

ANTONIO QUIRINO, AS SPECIAL ADMINISTRATOR, TESTATE ESTATE OF NATIVIDAD C. RAQUIZA, AND INTESTATE ESTATE OF CARMEN M. CASTELLVI, PETITIONER, VS. HON. NATHANAEL M. GROSPE, IN HIS ...

G.R. No. 58797. January 31, 1989

Ponente: PADILLA, J.

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PADILLA, J.:

For resolution are the separate motions for reconsideration of the decision of this Court, dated 25 April 1988, filed by Juan F. Gomez, Jesus T. David, Raquiza children and their father Antonio V. Raquiza (as alleged heirs of Natividad Castellvi), and petitioner Antonio Quirino; motion for intervention of Carmen Castellvi, et al. (as alleged heirs of Don Juan Castellvi); the motion for clarificatory order of Juan F. Gomez; and omnibus motion for early resolution and immediate release of funds, filed by the Raquiza children. The Court will resolve the motions separately.

1. Motion for Reconsideration of Juan F. Gomez

Movant's claims are for attorney's fees equivalent to 12% of one-third (1/3) of the estate of Don Alfonso Castellvi and P30,000.00 representing transportation and representation expenses, for services admittedly rendered to the heirs of Don Juan Castellvi. These claims may not be properly charged against the estate of Don Alfonso Castellvi.

As held in *Gabin v. Melleja* (84 Phil. 794), the term "claims" required to be presented against a decedent's estate is generally construed to mean debts or demands of a pecuniary nature which could have been enforced against the deceased in his lifetime or liability contracted by the deceased before his death. It is important to note that movant's claims for attorney's fees and transportation as well as representation expenses are for services rendered to the alleged substituted heirs of Don Juan Castellvi and such services did not inure to the benefit of Don Alfonso Castellvi or his estate. The court charged with the settlement of the estate of Don Alfonso Castellvi is bound to protect the estate from any disbursements based on claims not chargeable to the estate.

We find no merit in movant's contention that he was deprived of due process, on the ground that he was not impleaded as party respondent in, and required to answer the petition for certiorari, subject of this Court's decision dated 25 April 1988. Prior to the promulgation of said decision, movant had already filed a motion for intervention^[1] and the allegations set forth therein were duly considered and studied by the Court. Furthermore, even if Gomez was not impleaded as party respondent in said petition for certiorari, his act of filing the said motion for intervention as well as his present motion for reconsideration, indubitably gave him an adequate opportunity to present his side of the controversy, and therefore cured any defect of alleged lack of due process.

Petitioner's failure to file a motion for reconsideration of the questioned orders of the court a quo is not fatal. Although as a general rule, certiorari will not lie unless the lower court has, through a motion for reconsideration,

been given a chance to correct the errors imputed to it, this rule, however, admits of exceptions, like: (1) when the issue raised is one purely of law; (2) where public interest is involved; and (3) in case of urgency.[2] In the case at bar, the questioned orders of the trial court were already being executed, hence, there was an urgency which caused the case to fall under one of the exceptions, thereby allowing petitioner to file a petition for certiorari with-out need of first filing a motion for reconsideration.

2. Motion for Reconsideration of Jesus T. David

The claim for attorney's fees of intervenor Jesus T. David is for services rendered for the benefit of Dona Carmen Castellvi, and not for the benefit of Don Alfonso Castellvi or his estate. As discussed earlier, only claims which could have been enforced against the deceased in his lifetime are allowed to be presented against his estate, with the exception of funeral expenses, expenses for the last sickness[3] and administration expenses in the ordinary course thereof.[4]

As to the alleged attachment and levy of Dona Carmen's alleged administratrix' fees and share in the estate of Don Alfonso Castellvi, the same cannot be given force and effect in the special proceedings for the settlement of Don Alfonso's estate. It must be stressed that the subject of settlement in this case is not the estate of Dona Carmen Castellvi. For intervenor to insist on enforcing in this proceeding his claim against Dona Carmen's alleged fees as administratrix and share in the estate of Don Alfonso Castellvi, would be irregular and untenable. It should be borne in mind that the respondent court is one of limited jurisdiction, and it has no authority to determine as to who are the heirs of Don Juan Castellvi and/or decide the claims or demands which may be properly paid out of the funds of the estate of Dona Carmen Castellvi. Such issues have to be determined in separate proceedings.

For this Court to allow in this proceeding - which is for the settlement of the estate of Don Alfonso Castellvi - the enforcement of the claim of David against Dona Carmen's alleged share in the estate of Don Alfonso Castellvi, would amount to summarily declaring Dona Carmen an heir of Don Alfonso, without giving the other heirs or claimants to the latter's estate an opportunity to oppose the same. Moreover, whatever fees Dona Carmen might have earned during her lifetime as administratrix of the estate of Don Alfonso Castellvi should go to her estate. Hence, whatever claim herein intervenor has against the deceased Dona Carmen Castellvi, should be presented before the court with jurisdiction in settling her estate. Intervenor cannot resort to a short cut and present his claim directly to this Court to suit his own end and convenience thereby brushing aside the settled rules of applicable procedure.

3. Motion for Reconsideration of the Raquiza children

Movants would like to impress upon this Court that the award of attorney's fees to Atty. Mendoza equivalent to 12% of the gross value of the estate of Don Alfonso Castellvi is not valid on the ground that they never gave their consent thereto, nor did Dona Carmen Castellvi, then administratrix of the estate of Don Alfonso Castellvi. However, the records of this case shows that Natividad Castellvi-Raquiza, the instituted heir to two-third (2/3) of the estate of Don Alfonso Castellvi, gave her conformity to such award of attorney's fees in favor of Atty. Mendoza.[5] Moreover, movants, through their father and general guardian Atty. Antonio V. Raquiza, had agreed to grant said attorney's fees. In fact, separate manifestations[6] were filed by Atty. Raquiza and Carmen Castellvi with the court a quo, stating that they were withdrawing their oppositions to said claim.

With regard to Floro's claim for payment for services rendered to the estate of Don Alfonso Castellvi, the rule is that where the monetary claim against the administrator has a relation to his acts of administration in the ordinary course thereof, such claims can be presented for payment with the court where a special proceeding for the settlement of the estate is pending, although said claims were not incurred by the deceased during his lifetime and

collectible after his death. This is so, because the administration is under the direct supervision of the court and the administrator is subject to its authority.[7]

As to the question of whether or not the movants are the heirs of Natividad Castellvi-Raquiza, thus, entitled to her share in the estate of Don Alfonso, determination of said issue is again not within the jurisdiction of the court a quo charged only with the settlement of the estate of Don Alfonso.

4. Motion for Reconsideration of Antonio Quirino

As discussed earlier, Natividad Castellvi-Raquiza and Dona Carmen Castellvi (as administratrix of the estate of Don Alfonso Castellvi) had given their conformity to the award of attorney's fees to Atty. Mendoza. Petitioner who now is acting as special administrator of the estates of Natividad Castellvi-Raquiza and Carmen Castellvi is estopped from questioning said award.

Insofar as payment of service fees to Exequiel Floro, the same was allowed for services rendered by claimant for the benefit of the estate of Don Alfonso Castellvi and the same falls under the category of "administration expense", which may be paid out of the funds of the estate. Moreover, the heirs of Don Alfonso Castellvi had dropped their opposition to said claim, thus, they are barred from questioning the same at this stage.

5. Motion for Intervention of Carmen Castellvi, et al.

Intervenors (as alleged substituted heirs of Don Juan Castellvi) seek clarification of the term "instituted heirs" and a modification of the decision dated 25 April 1988, so that the term "instituted heirs" would include the substituted heirs of Don Juan Castellvi. They likewise move for the setting aside of the portion of the decision which provides for the final settlement and distribution of the estate of Don Alfonso to the instituted heirs or their respective estates, if it would mean that delivery of the one third (1/3) share of the estate of Don Alfonso is to be made only to Don Juan Castellvi or his estate.

They further claim that for this Court to order the delivery of the residue of the estate of Don Alfonso to the estate of Don Juan Castellvi (to the extent of 1/3 as decreed in Don Alfonso's last will) instead of his substituted heirs, will result in the latter re-litigating among themselves and/or with other parties for their respective shares over the estate of Don Juan Castellvi, when they had already ventilated the issue of heirship over the same before the court a quo, and they were declared heirs of Don Juan Castellvi and substituted heirs to his one-third (1/3) share in the estate of Don Alfonso Castellvi.[8]

We find intervenors' contention to be without merit. To allow intervenors instead of the estate of the instituted heir, Don Juan Castellvi to receive the residue of the estate of Don Alfonso would be not only prejudicial to the creditors of Don Juan but also to the government in the form of non-payment of taxes required by law. The transfer of the estate of Don Alfonso Castellvi to his instituted heirs (Natividad Castellvi-Raquiza and Don Juan Castellvi) is subject to payment of estate taxes. Before the estates of Don Juan Castellvi (and Natividad Castellvi-Raquiza) can be transferred to their heirs, again, estate taxes must first be paid to the government. To allow intervenors, as substituted heirs of Don Juan Castellvi, to receive directly from the estate of Don Alfonso, the share pertaining to Don Juan, could result in a single transfer of property and a single payment of estate taxes, in fraud of the government.

Moreover, the court a quo has no jurisdiction to determine who are the heirs of Don Juan Castellvi: said issue has to be ventilated in a separate proceeding.

6. Motion For Clarificatory order of Juan F. Gomez

Movant seeks clarification of the decision of this Court, dated 25 April 1988, denying his claim for attorney's fees,

as to whether or not it is meant to annul not only the order fixing his fees but also the contract for services approved in the order issued by the court a quo, dated 5 October 1981.

Movant's claim is chargeable to the heirs of Don Juan Castellvi, his clients, and the court a quo has no jurisdiction to fix such fees for services rendered not to the estate of Don Alfonso, but to the heirs of Don Juan. It follows that the court a quo has no jurisdiction to approve a contract of legal services between claimant and the heirs of Don Juan. The court a quo is of limited jurisdiction, empowered to settle only the estate of Don Alfonso Castellvi: any act done in excess of such limits may not be given force and effect.

7. Omnibus Motion for Early Resolution and Immediate Release for Funds by the Raquiza Children

In the motion at bar, movants seek approval for the release of the amount of P300,000.00 to allegedly take care of the burial expenses incurred upon the death of Natividad Castellvi-Raquiza. Said motion for release of funds was previously presented before the court a quo and subsequently denied.

What movants are actually praying of this Court is to reverse the order of denial of their motion for release of funds. Before a review can be made of said order of denial, movants should have filed a proper petition before this Court and not a mere motion. This incident is not covered by the petition for certiorari resolved in the decision of 25 April 1988.

ACCORDINGLY, the motions for reconsideration filed by Juan F. Gomez, Jesus T. David, Raquiza children, and Antonio Quirino are hereby DENIED. This denial is FINAL.

The motion for intervention of Carmen Castellvi, et al.; the motion for clarificatory order of Juan F. Gomez, and the omnibus motion for early resolution and release of funds by the Raquiza children, are also DENIED.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Sarmiento, and Regalado, JJ., concur.

[1] Filed 11 December 1987, Rollo, pp. 516-525

[2] Gonzales, Jr. v. IAC, 131 SCRA 468, 28 August 1984

[3] Sec. 5. Rule 86 of the Rules of Court

[4] Paula v. Escay, 97 Phil. 617

[5] Rollo, p. 619

[6] Rollo, pp.85-87

[7] Paula v. Escay, Supra

[8] Rollo, p. 648

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