

INTESTATE ESTATE OF CARMEN DE LUNA (DECEASED), CATALINA MORALES GONZALES, ADMINISTRATRIX-PETITIONER, VS. INTERMEDIATE APPELLATE COURT AND ESPERANZA DE LUNA GONZALES AZUPARDO & I...

G.R. No. 72424. February 13, 1989

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is a petition to review the resolution of the Court of Appeals dated July 19, 1985.

On April 10, 1964, Jose de Luna Gonzales and former Judge Ramon Icasiano were appointed co-administrators of the estate of Carmen de Luna in Special Proceedings Case No. 52196.

On March 3, 1968, Judge Icasiano died so Gonzales performed his duties as sole administrator of the estate.

On February 4, 1980, Gonzales through counsel filed a motion for allowances and payment of administrator's commission in accordance with Section 7, Rule 85 of the Rules of Court leaving the matter to the discretion of the court.

On February 13, 1980, the trial court issued an order requiring the administrator to define the fees he was demanding, furnishing copies to all parties and their respective counsels who were then required to file their opposition if any, within ten (10) days from receipt.

On February 23, 1980 Jose de Luna Gonzales died. His heirs filed in his behalf on March 10, 1980 an Urgent Supplemental Motion for allowances and payment of administrator's commission or fees asking the amount of P100,000.00. Heir Trinidad Villajuan Vda. de Martinez filed an opposition to which Catalina M. Gonzales, widow of the late administrator filed a reply.

On May 26, 1980, the heirs of the deceased administrator filed an urgent amended motion for payment of the deceased judicial administrator's compensation asking for P500,000.00. An opposition was filed by heir Trinidad Villayuan vda. de Martinez on the same date.

Consequently, the trial court issued an order on May 26, 1980 setting the motion for hearing on May 30, 1980 at 9:00 o'clock in the morning and directing that copies be served on the parties and their counsel.

On May 30, 1980, the heirs of Esperanza de Luna Gonzales Azupardo and Isidoro de Luna Gonzales filed their opposition to the motion and presented their witness, Siegfriedo Azurpardo on July 16, 1980. On August 20, 1980, Genaro Sevilla, et al. as movants--intervenors filed their manifestation that they are also opposing the motion and adopting the memorandum and evidence presented by the other heirs.

On September 30, 1980, the trial court issued an order directing the new administratrix Catalina M. Gonzales to submit within fifteen (15) days from receipt a complete and sworn inventory of all the goods, chattels, rights,

credits and estate of the deceased Carmen de Luna, indicating therein the current values of each of these properties and with respect to the real properties, the current assessed as well as market value thereof. The administratrix filed the inventory as of April 30, 1980 where the total of the real and personal property of the estate was listed at P10,751,189.97.

On October 13, 1980, the trial court issued an order granting the compensation asked for by the late administrator which reads:

"In view of the foregoing, and for lack of sufficient grounds to deny the compensation prayed for, the Court hereby grants the amount of Five Hundred Thousand Pesos (P500,000.00) by way of compensation of the deceased administrator Jose de Luna for the services rendered by him as such administrator of the estate of Carmen de Luna for the period from April 10, 1964, up to February 22, 1980, deducting therefrom the sum of P1,000.00 already paid to him pursuant to this Court's Order dated April 27, 1977, and authorizing payment of the balance thereof to his heirs, Mrs. Catalina M. Gonzales, and her children Jose Gonzales, Jr. Carmen G. de Asis and Milagros K. Gonzales, said amount to be taken out of the available funds of the estate." (Rollo pp. 57-58)

Subsequently, another order dated October 22, 1980 was issued, to wit:

"Acting upon the 'Urgent Ex-Parte Motion For Authority To Withdraw From Bank Deposits and To Mortgage Estate Properties' filed by the administratrix, through counsel, dated October 15, 1980, and for the purpose of implementing the Order of this Court on October 13, 1980, the above motion is hereby granted.

Accordingly, the administratrix, Catalina Vda. de Gonzales, is hereby authorized to satisfy the amount of P500,000.00 which was ordered paid to the heirs of the deceased administrator Jose de Luna, out of the bank deposits of the estate of Carmen de Luna with the Filipinas Bank and Trust Company and Philippine Trust Company, authorizing said administratrix to make a withdrawal and in the event that said deposits are insufficient to cover said amount, to obtain loans from any reputable lending institution, offering by way of mortgage or pledge, any property of the estate under administration, sufficient to satisfy the balance remaining unpaid, after interest and bank charges, and to inform the court of her compliance herewith." (Rollo, p. 58)

Esperanza de Luna Gonzales Azupardo and Isidoro de Luna Gonzales appealed to the Court of Appeals.

On September 17, 1982, the Court of Appeals through Justice Gancayco decided in favor of the administrator and affirmed in toto the orders appealed from.

The appellants then filed a motion for reconsideration of the said decision.

On July 19, 1985, the Court of Appeals speaking through Justice Porfirio Sison modified the decision promulgated on September 17, 1982 with the following dispositive portion:

"WHEREFORE, in the interest of justice and equity and to protect the estate against undue or unauthorized waste and exhaustion, which preservation in the end will redound to the benefit of all the parties, our decision of September 17, 1982 is hereby modified by adhering to our finding that the late Jose de Luna Gonzales as Judicial Administrator of the estate of Carmen de Luna in Sp. Proc. No. 52196, is indeed entitled to his Administrator's fee, but in the reduced and correct amount of P4,312.50 including the sum of P1,000.00 previously received or still a balance of P3,312.50. No pronouncement as to costs." (Rollo, p. 26)

On October 7, 1985, the Court of Appeals denied the motion for reconsideration of the aforesaid decision filed by the administratrix.

Hence, this petition for review.

The lone assignment of error raised by the petitioner is that “the respondent appellate court committed serious legal error in the interpretation and application of Section 7, Rule 85 of the Rules of Court and acted with grave abuse of discretion amounting to lack or excess of jurisdiction in modifying the previous decision of the Court of Appeals dated September 17, 1982 by reducing the administrator's commission from P500,000.100 (as adjudged by the Trial Court and upheld by the then Court of Appeals) to a mere P4,312.50 by its Resolution dated July 19, 1985.

The issue posed for resolution is whether or not Jose de Luna Gonzales is entitled to the amount of P500,000.00 by way of compensation as administrator of the estate of Carmen de Luna.

The opposing views of the parties are summarized by the trial court as follows:

"The last inventory of the late Jose de Luna Gonzales on April 25, 1975 showed a gross estate in the amount of P890,865.25, and since then not only the personal assets of the estate increased by way of increments, dividends and interests earned but also the real properties thereof, by way of additional fishponds, farm lands and coconut lands located in Bulacan, Bulacan and Catanawan, Quezon which said administrator discovered and brought to the estate, so much as that property of the estate increased in value. While it is true as alleged in their urgent amended motion for payment of the deceased administrator's compensation, that the value of the estate is conservatively placed at P2,000,000.00 yet this does not appear to be so, for the inventory as of April 30, 1980 of the present administratrix, Mrs. Catalina M. Gonzales, who is also the wife of the late administrator, shows that the real and personal estate of the deceased Carmen de Luna amounts to P10,751,189.97. This last inventory could have been the same inventory filed by the late administrator, had he lived longer. The present administratrix, Mrs. Catalina Gonzales, was appointed as such on March 28, 1980 and upon taking her oath of office and filing the corresponding administratrix's bond, was issued the corresponding letters of administration. At the hearing of her petition to be appointed new administratrix of the estate, she claims that during the lifetime of her husband, the former administrator, their joint efforts led to the discovery of the fishponds, farm lands and coconut lands in the province of Bulacan and Quezon, and the growth and accumulation of the assets and properties of the estate were due to their continuous, dedicated and concerted efforts coupled with the sound and judicious care employed by them in the management of this estate. She further testified that the late administrator had adequately and religiously executed the trust reposed on him, having attended to the wise, advantageous and safe placement of the funds of the estate, but without however, neglecting the payment of the estate and real estate taxes, and the submission of his reports to the Court.

"The claimant-heir, Trinidad Villajuan Vda. de Martinez and the other claimant-heirs Esperanza de Luna Gonzales Azupardo and Isidoro de Luna Gonzales filed separate oppositions. Trinidad Villajuan Vda. de Martinez claims that the counsel for the alleged heirs of Jose de Luna Gonzales including his surviving wife, administratrix Catalina M. Gonzales, is the law firm Bausa, Ampil, Suarez, Paredes and Bausa, which is also the counsel for Centro Escolar University wherein the shares of stocks of said university form the bulk of the present estate so much so that Attys. Bausa, Ampil, Suarez, Paredes and Bausa and Ass. have conflict of interests in handling the affairs of their aforesaid clients and that not only has said law office conflicting interest but likewise its client, the present administratrix Catalina M. Gonzales, who is at the same time a claimant of the estate under her administration. The oppositor further asserts that claims against the estate can not be filed in the form of an urgent motion but must be filed as claims against the estate. It is likewise claimed by the oppositor that the alleged heirs of Jose de Luna Gonzales had never been substituted as parties in this proceeding because no motion had ever been filed and no order had been issued for substitution of the late Jose de Luna Gonzales. She insinuates that the record of this case will show that oppositor Trinidad Villajuan Vda. de Martinez had long prayed for the appointment of Jerry Martinez Hervas as the administrator of the estate because Jose de Luna Gonzales had long become physically incompetent to administer the estate; and that while it is true the bulk of the estate consists of the shares of stocks of the Centro Escolar University, yet the late administrator, Jose de Luna Gonzales, had nothing to do with the increase in the number of shares of

stocks of the Centro Escolar University, and if ever its value increased, the said administrator had also nothing to do with the same inasmuch as during the long duration that Jose de Luna Gonzales was administrator of the estate he never attempted to become a director of Centro Escolar University; that although the urgent motion speaks of fishponds farm lands and coconut lands in Bulacan, Bulacan and Catanuan, Quezon, which were discovered and brought to the estate, there were no titles to said properties and that said administrator and his counsel had not done anything regarding the same; and that the properties referred to by them have long been disposed of by the late Carmen de Luna in favor of innocent third party.

"The other group of claimant-heirs, Esperanza de Luna Gonzales Azupardo and Isidro de Luna Gonzales claim that the urgent amended motion of the heirs of the deceased Jose de Luna Gonzales violated the rule on prior notice as required and mandated by Rule 85 Section 10 of the Rules of Court which provides that 'before the account of an administrator is allowed notice shall be given to persons interested of the time and place of examining and allowing the same'; the said urgent amended motion is not under oath and in utter disregard of the legal safeguards required under Rule 85 Section 9 of the Rules of Court which mandates that every matter with respect to account must be under oath; that movants if allowed compensation should apportion the commission with the co-administrator; that if there was an increase in the value of the estate or any part thereof, Sec. 2, Rule 85 strictly prohibits and expressly denies executor or administrator from profiting thereby; that the value of the estate increased by natural accretion or by government re-assessment and not thru the efforts of the late administrator; that the amount being claimed is highly unconscionable and unreasonable and besides it is not in consonance with the amount specified under Rule 85, Sec. 7 which allows only one-fourth per cent of the entire value of the estate and which must be allowed only after a settlement of the estate is finally made; that the amount being claimed as compensation is not itemized, hence, purely conjectural, hypothetical and without basis in fact and in law; that in cases where compensation or extraordinary services are claimed, the better practice is to itemize the account and explain fully in what particulars the services are extraordinary or unusual; and that the late administrator Jose de Luna Gonzales had long been compensated by the estate arising from the admitted sale for voting rights of Centro Escolar University shares, and for this matter this Court may require an accounting under Rule 85, Sec. 8 of the Rules of Court; and lastly, that as admitted by movants themselves in their urgent amended motion, that the administration on the estate spanned a prolonged period of sixteen years and yet the same is not yet closed or terminated and therefore the administrator should be denied compensation for his services, for the prolongation of the settlement of the estate is due entirely to his effort to defraud the heirs, and due to his neglect, the administration has been too expensive." (Rollo, pp. 61-65)

Section 7, Rules 85 states:

"SEC. 7. What expenses and fees allowed executor on administrator. Not to charge for services as attorney. Compensation provided by will controls unless renounced. - An executor or administrator shall be allowed the necessary expenses in the care, management, and settlement of the estate, and for his services, four pesos per day for the time actually and necessarily employed, or a commission upon the value of so much of the estate as comes into his possession and is finally disposed of by him in the payment of debts, expenses, legacies, or distributive shares, or by delivery to heirs or devisees, of two per centum of the first five thousand pesos of such value, one per centum of so much of such value as exceeds five thousand pesos and does not exceed thirty thousand pesos, one-half per centum of so much of such value as exceeds thirty thousand pesos and does not exceed one hundred thousand pesos. But in any special case, where the estate is large, and the settlement has been attended with great difficulty, and has required a high degree of capacity on the part of the executor or administrator, a greater sum may be allowed. If objection to the fees allowed be taken, the allowance may be re-examined on appeal.

If there are two or more executors or administrators, the compensation shall be apportioned among them by the court according to the services actually rendered by them respectively.

When the executor or administrator is an attorney, he shall not charge against the estate any professional fees

for legal services rendered by him.

When the deceased by will makes some other provision for the compensation of his executor, that provision shall be a full satisfaction for his services unless by a written instrument filed in the court he renounces all claim to the compensation provided by the will."

Pursuant to the above provision, an administrator is entitled by way of compensation to the following:

- (a) P4.00 per day "for the time actually and necessarily employed" by him as such administrator, or
- (b) a "commission upon the value of so much of the estate as comes into his possession and was finally disposed of by him," according to the schedule therein provided.

The appellate court in its resolution dated July 19, 1985 arrived at the amount of P4,313.50 by applying the schedule provided in computing for commissions. The respondents also contend that the estimates of the real properties reflected in the inventory were highly exaggerated to jack-up the asking price and excluded from the computation of the fee of the administrator the total value of the stocks and cash deposits of the administrator. Consequently, it placed the value of the estate at P1,500,000.00 more or less, the value presented by the lawyers of the administratrix in their first motion for compensation of de Luna Gonzales, dated March 10, 1980.

We rule otherwise. The applicable provision is the proviso which states: "in any special case, where the estate is large and the settlement has been attended with great difficulty and has required a high degree of capacity on the part of the executor or administrator, a greater sum may be allowed." A wide latitude, leeway or discretion is therefore given to the trial court to grant a greater sum. And the determination of whether the administration and liquidation of an estate have been attended with greater difficulty and have required a high degree of capacity on the part of the executor or administrator rests on the sound discretion of the court which took cognizance of the estate. (*Rodriguez v. Silva*, 90 Phil. 752 [1952]). The trial court, in applying this proviso awarded the sum of P500,000.00 as administrator's compensation.

There appears to be no sound justification why the appellate court should interfere with the exercise of the trial court's discretion, absent a showing that the trial court committed any abuse of discretion in granting a greater remuneration to the petitioner. The trial court's order is based on substantial evidence and the applicable rule.

In the case of *Litton Mills v. Galleon Traders, et al.* (G.R. No. 40867, July 26, 1988), this Court had the occasion to explain:

"An act of a court or tribunal may only be considered as committed in grave abuse of discretion when the same was performed in a capricious or whimsical exercise of judgment which is equivalent to lack of jurisdiction. The abuse of discretion must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion or personal hostility. (*Butuan Bay Export Co. v. CA*, 97 SCRA 297)."

The records of the case is replete with evidence to prove that the late administrator Jose de Luna Gonzales had taken good care of the estate and performed his duties without any complaint from any of the heirs. In fact, the appellate court agrees with the trial court as it held.

"xxx While it may be true that the inventory of the properties of the estate as of April 25, 1975 was only P890,865.25 it has been shown that the value of the estate has increased not only by the efforts of the late administrator to take good care of the same but in succeeding to locate other properties belonging to the estate so that when he submitted the inventory of the properties, real and personal of the estate as of April 13, 1980 the total appraisal thereof appears to be over P10M. No objection thereto appears to have been interposed."

(Rollo, p. 68)

And with regards to the inventory, the respondents did not even present any evidence to counter or disprove the valuations made so their claim that the estimated P10 million value of the properties was exaggerated is without basis and purely conjectural. With the well settled rule that the findings of the trial court are given great respect, we therefore sustain the finding that the value of the estate is worth P10 million as found by the trial court.

Considering the size of the estate and extent of the care given by the administrator, the amount asked for is not unreasonable and should therefore be allowed.

WHEREFORE, there appearing to be no manifest error or abuse of discretion for the Court of Appeals to modify the trial court's orders, the resolution of the Intermediate Appellate Court dated July 19, 1985 is hereby SET ASIDE and its previous decision dated September 17, 1982 is REINSTATED.

SO ORDERED.

Fernan, C.J., (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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