of the intestate estate of his deceased father, filed the claim of P3,000 against the estate on March 9, 1943.

The attorney for the claimant, in his reply to the answer of the attorney for the administrator of the estate of Consuelo Syyap, stated that the claimant believed in good faith that he was relieved of the obligation to file a claim with the court, because said administrator had assured him that he should not worry about it, since the debt was admitted in the inventory and he would pay it as soon as he was authorized by the court to do so, and that the same administrator had been paying the interest due on the note up to January, 1943.

The lower court taking into consideration that the appellant administrator did not deny in his answer to the claim the existence of the debt, that the latter was admitted in the inventory submitted by said administrator to the court, and that the appellant had been paying interest on the debt up to January, 1943, allowed the appellee's claim and ordered the appellant to pay the claimant the sum of P3,000 with interest at the rate of 12 per cent per annum from February 1, 1943.

The appellant contends that the court a quo erred or abused its discretion in allowing the appellee's claim under section 2, Rule 87, of the Rules of Court, eighteen months after the expiration of the time previously limited for the filing of claims, and without a previous application for extension of time having been filed by the claimant.

While it is true that under section 5 of Rule 87, "all claims for money against the decedent, arising from contract, express or implied, whether the same be due, not due, or contingent, * * * must be filed within the time limited in

the notice," it is also true that, under section 2 of the same Rule, "at any time before an order of distribution is entered, on application of a creditor, who has failed to file his claim within the time previously limited, the court may, for cause shown and on such terms as are equitable, allow such claim to be filed within a time not exceeding one month."

There is no question that the claim was filed before the court ordered the distribution of the estate of the decedent Consuelo Syypap. The only questions to be determined are (1) whether the claim filed by the claimant may be allowed by the court after hearing both parties, without necessity on the part of the claimant to file a previous application for, and on the part of the court to grant, an extension of time not exceeding one month within which the claim may be filed; and (2) whether cause was shown by the claimant why he did not file the claim within the time previously limited.

(1) After a careful consideration of this case, we hold that the claim filed by the appellee may be considered as implying an application for time within which to file said claim, and the order of the lower court allowing such claim impliedly granted said appellee an extension of time within which to file said claim. It would have been a waste of time on the part of the court and the parties in this case, . if the court had dismissed the claim and required the appellee to file, first, an application for a period not exceeding one month within which to file his claim, and then to file his claim within the time granted by the court, when the latter would allow the claim after all. Strict compliance with the said requirement of section 2 of Rule 87 would be necessary if a claim had to be presented to and passed upon by the committee on claims according to the old law; but now as it is to be filed with and passed upon by the court itself, no harm would be caused to the adverse party by such a procedure as was followed in the present case.

Moreover, the appellant, in his answer to the claim filed by the appellee, did not object to it on the ground that the former had not previously applied for an extension of time not exceeding one month within which to present his claim. It is to be presumed that both the attorneys for the appellant as well as for the appellee knew that the claim was being filed under the provisions of section 2, Rule 87, of the Rules of Court, because the time previously limited had then already expired, and had appellant objected to the claim on the above-mentioned ground and the court considered it necessary for the appellee to do so, the latter would have complied literally with the law.

Section 2, Rule 87, of the Rules of Court contains a more liberal provision regarding the time for the filing of a claim by a creditor who has failed to file his claim within the time previously limited, than section 690 of the old Code of Civil Procedure on which the rulings in the cases quoted by the appellant are based.

Under said section 690, the court may, on application of a creditor who has failed to present his claim, renew the commission and allow further time not exceeding one month for the committee to examine such claim if the application is filed within six months after the time previously limited had expired, or if the committee has failed to give the notice required by law, provided that such application be presented before the final settlement of the estate. So, although the estate has not yet been finally settled, if such application is filed after six months from the expiration of the time previously limited, or if the committee has not failed to give the notice required by law, the court has no power to renew the commission and allow further time not exceeding one month for the filing and examination by the committee of such claim, whatever might be the cause for such failure to file the claim in time.

While, under section 2 of Rule 87, there is no limitation as to the time within which a creditor who has failed to file his claim within the time previously limited, may file an application for extension of time within which to file his claim, and the court may for cause shown grant such application fixing a period not exceeding one month for that purpose, provided that the application is presented before an order of distribution has been entered.

(2) The last sentence of section 2, Rule 87, provides that the court may, for cause shown and on such terms as are equitable, allow such claim to be filed within a time not exceeding one month. As it does not state what cause shall be considered sufficient for the purpose, it is clear that it is left to the discretion of the court to determine the sufficiency thereof; and when the court allows a claim to be filed for cause or causes which it considers as sufficient, on appeal this court can not reverse or set aside the action of the court below unless the latter has abused its discretion, which has not been shown by the appellant in this case. As was held in *In re Estate of Tiangco* quoted also by the appellant:

"* * * Whether the period fixed by law for the presentation of claims may be extended is within the sound discretion of the court, and the decision of the trial judge in this regard should not be disturbed until it is clearly shown that he abused such discretion." (39 Phil., 967, 968.)

That nothing is more equitable than what was done by the lower court in this case, is evident. Appellant does not only acknowledge in the inventory the existence of the debt, but does not deny it in his answer to the claim filed by the appellee in the court below, and had been paying interest due thereon up to January, 1943, that is, two months before the filing of the claim. Attorney for appellant, in opposing the claim and appealing to this court from the decision of the court below, relies only on the technicality that no previous application for extension of time has been filed by the claimant-appellee.

Appellant's contention that the admission by the testator his will of a debt in the case of *Santos, vs. Manarang* (27 Phil 209), quoted by the appellant, is a stronger reason for allowing a claim than the admission of the decedent's obligation in the inventory filed by the administrator in the present case, and yet this court denied the claim in said case, is without foundation; because, as this court said in that case, "the dates of his will and of his death may be separated by a period of time more or less appreciable. In the meantime, as the testator well knows, he may acquire or dispose of property, pay or assume additional debts, etc." Besides, it is plain that the ruling in said case is not applicable to the case at bar. In that case of *Santos vs. Manarang*, the claim was not presented at all to the committee on claims which had to pass upon it according to the old law, and this court held that the admission of the debt in the testator's will was not a sufficient reason for the court to allow the creditor's claim which had not been presented to said committee. While, in the present case, the admission of the existence of the debt in the inventory filed by the administrator was considered by the court, not as sufficient cause for not filing the appellee's claim at all, but as one of the reasonable causes or reasons for his failure to file it within the time previously limited.

In view of the foregoing, the decision appealed from is affirmed, with costs against the appellant. So ordered.

Moran, C. J., Paras, Jaranilla, Pablo, and Briones, JJ, concur.

Judgment affirmed.

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