

**JUANA VILLANUEVA ET AL., PLAINTIFFS AND APPELLANTS, VS.
HUGO CHAVEZ, ADMINISTRATOR OF THE ESTATE OF GUALBERTO
GALVE, DEFENDANT AND APPELLEE.**

G.R. No. 7671. January 25, 1913

Ponente: CARSON, J.

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CARSON, J.:

This is an appeal from an order of the Court of First Instance of Iloilo dismissing a complaint filed in a separate action incident to the proceedings had in connection with the administration of the estate of Gualberto Galve, deceased, wherein plaintiffs and appellants sought to establish and recover a claim against the estate.

Juana Villanueva et al., plaintiffs and appellants, will be referred to hereinafter as the claimants, and Hugo Chavez, administrator of the estate of Gualberto Galve, deceased, defendant and appellee, will be referred to as the administrator.

Hugo Chavez was appointed as the administrator of the estate of Gualberto Galve, deceased, on the 17th of September, 1910. On the 13th of the following October he entered upon the discharge of his official duties. A committee was duly appointed to appraise the assets of the estate and to hear and pass upon claims. The claimants, as the heirs of one Lucio Villanueva, deceased, presented to the committee on the 31st day of December, 1910, a claim amounting to some P5,575.80. This claim was allowed by the committee, but the administrator being then and there present gave notice of appeal to the Court of First Instance. This notice was incorporated in the report of the committee, which was filed on the 1st day of June, 1911. On July 5, 1911, counsel for the administrator filed a formal notice of appeal setting forth therein that they had just been apprised of the filing of the report of the committee. On July 8 claimants submitted their formal objections to the allowance of the appeal on the ground that it had not been presented within the period prescribed by law. Upon due consideration the Court of First Instance held that the notice of appeal filed at the time when the committee admitted the claim, which was duly incorporated in their report, was a sufficient compliance with the statutory provisions in this regard, and thereupon on the 8th day of July directed the claimants to file a complaint against the administrator and thus bring the question at issue to trial as in any other ordinary action. To this order claimants excepted, and again on the 15th day of July the court directed that a civil action be instituted. On the 24th day of July claimants submitted a bill of exceptions to the trial court which the court refused to certify. Claimants then applied for a writ of mandamus to the Supreme Court to compel the trial judge to certify the bill of exceptions. The application for the writ was denied by the Supreme Court on August 12, 1911. On the 24th day of October the administrator reported to the Court of First Instances that he was ready to make distribution of the estate, and the court thereupon directed that he proceed to the distribution, and at the same time entered an order disallowing the claim of these claimants on the ground of their failure to prosecute the same to final judgment in accordance with the repeated order of the court. It appears that the claimants had no notice as to the action of the court in this regard, and that they were not advised that an application would be made by the administrator for an order of distribution on the 24th day of October. On the 28th of October, four days after the entry of the order

directing the administrator to proceed with the distribution and disallowing the claimants' claim, claimants filed their complaint against the administrator for the amount of their claim. Two days thereafter, on the 30th day of October, the administrator was duly notified of the filing of this complaint. Four days thereafter, on the 4th of November, without notice to claimant and in his absence, the administrator presented his accounts and receipts to the Court of First Instance, and on his motion his accounts and the receipts covering the distribution of the estate were accepted and approved, and an order entered discharging the administrator.

It appears from the opinion of the trial judge that he had no notice of the filing of the complaint at the time when he approved and allowed the administrator's accounts and the report of his proceedings under the order for distribution and it is clear that the administrator, although he had due notice four days prior to the date of the order discharging him, did not advise the court of that fact at the time when he procured the issuance: of the order of discharge.

The administrator filed his answer to claimants' complaint on the 20th of November, setting forth that he was no longer the administrator of the estate of Gualberto Galve, deceased, that his accounts had been settled and distribution made under the order of the court, and that he had been finally discharged and was without legal capacity to defend the action. Claimants contended that he was in fact the administrator at the time of the filing of the suit, that he had notice thereof prior to the time when he procured the order for his discharge. Claimants further alleged that the administrator had fraudulently concealed this knowledge from the court; that at the time of the filing of the suit the proceeds of the estate had not yet been distributed; and that they had no knowledge of the settling of the administrator's accounts, until they were advised of it by his pleading filed on the 20th of November, setting forth those facts. Claimants' allegations as to lack of notice are not controverted in the record and must therefore be taken to be true. The case was heard upon the pleadings and the court entered an order dismissing the complaint upon the following grounds: (1) Because final distribution was ordered on the 24th day of October, four days before it was filed, and on the same day the claim had been disallowed by the court because of claimants' failure to file their complaint in compliance with the court's order. (2) Because all of the estate having been distributed under an order issued four days prior to the filing of the suit, no property remained in the hands of the administrator. This appeal was perfected from the order dismissing the complaint.

For the proper disposition of this case it becomes necessary for us to review the action of the trial judge: (1) In declaring claimants' action abandoned on the 28th day of October. (It may be well here to call attention to the fact that the perfection of the appeal from the allowance of the claim by the commissioners was substantially equivalent to the institution of a separate action in the Court of First Instance, incidental to the administration proceedings, which action, under the statute, was to be conducted in like manner as ordinary actions filed in that court, upon a complaint and other pleadings, to be filed thereafter. (2) In disallowing their claim on the same day. (3) In issuing the order directing the distribution of the estate. (4) In discharging the administrator on the 4th day of November. (5) In dismissing claimants' complaint.

Various questions might be raised as to the procedure whereby these issues have been brought before us for review, but since such questions have not been raised by the parties themselves, we shall limit ourselves strictly to a review of the proceedings of the court below, in so far as such review may be necessary for the proper disposition of this appeal.

As to the action of the court below in declaring claimants' right of action abandoned on the 28th day of October, we are all agreed that it cannot be sustained. His ground for so doing was the failure of claimants to prosecute their action by filing their complaint in accordance with his directions. No date was fixed within which the complaint was required to be submitted, and the court's repeated orders directing the filing of the complaint must therefore be understood as directions to file the complaint within a reasonable time. Of course, the time occupied

in a bona fide attempt to procure relief from these orders in this court should not have been counted against the claimants. It appears, then, that the neglect of claimants to file their complaint, on which the trial judge based his action, took place between the time when they were notified of the action of this court denying their application for the writ of mandamus on August 12, 1911, and the 24th of October, 1911, which could not have been much more than two months. We are not prepared to say that under no circumstances would the lapse of such a period of time justify a court in treating an action, such as that in the case at bar, as abandoned. But under all the circumstances of this case, we think that the trial court was not justified in arriving at that conclusion. A very substantial amount was involved, P5,575.80. The amount had been allowed as a just claim by the committee to which it had been submitted. The claimants had asserted their rights with the utmost vigor in the trial court, and had even gone so far as to institute mandamus proceedings in support of their contentions. A scant two months had elapsed from the time when they received notice of the dismissal by this court of their application for the mandamus to the date when their right of action was declared to be abandoned, in the court below, and the claim disallowed. No notice was served upon them by the administrator when he submitted his account for settlement and procured the order for distribution of the estate; and their contention that they had no actual knowledge of the court's action in disallowing their claim, and ordering distribution of the estate, is not controverted. Some of the members of this court, of whom the writer of this opinion is one, would prefer to base our ruling in this regard strictly upon the failure to serve due notice upon the claimants as to the time when the question of the declaration of abandonment was to be submitted for adjudication, being of opinion that the order was absolutely void for lack of such notice; but some of the other members of the court prefer to limit themselves to a declaration that under all the circumstances of this case, the trial judge erred in declaring claimants' action abandoned.

Manifestly, if the declaration of the abandonment of claimants' action was erroneous, so also was the disallowance of their claim; and in so far as they were affected thereby, so also was the issuance of the order of distribution of the estate and the

The only question which remains to be determined is whether the action against the administrator for the recovery of the claim against the estate may be prosecuted against him to judgment, where it appears that he has procured the erroneous dismissal of the action, the erroneous disallowance of the claim, and the issuance of orders for the distribution of the estate and for his own discharge which are erroneous in so far as the claimants are affected thereby. We think there can be no doubt that claimants, under these circumstances, are entitled to proceed with their action against the administrator, and that the order directing the dismissal of their complaint must be reversed. The supreme court of Mississippi, in discussing the rights of creditors to recover from the estates of deceased debtors, under the Mississippi statutes, says that: "It is only after the payment of all existing debts due from the estate and not barred by the statute of limitations, or upon their payment being properly secured as provided by law, that the administrator, may lawfully proceed to the distribution of the estate." (Pollock, Admr., vs. Buie et al., 43 Miss., 140, 156; sees. 739, 742, 753, 754, Philippine Code of Civil Procedure.) The reasoning upon which the Mississippi court arrived at its conclusion would seem to be not less forceful in this jurisdiction than in that, as will readily appear from the following extracts from the opinion in the case just cited.

"When is it that an executor or administrator may make a full settlement of the administration? The statute answers, when the estate has been fully administered by the payment of all the debts. When is it, that upon final settlement, the court shall order the executor or administrator to make immediate distribution of all the property in his hands? The answer is, when the estate has been fully administered by the payment of all the debts. It is not to be presumed that whilst the claims of creditors, the primary objects of the trust, remain unsatisfied, the court would order an immediate distribution of all the property in the representative's hands among the secondary objects of the trust, the legatees and distributees. It is not in the power of the court to discharge an executor or administrator until the trusts are fully executed, except in the case of removal or resignation, when administration de bonis non shall be granted as in case of the death of the executor or

administrator, and with like effect on all the proceedings by or against the executor or administrator.

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"From this view of the law, it will clearly appear that while there are valid and subsisting debts against the estate, the executor or administrator cannot be legally discharged from the trust of his administration, except by death, resignation, or removal; and upon the happening of either of these events, it is provided that administration de bonis non shall be granted. This keeps the doors to the estate open, so that the creditors may have an opportunity to collect their claims against it. But if, as is insisted, the settlement of an estate, purporting to be final, precluded existing creditors from instituting suits against the executor or administrator for the collection of valid and subsisting claims against the estate, great wrong and injustice would be the result, and the primary purpose, object, and policy of the law, in granting administration upon estates of decedents, would be defeated. To hold the estate liable, notwithstanding such settlement, would, in our opinion, accord with the spirit and policy of the law, and subserve the ends of justice, and it would constitute no hardship upon the executor or administrator, as by a faithful discharge of his duties he would have it in his power to wind up and completely finish the administration of a solvent estate, within a reasonable time, by giving the proper notice to creditors to present their claims within the time prescribed by the law, and all claims against the estate, of which he had no notice, within the time limited by the law, after publication of such notice, would be barred, and could no longer be regarded as valid and subsisting debts against the estate. And the law thus being complied with, the executor or administrator, after paying all the debts of which he had any knowledge within the time limited by the statute, could safely make a final settlement of the estate, and a distribution thereof among the legatees or distributees. But to hold that a settlement, purporting to be a final settlement of an estate, made without a compliance with the requisitions of the law, would be conclusive upon creditors would put them completely at the mercy of the executor and administrator and the legatees and distributees." Pollock, Admr., vs. Buie et al., 43 Miss., 140, 154; Short vs. Johnson, 25 111., 405.

The orders of the trial judge declaring claimants' action abandoned, disallowing their claim, and dismissing their complaint should be revoked, with the costs of this appeal in their favor. Ten days hereafter let judgment be entered in accordance herewith, and twenty days thereafter let the record be returned to the court below for such further proceedings as are proper, in accordance with the principles herein laid down. So ordered.

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

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