

**IN RE INTESTATE ESTATE OF JOSE REYES Y MIJARES. –
BUENAVENTURA GALVEZ Y PUIG, PLAINTIFF AND APPELLANT, VS.
LA COMPAÑIA MARITIMA, DEFENDANT AND APPELLEE.**

G.R. No. 5775. October 10, 1910

Ponente: JOHNSON, J.

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JOHNSON, J.:

Don Jose Reyes y Mijares died in the city of Manila on the 10th of November, 1906, leaving a widow, Dona Buenaventura Galvez y Puig, and five children, whose names appear in the first paragraph of the petition. (Bill of exceptions, p. 4.)

On the 19th of November, 1906, the said Dona Buenaventura Galvez y Puig presented a petition in the Court of First Instance praying that she be appointed administratrix of the estate of her deceased husband and tutora of his minor children, alleging that the value of the property of the estate did not exceed P1,300.

On the 19th of November, 1906, the Hon. Charles S. Lobingier, after hearing the said petition, decreed that the said Dona Buenaventura Galvez y Puig be appointed administratrix of the said estate. On the 26th of November letters of administration were duly issued to her. On the same day the court appointed the commission authorized by law for the purpose of appraising the property of said estate and to hear claims against it. On the 8th of January, 1907, the commission so appointed duly qualified and entered upon the exercise of its duties.

On the 12th of January,, 1907, the said administratrix presented an inventory of the property of said estate which had come into her possession and under her knowledge without fixing any value for said property. (See bill of exceptions, pp. 7-10.) The said property consisted of mobiliario y alhajas.

On the 13th of February, 1907, the administratrix presented a petition in the Court of First Instance asking for authority to sell some of the property mentioned in her said inventory, for the purposes mentioned in said petition. On the 16th of February, 1907, the Hon. A. S. Crossfield, judge, upon a consideration of said petition, authorized the administratrix to sell some of the property included in said inventory. (Bill of exceptions, pp. 12,13.)

On the 30th of August, 1907, the commission appointed to appraise the said estate and to hear claims against the same, made the following report:

"Luis P. Torres and Emilio Camps, commissioners of appraisal in the above-entitled intestate proceedings, appear and respectfully set forth to the court:

"That, on January 8, 1907, they were duly appointed by this Court of First Instance as commissioners of appraisal of the above-described intestate estate, with authorization to hear and pass upon the claims that might be presented against the said estate.

"That, complying with the law, the undersigned commissioners published once a week for three consecutive weeks a notice in the newspaper 'La Democracia,' requiring all' the creditors of the above-entitled intestate estate to file their claims within the period of six months, counting from the date of the said notice, to wit, from

January 14, 1907, and running until July 14, of the same year.

"That the period specified in the said notice has more than elapsed, without any claim whatever having been filed against the said intestate estate.

"Therefore the undersigned commissioners present this report to the court, asking that they be relieved from their charge and that the above-entitled intestate estate be declared free from all obligation and liability."

On the 31st of August, 1907, the Hon. A. S. Crossfield approved the report of the said commissioners.

On the 24th of June, 1909, the defendant, La Compania Maritima [by their counsel], presented in the Court of First Instance the following motion:

"1. That counsel's clients hold against the above-entitled intestate estate a credit of P31,517.16 and have filed suit before the Court of First Instance.

"2. That, in the intestate proceedings above mentioned, the administratrix did not state the true property owned by the deceased, thereby causing detriment to the creditors.

"3. That the deceased owned, since before his marriage, and was always in possession of a house of strong material situated on Calle Alix, No. 150, and a share in the steam launch Ventura, which property continues to be held by his heirs, as the owners thereof.

"4. That a failure to include the said property in the inventory would result in detriment to the creditors.

"Therefore, this counsel petitions the court to order the administratrix to include the said property in the inventory and explain for what reasons she did not do so in due season, notwithstanding that the said property is and was always considered as having belonged to the deceased Jose Reyes y Mijares and now to his heirs."

On the 3d of July, 1909, the said motion was denied by the Hon. A. S. Crossfield.

On the 23d of July, 1909, the said administratrix made the following report:

"After having filed the inventory, such as it appears in these proceedings, vouchers were found among the papers of the deceased attesting to the latter's ownership of a house of strong material situated in the district of Sampaloc, designated under No. 150 of Calle Alix, and likewise of a share in the launch Ventura. Neither of these properties appeared in the name of Jose Reyes y Mijares at the time of his death, as the house was registered in the name of other persons; but among the papers discovered there were private documents which proved the ownership of the deceased. Therefore this administratrix, through her attorneys, took the proper steps to ascertain the truth of the facts, and the investigations made brought about as a final result the registration of the property situated on Calle Alix, No. 150, in the name of the deceased Jose Reyes y Mijares, on September 3, 1908.

"With respect to the launch Ventura, the documentary records pertaining thereto are not very clear, and although from letters and documents it can be concluded that the deceased during his lifetime had, and his estate now has, a share therein, just what this share is this administratrix is unable exactly to say, as the value of the same and the offers made therefor are very indefinite, the highest bid being P5,000."

On the 24th of July, 1909, the Hon. A. S. Crossfield approved the said report.

On the 6th of August, 1909, La Compania Maritima presented another motion, which was amended on the 18th day of August in the following language, asking that the court, in accordance with section 690 of the Code of Procedure in Civil Actions, appoint a new commission for the purpose of appraising the property of said estate, to hear claims against it, and for other relief:

"I. Jose Reyes y Mijares died on the 10th day of November, 1906, leaving his wife, Buenaventura Galvez, and

his children and heirs, Leonor, Maria, Jose, Dolores, and Manuel, Leonor being married to Ramon Lopez. Buenaventura Galvez, the widow of the deceased, was appointed administratrix of the estate and guardian of the other defendants, with the exception of the married daughter, Leonor.

"II. The defendants are residents of the city of Manila.

"III. On March 1, 1904, it was discovered that the deceased, Jose Reyes y Mijares, by misappropriation of property belonging to the plaintiff party, of which he was agent and employee, was owing the same the sum of ₱65,500; wherefore he signed an instrument, dated March 1, 1904, acknowledging the said debt.

"IV. By means of the aforesaid instrument, Jose Reyes y Mijares pretended, and convinced the plaintiff company, that he had delivered to the same, in partial payment of the debt thus contracted, all his property, and the plaintiff so believed in good faith, which belief was erroneous as evidenced by the facts hereinbelow enumerated.

"V. After deducting all the amounts and property delivered by the instrument referred to in the next preceding paragraph, the said deceased still owed the plaintiff the sum of ₱31,517.16.

"VI. The said Jose Reyes y Mijares left at his death property valued at ₱50,000.

"VII. On November 19, 1906, the said widow, falsely pretending that she wished to administer the property of the deceased, succeeded in having the latter's estate placed in probate by her appointment as administratrix of the property and guardian of the defendants, with the exception of the defendant Leonor and her husband Ramon Lopez.

"VIII. When the said widow learned of the plaintiff's belief that the deceased Jose Reyes y Mijares had in good faith delivered to the plaintiff all his property in partial payment of the debt which he had contracted, she alleged in her petition for the opening of the probate proceedings and her appointment as administratrix of the property left by the deceased, that the said Jose Reyes y Mijares left no other property than some household furniture and vehicles, the value of which did not exceed the total sum of ₱1,300, an allegation which was absolutely false and made for the purpose of deceiving both the court and the creditors of the deceased.

"IX. The court, being deceived by the false allegation concerning the value of the property left by the deceased, was induced to fix the bond of the administratrix in the nominal sum of ₱1,300.

"X. The purpose of the widow was not in fact to administer the estate of the deceased, but, in a fictitious manner, to avail herself of the provisions of law and to hasten the lapse of the time limits prescribed, in order that the claims, and especially that of the plaintiff, might be exhibited and established, as in fact was done, before the fraud should be discovered, so that she and her children could appropriate to their use the valuable estate left by the deceased, thereby completely eluding payment of the latter's debts; and for this purpose, on January 12, 1907, the administratrix presented what she called an 'Inventory and Appraisement' of the property belonging to the intestate estate of the deceased, which consists of a statement of the furniture and some jewelry, but without any appraised valuation of the same nor of any part thereof. Later, on February 15, 1907, she presented to the same court a motion in which she stated that a considerable part of the jewelry was pawned for money, and she gave it to be understood, in a general way, that the estate, if not insolvent, was of very scant value, and she thus continued to present motions, under the same supposition, until the expiration of the term fixed by the court for the presentation of claims against the estate, and in consequence thereof the plaintiff company failed to file its claim, as it believed that it would be entirely useless to do so.

"XI. The administratrix, on presenting the alleged inventory, fraudulently omitted and concealed from the court and the creditors of the estate the fact that there existed more than sufficient property to pay the debts and that the said estate, far from being insolvent, was very valuable and comprised a good deal of property.

"XII. The deceased, Jose Reyes y Mijares, owned at the time of his death a house on Calle Alix, No. 150, in

the city of Manila, and a share, together with Felipe Caballero, in the steam launch Ventura, which properties had, and have at the present time, a value of more than P30,000.

"XIII. Moreover, on November 15, 1907, the said administratrix, together with her daughter, Leonor, executed the instrument ratified before the notary public, Antonio M. Opisso, which was recently filed in the probate proceedings, in which instrument she clearly acknowledges the said house and share in the launch to belong to the estate left by the deceased Jose Reyes y Mijares.

"XIV. The aforementioned administratrix omitted the said properties from the inventory and gave it to be understood that the estate was insolvent, for the purpose of deceiving the creditors of the same, with the result that, according to the report of the committee to hear claims against and value the estate, which report is included in the record of the probate proceedings, not a single claim was presented.

"XV. The said house and share in the launch were only included in the inventory a long while after the expiration of the term fixed for the presentation of claims, for the purpose of their allotment to the widow and her children and in order that they might perfect their title and have it recorded in the property registry, and the said inclusion was effected after this plaintiff party had presented a motion, on July 24, 1909, praying the court to order the said property to be included in the inventory.

"XVI. So well did the administratrix know of the existence of the said house that it was in it that her husband died and her children by him were born, and she continues up to the present date to reside therein.

"XVII. Neither the administratrix nor the committee of appraisal has complied with her or its duty to file the inventory and appraisal as prescribed in sections 688, 689, and 670 of the Code of Procedure in Civil Actions, and the former, with the purpose of deceiving the creditors, presented a statement of some furniture, without appraisal whatever, many articles of which might be included within the provisions of section 671 as property which may not be inventoried, and consequently not subject to the payment of debts.

"XVIII. The plaintiff was entirely unaware of the fact that the deceased had left property of any importance until the last part of June of the present year, when, by a chance, the fact was divulged to it.

"XIX. The fictitious administration of the estate is still in course, none of the properties pertaining thereto having been divided up to this date, which properties in fact have never been administered.

"XX. The fact is that there never has been an administration of the property of the deceased, and that of which a pretense was made to begin and perform was false and fraudulent. An attempt was made merely to comply with the letter of the law, the mandates of which were abused in order to affirm the fraud and assure the benefit thereby derived, while at the same time the entire spirit and substance of the legal provisions applicable to the administration of intestate estates was eluded and not complied with.

"XXI. The desire to defraud the creditors, as stated in the preceding paragraphs, has been the sole motive of the proceedings initiated by the administratrix, who never has had the intention to administer the property of the deceased; in other words, there has been an administration on paper and in form, but in reality and in fact there never has been one.

"XXII. The administratrix, being cognizant of the deceit that had been practiced upon the plaintiff party and of the latter's belief of the complete insolvency of the deceased, proposed nothing less than to take advantage of plaintiff's error in order that the property which belonged to the deceased might be awarded to her and to her children and not in any manner applied to the payment of the debts that encumbered it.

"XXIII. The administration had in this case was no more than an invention devised by the widow in order to convey the property of the deceased to his heirs, thereby defrauding the former's creditors.

"XXIV. Reduced to its last analysis, the administration in this case amounts to nothing more than a disposal of the property of Jose Reyes y Mijares for the purpose of defrauding his creditors.

"Therefore, the plaintiff prays the court, after the issuance of summons to the defendants in accordance with law, to order:

"1. That the committee of appraisal and claims be renewed, and that the term within which claims may be presented and heard be extended.

"2. That in case the committee can not be renewed the proceeding's already had in connection with the administration of the estate of the deceased Jose Reyes y Mijares be set aside and annulled, and that a new administrator be appointed who shall proceed with the administration of the said estate as if no proceedings had ever been had therein.

"3. That, in case neither of the remedies above requested can be granted, the defendants shall pay to the plaintiff party damages to the amount of the debt which they owe to it on account of their fraud; that the property left by the said deceased Jose Reyes y Mijares shall be especially subject to the payment directed to be made in the said judgment, and that in any case the partition prayed for in the probate proceedings be denied until the questions raised in this suit shall have been decided.

"4. The plaintiff also prays the court to grant him any further remedy or protection which, in view of the facts, justice may demand."

Accompanying the said motion were several exhibits presented in support of the facts alleged in said motion. (See bill of exceptions, pp. 25-31.)

In opposition to said motion the attorney for the administratrix presented the affidavits of several persons (see bill of exceptions, pp. 31-39), the most important of them being that of Antonio M. Opisso, which is as follows:

"Antonio M. Opisso, after being duly sworn, states:

"That he is a member of the firm of attorneys of Rosado, Sanz & Opisso, who are duly authorized to practice their profession in the Philippine Islands.

"That the said firm of Rosado, Sanz & Opisso are the attorneys for the administratrix in the above-entitled case.

"That the commissioners of appraisal and claims, appointed by the court in the above-entitled intestate proceedings, were Messrs. Luis P. Torres and Emilio Camps, both of the city of Manila, Philippine Islands.

"That, as one of the attorneys of the administratrix, as above said, he directed the commissioner Luis P. Torres to draw up the notice to the creditors, in accordance with section 687 of the Code of Civil Procedure.

"That five copies of the said notice were made and were signed by the said commissioners in the presence of the deponent.

"That the deponent, in conformity with the section just above mentioned, ordered the posting of these notices in the places designated in the order of the court.

"That the said notices were thus posted in the Court of First Instance of Manila, in the office of the chief of police or the municipal building of the city of Manila, in the office of the Executive Secretary, in the post office, and, finally, the last copy was sent to the office of the 'La Democracia,' for its insertion and publication in that newspaper, as was done and so published appears among the records of this court.

"That a long while after these notices had been sent to the places above named and before the expiration of the six months' period fixed therein for the presentation of claims to the committee, the deponent himself saw these notices posted in their proper places.

"That the court approved the report of the commissioners of appraisal and found the same correct, in an order

issued on August 31, 1907.

"That the allegations made by the attorney, J. R. Serra, under oath, in the motion now pending before the court, filed by the Compania Maritima, in Paragraph XIV of the same, concerning noncompliance with the order to publish, are openly and manifestly false.

"That the firm of Rosado, Sanz & Opisso are not the general attorneys of the Compania Maritima, and have never been such; they having merely represented that company in some cases which were intrusted to them, for which they charged separately and have never collected any salary whatever as attorneys of the said company, and every case or consultation which has been or may be confided to the said firm was or will be charged for separately in the same manner as has been or may be done by Mr. Kincaid or Mr. Serra themselves, without it being proper on such account to call them general attorneys of the aforementioned company.

"That the deponent was present during the appraisal of the property belonging to the estate of the deceased Jose Reyes y Mijares, which property was valued at P23,476.30, not including 26 pawn tickets for jewelry pawned in the Monte de Piedad which appear in the inventory filed by the administratrix.

"That the statement which the attorney J. R. Serra made under oath in paragraph 4 of the motion presented to the court on August 6, 1909, to the effect that a considerable part of the things inventoried were pawned for money, is incorrect and untrue, as none of the articles included in the inventory was in pawn.

"That the sworn statement of the attorney, J. R. Serra, in the same paragraph 4 of the said motion, to wit, 'so much was the idea insinuated of the scant assets of the estate that the court was induced to fix the bond of the administratrix in the nominal sum of P1,300.' is false, inasmuch as at the time of giving the bond the inventory had not yet been made, and the court fixed that amount of its own accord without any insinuation whatever on the part of the petitioner.

"That neither the administratrix of the intestate estate nor her attorneys have ever alleged or represented to the court that the estate was in bad condition or insolvent, as may be seen by the records themselves.

"That it never has been the intention of the administratrix fraudulently to conceal any property belonging to the estate, for the court could not but know that the administratrix could not make any transfer of the property in question without previously passing through probate; moreover, it is ill advised to allege a desire to conceal on the part of the administratrix when, as stated by the Compania Maritima itself in paragraph 13 of its motion, the administratrix in her zeal even included property which it was unnecessary to inventory, a statement which will also be found to be incorrect if the court will compare section 671 with the property inventoried.

"That the property inventoried and valued by the administratrix, as well as by the above-mentioned committee of appraisal, amounted to a sufficient sum to pay what was owing to the Compania Maritima, for with the P23,476.30 of the inventory, covering jewelry and furniture not pawned, together with the value of the pawned jewelry, there was sufficient money to pay the claim, were it a true one.

"That the right of the Compania Maritima has prescribed, according to law.

"In witness of the foregoing, I affix my signature hereto, in Manila, this 10th day of August, 1909.

(Sgd.) "Antonio M. Opisso."

Upon a full consideration of the said motion and the evidence presented pro and con, the Hon. A. S. Crossfield, after a full statement of all of the facts in his decision, concluded as follows:

"A partial inventory is not a compliance with law, and creditors are only bound to take notice of the inventory made, and as to property which has been left out of the inventory, intentionally or not, creditors have no notice and the limitation does not run against them.

"Creditors having notice of the inventory and appraisal, as in this case, that it consisted only of jewelry and household furniture, might well say that they would not seek to collect their claims out of such property, and suffer the claims to default, but it would not be equitable, nor does the law contemplate that there is default as to that which has been concealed, and of which they have not been notified, as the law requires, by the filing of a true inventory.

"Whether or not the omission of a part of the estate from the inventory was an intentional fraud does not clearly appear, though the administratrix, according to her accounts, paid taxes on real property on December 31, 1906, collected one thousand pesos from the Manila Jockey Club in December, 1906, while the inventory, in which did not appear any real estate or money from the Manila Jockey Club, was filed January 12, 1907. There is no mention of the launch until October, 1909, when the administrator appears to have received funds from the use of it for the year from October, 1906, to September, 1907.

"The petitioner is not barred from the recovery of the claim against the deceased as to the property not included in the inventory or appraised by the committee, and as to such property there has been no administration as the law requires, and I conclude that the petitioner's motion for a renewal of the committee of appraisal and to hear claims should be granted.

"It is therefore ordered that the partition and distribution of the estate of the deceased, as proposed by the administratrix and heirs, be denied, and that a new committee of appraisal of property of the estate not before appraised and to hear claims against the deceased, limited to recovery against the property so appraised, be appointed."

From that decision permitting the appointment of a new commission to appraise the additional property belonging to the said estate of Jose Reyes y Mijares and to hear claims against the said estate, the administratrix appealed and made several assignments of error in this court, all of which relate to the power of the court to appoint new commissioners under the facts in the present case.

The appellee contends that the failure of the administratrix to include in her inventory all of the property of the estate and to make it appear that the property of the estate was of but little value was for the purpose of preventing the creditors of the estate from presenting their claims until after the time had expired for the presentation of claims and that such action was fraudulent.

The claim of the defendant and appellee amounted to P31,517.16. The administratrix alleged in her petition for the appointment that the value of the estate did not exceed P1,300. Had that statement been true there would have been but little purpose in the presentation of the claim by the defendant and appellee.

From an examination of the record it will be found that the said commissioners, after due notice to all the creditors, made their report upon the 80th of August, 1907, alleging that no claims whatever had been presented against the said estate. The said commissioners appointed to appraise the property of said estate made their report showing that the property inventoried (all personal property) was valued at P23,496.30. The date of the presentation of this appraised inventory by the commissioners does not appear of record. The record does not disclose whether it was presented before or after the report of the commissioners, relating to claims, above referred to. The record does not disclose whether the report of the commissioners showing the appraised value of the estate of the deceased was presented before or after the time had elapsed for the presentation of claims against the estate.

On the 23d of July, 1909, long after the time for the presentation of the claims against the said estate, the administratrix made a report (bill of exceptions p. 18) amending her inventory so as to include a house of strong materials located at No. 150 Calle Alix, district of Sampaloc, city of Manila, as well as the launch Ventura. From this additional report it is made to appear that the administratrix did not know that these two properties belonged

to the estate until some time after the first inventory had been made. This contention of the administratrix is not tenable for the reason that from a public document presented in this court (Rollo 21) it appears that the said administratrix, by a public instrument, purchased the interest of one of the children of the intestate in said properties on the 15th of November, 1907, a few months after the said commissioners made their final report, and after the expiration of the period for the presentation of claims. The contention that the administratrix did not know that these properties belonged to the estate which she was administering is further refuted by the fact that on the 31st of December, 1906, a few months after the death of her husband, she paid the sum of 1M43.23 as taxes upon real property, and there is no proof offered by her to show that there was any other real property belonging to the estate besides the property in said Calle Alix.

Under these facts and others the Hon. A. S. Crossfield ordered that a new commission be appointed for the purpose of appraising the additional property not included in the first inventory and to hear claims against the said estate, to the extent of the additional property. The appellant contends that the lower court committed an error in ordering the appointment of a new commission, upon the theory that all claims not presented within the time provided for by law were barred under the provisions of section 695 of the Code of Procedure in Civil Actions.

From a full examination of the record brought to this court, we are of the opinion and so hold that the failure of the administratrix to include in her inventory, under the circumstances in the present case, property which she knew belonged to the estate, whether intentional or not, was a fraud against the creditors of the said estate.

Claimants against an estate have a right to rely upon the correctness of the inventory presented by the administrator, etc., and if the administrator knowingly and willfully omits to include property in the inventory which should be included and thus induces claimants not to present their claims within the period prescribed by law, the probate court, being a court of equity, should, upon proof of that fact, extend the time for the presentation of claims. If the commission originally appointed had been discharged, the court should appoint a new commission to appraise the estate and to hear claims. The moment the probate court discovers that fraud has been committed by the administrator or the commission, he may set aside all that has been done and commence de novo, except in cases where vested rights have been created in good faith.

Fraud vitiates all transactions which it touches. (*Stoddard vs. Chambers*, 2 How. (U. S.), 284; *Dos Hermanos*, 2 Wheat. (U. S.) 76; *Graffam vs. Burgess*, 117 U. S. 180; *Kerr on Fraud*, 51.)

If a transaction has been originally founded on fraud, the original vice will continue to taint it, however long the negotiations may continue or into whatever ramifications it may extend. No length of time however great will be a bar to relief if the injured party has been in ignorance of the fraud. (*Graffam vs. Burgess* (supra); *Charter vs. Trevelyan*, 11 Clark and F. (English Reports), 714; *Michoud vs. Girod*, 45 U. S., 503, 561; *Duchess of Kingston*, 20 How. St. Trials, 544.)

Where fraud is such as to prevent a party from presenting the merits of his case to the court or works an imposition upon the jurisdiction of the court, the judgment rendered in such a case may be impeached. (*Steel vs. St. Louis Ry. Co.*, 106 U. S., 389.)

In the case of *Tibbetts vs. Tilton* (31 N. H., 273) it was held that a creditor of an estate was allowed to avoid the decree of discharge by showing that a part of the estate of the intestate had been fraudulently kept back by the administrator and not reported in the inventory.

In the case of *Bank vs. Fairbanks* (49 N. H., 131) it was held that the bar for the presentation of claims did not apply to a case where the claimant against an estate had been induced not to present his claim, and where the administrator had in his possession property not included in the inventory.

Where a creditor of an insolvent estate which has been closed neglected to exhibit his claim within the time allowed, if he afterwards discover and show to the administrator other estate not before inventoried, he may sustain an action for the recovery of his claim. (Sacket vs. Mead, 1 Conn., 13; Thorn vs. Watson, 10 Ill., 26; Stone vs. Clarke, 40 Ill., 411; Chase vs. Beeson, 92 Ind., 61.)

In the case of Henry vs. Bey (114 Iowa, 454) it was held that when the owner of a note against decedent was induced to withhold the filing of his claim by false and fraudulent representations of the executor as to the solvency of the estate, and the estate is still unsettled, the court will permit the filing of the claim, notwithstanding that the statutory time therefor has expired. (State vs. Smith, 79 Minn., 257.)

In the case of Dariano vs. Fidalgo (14 Phil. Rep., 62) this court held that;

"Courts of probate jurisdiction should be very jealous in guarding the estates of deceased persons, and when the action of any party connected with the administration of such estate is tainted with fraud in the slightest degree such courts should take jurisdiction for the purpose of remedying whatever injury the estate may have suffered."

For all of the foregoing reasons, we are of the opinion and so hold that the petition of the defendant asking for the appointment of a new commission to appraise the estate of the deceased Jose Reyes y Mijares and to hear claims against said estate should have been granted, and to that extent the judgment of the lower court is hereby modified and it is hereby ordered and directed that the record be returned to the lower court and that said commission be appointed, with direction to proceed to appraise the property of said estate and to hear claims against it, in accordance with the provisions of the Code of Civil Procedure, and also that the said administratrix be required to add to her inventory such other property, not already included, as may be found to belong to said estate: Provided, however. That the lower court may accept the appraisal of the property heretofore inventoried, if he desires so to do. It is so ordered.

Arellano, C. J., Torres, Moreland, and Trent, JJ., concur.

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