

SALVADOR LOPEZ, PLAINTIFF AND APPELLANT, VS. RAFAEL ENRIQUEZ ET AL., DEFENDANTS AND APPELLEES.

G.R. No. 4968. August 03, 1910

Ponente: MAPA, J.

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MAPA, J.:

It is alleged in the complaint filed in this cause:

First. That, under No. 1869, a case was tried in the Court of First Instance of Manila concerning the testate estate of Antonio Enriquez and the intestate estate of Ciriaca Villanueva.

Second. That in the said estates defendants appear as heirs to the property left by the said spouses at their death.

Third. That the plaintiff held a claim against the said estates amounting to 10,557 francs, or their equivalent in Philippine currency, which was allowed and ordered paid by the court on August 26, 1905.

Fourth. That the administrator of the estates did not immediately pay the said debt, alleging that at the time he did not have the necessary cash, but that he would get the money to liquidate the debt as soon as possible, which, up to the present time, he has not done.

Fifth. That on the 2d of January, 1906, the heirs of the spouses Enriquez and Villanueva executed ,an instrument of partition of property, which appears in the record of the said case No. 1869 and was approved by the court on January 25, 1906; that by virtue of the instrument aforesaid, the proceedings in case No. 1869 above mentioned were concluded without the plaintiff's knowledge.

Sixth. That as a result of the proceedings in the said case, without previous payment to the plaintiff, who is a recognized creditor in the suit, the plaintiff is obliged to file this complaint praying for the rescission of the partition of the property of the deceased spouses Enriquez and Villanueva, unless their heirs give a sufficient and proper bond to secure the payment of his claim.

Seventh. That the plaintiff suffers great detriment by this delay in the payment already authorized by the Court of First Instance, and by having to file the new complaint.

On the grounds hereinbefore related, the plaintiff prays that judgment be rendered against the defendants for the sum of 10,557 francs, or their equivalent in Philippine currency, with legal interest thereon, and the costs, and that the partition already made between the heirs be annulled, unless they give bond to secure the payment of the amount claimed.

The defendants Francisco Enriquez and Carmen de la Cavada de Enriquez denied in their answer, among other alleged facts, that contained in paragraph 3 of the complaint, and alleged expressly that the debt therein claimed was contracted solely and exclusively by their codefendant Rafael Enriquez for the latter's use and exclusive benefit and that such liability was incurred long after the death of their predecessors in interest, Francisco Enriquez and Ciriaca Villanueva. They further set up, as a special defense, the agreement made in the instrument

of partition of the property left by their said predecessors, executed on January 2, 1906, in clause 9 of which their coheirs and codefendants in the present cause state, textually, that they "release the aforementioned Don Francisco Enriquez and his wife, Dona Carmen de la Cavada, from all obligation by reason of any hereditary or testamentary debt, inasmuch as they, the said codefendants and coheirs, do take upon themselves the payment of all the debts and obligations of both estates, with the exception of the mortgage of P7,500, and interest, on the property situated at No. 42 Calle David, the payment of which is assumed by the said Francisco Enriquez and his wife, the other heirs being relieved and released from this mortgage obligation." The partition and the agreement above mentioned were judicially approved.

The other defendants confined themselves to a denial of the last clause of paragraph 5 and the first clause of paragraph 6 of the complaint, without denying either generally or specifically the other facts alleged therein which, therefore, must be deemed to have been admitted by them, in accordance with the provisions of section 94 of the Code of Civil Procedure.

The trial having been conducted with all its necessary proceedings, the defendants were acquitted with the costs against the plaintiff, who appealed from the judgment to this court.

It is declared as approved in the judgment appealed from, without such declaration having been impugned in the present instance, that the administrator of the testate estate of Antonio Lopez (it must be Enriquez), in his quality as such, bound himself to pay the credit herein claimed to the attorney for the plaintiff, and that the judge authorized the payment of the same in the special administration proceedings. The order authorizing the said payment recognizes, according to the judgment, that the claim mentioned in favor of the plaintiff is a debt contracted by the estate. This being granted, it follows as a necessary and inevitable consequence that it should be paid out of the property of the estate itself.

It is no bar to this conclusion that the said debt was contracted many years after the death of the testator Enriquez, because this circumstance in itself alone does not show that it was not done in the interest of the estate, to attend the needs and meet the obligations of which it is very possible that the debt was contracted. No precise and specific data appear in the record of the trial which sufficiently support the allegation that it was contracted solely for the personal and exclusive benefit of one of the defendants; on the contrary, there is other data of much importance which tends directly to connect the said debt with the estate in question. It is insinuated in the testimony of one witness that the credit claimed in the complaint originated from advances made by the plaintiff as a pension that had to be paid to one of the heirs of the administrator of the estate. It also appears to be indicated that a part of these advances was paid, without opposition by the heirs, out of funds pertaining to the estate; and, finally, the present administrator of the same, in testifying with regard to some letters wherein reference is made to plaintiff's credit, stated that "they must be among the administrator's accounts which should be united with the records of the cause in this court, as vouchers showing the fulfillment of his duty." If the debt in question was not properly one chargeable against the estate, neither would a part of it have been paid out of funds of the estate, nor would there be any reason for including the documents relative thereto among the administrator's accounts, with which, on such a supposition, they would have absolutely no concern whatever.

But this is not the true aspect of the question. Our point of view is that there exists an order, assented to and final, which recognized and declared that the debt, the subject of the complaint, was a debt contracted by the estate, and in consequence thereof ordered the payment of the same by the administrator of the estate, in the special proceedings had with reference thereto. No appeal having been taken at any time against the order mentioned, there is no reason for incidentally discussing herein either the legality of the same, or, consequently, the nature of the said debt already defined in a conclusive manner in the order itself which, on account of such failure to appeal, has become final and irrevocable in accordance with law. The authority of the matter thus adjudged makes all

further discussion on these points entirely irrelevant and improper.

The complaint is directed against the heirs individually, upon the allegation that the partition of the estate left by Antonio Enriquez and Ciriaca Villanueva, the predecessors in interest of the said heirs, has already been made and judicially approved. The judgment appealed from relates, with regard to this point: First, that if the estate is actually liable for the debt herein claimed, collection thereof should be undertaken in the special administration proceedings concerning the said estate, which are not yet entirely terminated, as some houses belonging to the estate are still in litigation; and, second, that a sufficient reason has not been adduced for making the heirs individually liable for the debt in question.

With respect to the first conclusion, it is found to be sufficiently proven that the division of the estate, as alleged in the complaint, was actually made. The defendants themselves admit it as true in their respective written answers, and only deny that, by virtue of such division, the proceedings in the settlement of the testate estate of Antonio Enriquez and of the intestate estate of Ciriaca Villanueva were considered as terminated, without the knowledge of the plaintiff, as also alleged in the complaint. So certain it is that the partition was made that the defendants Francisco Enriquez and Carmen de la Cavada base one of their defenses on the instrument of partition of the property of both estates, then not in litigation, * * * as they say textually. And, in conformity with this, the administrator of the said estates testified at the trial that the property which had not yet been divided among the heirs consisted of buildings that were then in litigation, a litigation which in the first instance resulted adversely to the within defendants, as stated, and without contradiction, in appellant's brief. And if all the estate was divided, with the exception of those houses in litigation, it is evident that there is now nothing more to divide among the heirs, for what is subject to the eventualities and contingencies of a lawsuit can not at the present day be deemed to be actual property of the estate. This being the case, one should not, nor can one oblige the creditor or creditors of the estate to await the result, which may well be unfavorable, of such litigation, in order to realize upon his or their claim, as by virtue of the partition the heirs have in their possession the property derived from the estate. The right of the creditors to collect is one which has preference over that of the heirs to inherit, in view of the well-known fact that the inheritance consists only of what remains after the payment and settlement of all the debts and liabilities outstanding against the entire hereditary assets.

With regard to the second conclusion, the theory of the lower court would be correct, were it a question of an inheritance in the state of administration. Under such circumstances the heir can not personally be sued for either hereditary or testamentary debts, nor for those of administration, which may lie against the estate, the legal representation of which is assumed entirely by the executor or administrator. This, briefly, is the doctrine that is deduced, in so far as this point is concerned, from the judgment rendered in the case of Pavia vs. De la Rosa (8 Phil. Rep., 70), cited in the judgment appealed from. But such is not the present case. Here, the estate has already been divided and the property belonging thereto is in the possession of the heirs. The judicial administration has been practically terminated, for if it still subsists it is, apparently, for the sole purpose of enabling a continuance and maintenance of some pending suits, its purposes having come to an end with respect to the totality of the divisible and cash assets from the succession which, in fact and by law, have passed to the control and personal and exclusive administration of the heirs by virtue of the partition. Because of this circumstance, and because the legality of the plaintiff's credit has been judicially recognized and the payment of the same ordered in the special proceedings for the administration of the testate and intestate estates of the predecessors in interest of the said defendants, we believe that the provisions of section 731 of the Code of Civil Procedure, the caption of which is "Devisees, legatees, and heirs, in possession, must contribute" are applicable to the present case. It is provided in the text of this section that the persons who, as heirs, have received the estate not disposed of by will, shall be liable to contribute like the devisees or legatees to the payment of the debts and expenses, etc. Substantially identical with this provision is that contained in section 749 of the same code in reference to contingent claims,

wherein it is provided that "* * * the assets so distributed shall still remain subject to the liability of the claim when established, and the creditor may maintain an action against the distributees to recover his debt, and such distributees and their estates shall be liable for such debts in proportion to the estate they have respectively received from the property of the deceased."

According to the spirit of these provisions, after the partition has been made, the heirs become liable individually, in proportion to the hereditary share received by each of them, for the payment of the debts the legality of which has been duly and properly recognized, such as the claim of the plaintiff, and which when the partition was made may have remained yet unpaid. This avoids the necessity of annulling the partition and restoring the succession to the state of administration, as requested in the complaint, which undoubtedly would be much more expensive and detrimental to the heirs; by applying the legal provision above cited the same result is obtained without the outlays and expenses of a new administration.

The proportionate liability of the heirs, as before stated, must be understood to be limited to the part of the hereditary assets that each shall have received or to the value thereof, for, in accordance with the provisions of the Code of Civil Procedure, "it is understood that a testate or intestate succession of a deceased person is always accepted and received with benefit of inventory, and his heirs, even after having taken possession of the estate of the deceased, do not make themselves responsible for the debts of said deceased with their own property, but solely with that property coming from the testate or intestate succession of said deceased." (Pavia vs. De la Rosa, herein above cited.)

It is maintained in appellees' brief that the plaintiff herein should have appealed from the order approving or ordering the partition, if he did not comply with the requirements prescribed by section 754 of the Code of Civil Procedure. According to this section, the heirs or devisees shall not obtain the partition of the estate until after the payment of the debts, unless they give a sufficient bond to secure the payment of the same. It is not necessary to discuss here whether the plaintiff could or could not have appealed from the said order; be this as it may, it is unquestionable that, issued as it was without the plaintiff being summoned or heard, it can in no manner injure him, as it could only affect those interested in obtaining it. Besides, the said order, by reason of its very nature, it having merely a distributional effect among the heirs and not being declaratory of the rights of third parties, can in no case deprive the plaintiff of the right to collect his claim once it has been duly recognized in the manner and form prescribed by law. The same section, 754, allows the supposition that some debt may be pending payment at the time of making the partition, in which case the heirs must give the proper bond to secure the payment of the debt. It is the duty of the judge to require the bond and the obligation of the heirs to furnish it; but it would be entirely unjust that a noncompliance on the part of the one or of the other should redound to the prejudice of the creditors, who are not required to take any part whatever in the partition. In the present case the partition was effected without prior summons or knowledge of the plaintiff who, for this reason, was unable opportunely to oppose it or to apply for the execution of the bond to secure the payment of his claim.

The agreement made among the heirs to release Francisco Enriquez and Carmen de la Cavada from the obligation of paying the debts of the estate, if effective among themselves, is not nor can it be binding upon the plaintiff, who was not a party thereto. (Art. 1257, Civil Code,) The heirs can not reduce by their own acts the creditor's security by limiting the liability of the estate to specific portions of the succession, which is equivalent to the release agreed upon of all responsibility with respect to the portions adjudicated to the heirs. The hereditary assets are always liable in their totality for the payment of the debts of the estate.

Therefore the defense made by the defendants and which is based on the agreement referred to, can not be admitted as valid.

By virtue of all the foregoing, the defendants should be adjudicated to pay to the plaintiff the amount claimed in the complaint, together with the legal interest thereon at the rate of 6 per cent per annum to count from the date of the filing of the complaint, proportionately to the part received by each one of them respectively in the quality of heir, and only to the extent of its value, from the testate estate of Antonio Enriquez and the intestate estate of Ciriaca Villanueva. And the debt having been contracted in francs and it being required that the payment of the same be ordered to be made in Philippine currency (sec. 3, Act No. 1045), an opportunity should be given to the parties to present evidence, which was not adduced at the trial, relative to the present equivalence between the two currencies, for which sole purpose, it being absolutely necessary for the fulfillment of the purposes of the Act cited, a new trial is ordered. So ordered.

Arellano, C. J., Torres and Johnson, JJ., concur.

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