

IN THE MATTER OF THE ESTATE OF TELESFORO DE DIOS. TOMAS OSMEÑA, APPELLANT.

G.R. No. 7940. March 27, 1913

Ponente: MORELAND, J.

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MORELAND, J.:

This is an appeal from an order of the Court of First Instance of Cebu, refusing to extend the time within which claims could be presented to commissioners in the above-named estate.

The facts are that Tomas Osmeña claims to have had a claim against the estate of Telesforo de Dios, but did not present the same within the six months specified by the court for the presentation of claims to the commissioners. The time having expired within which the claim should have been presented, the claimant made a motion to the court asking for an extension of the time within which he could present said claim. Said motion was founded upon a statement alleging as the only foundation for the motion that said claimant "had not had an opportunity to formulate his claim during the period of six months fixed by the court." Later the statement was amended and amplified so as to include the allegation that the reason why said claim had not been presented was, "that during said time one of the heirs of said estate was making propositions to said Tomas Osmeña to pay on his own account the debt which he had against the property of said estate; that said Tomas Osmeña, under the belief that the said heir would pay the said debt, and in the hope that the proposed settlement would terminate satisfactorily, could not duly formulate his claim before the commission during said period of six months; that said heir did not pay the debt or any part thereof to said Tomas Osmeña as he had at first offered to do."

The Court, Honorable Adolph Wislizenus presiding, denied the motion to extend the time, saying:

"The power of the court to extend the time for certain purposes is defined in article 690 of the Code of Civil Procedure and from a reading of said article it appears that a condition precedent to the exercise of such power is a just cause. The court does not find in said motion any allegation which it can call a just cause. The only allegation in relation to the matter is that he has not had opportunity to present his claim against the estate within the six months fixed by the court, without stating any details or facts relative to such failure of opportunity. The applicant is a merchant of much experience, a resident of the municipality of Cebu, where he has lived and where the deceased, Telesforo de Dios, died, who was also a person well known in Cebu. It is impossible that Tomas Osmeña was not informed and did not know of the death of said Telesforo de Dios, and Mr. Osmeña is a person who has many suits in this court, both special proceedings and civil actions. The object of the administration of estates under the Code of Civil Procedure is to give an opportunity to the creditors to present their claims and a determination of the condition of the property left by the deceased and to prevent the presentation of claims after certain dates. It is in the interest of the law and of the spirit of the Code of Civil Procedure that the claims be presented within the period fixed by the law and that the time for presentation be not extended without just cause. As the present motion is in no manner founded on facts which we may consider just cause, the court for that reason denies the motion."

A motion was later made for a rehearing before the Honorable George N. Hurd, which was denied. An appeal is taken from such order. The appellant makes the following assignments of error:

"(1) The court erred in denying the motion of the 29th of February basing the same on the order of the same court of the 24th of February of the same year; (2) the court erred in denying the motion of the 29th of February notwithstanding the fact that said motion was based upon reasons justifying the same; (3) the court erred in denying the motion notwithstanding the fact that it was presented within twelve months after the appointment of commissioners."

The only question presented on this appeal is whether or not the court erred in refusing to extend the period for the presentation of claims against the estate of Telesforo de Dios upon the facts presented by the appellant.

The court below correctly said that there must be cause shown before it would be authorized to extend the time within which claims may be presented against the estate. The object of the law in fixing a definite period within which claims must be presented is to insure the speedy settling of the affairs of a deceased person and the early delivery of the property of the estate into the hands of the persons entitled to receive it. As we said in the case of *Jose McMicking vs. Sy Conbieng* (21 Phil. Rep., 211), "it is the policy of every people which maintains the principle of private ownership of property that he who owns a thing shall not be deprived of its possession or use except for the most urgent and imperative reasons and then only so long as is necessary to make the rights which underlie these reasons effective;" and, "it is a principle of universal acceptance which declares that one has the instant right to occupy that which he owns, and it is only in the presence of reasons of the strongest and most urgent nature that that principle is prevented from accomplishing the purpose which underlies it." It is distinctly against the interests of justice and in direct opposition to the policy of the law to extend unduly the time within which estates should be administered and thereby to keep the property from the possession and use of those who are entitled to it. Before the time in which claimants must present their claims against an estate is extended the person asking the privilege must present sound reasons therefor. Whether or not those reasons are sufficient and whether as a result of their presentation the time ought or ought not to be extended rests in the sound discretion of the court. This being so, a decision as to whether or not the time shall be extended will not be disturbed on appeal unless it clearly appears that there has been an abuse of that discretion. It is a doctrine followed by this court as by all others that, where a court has discretion, the exercise thereof will not be interfered with except in case of abuse. The general doctrine (as stated in 3 Cyc, 325) is to the effect that, "in the absence of a clear abuse of discretion, to the complaining party's prejudice, matters purely within the discretion of the trial court are not reviewable on appeal." Moreover, the doctrine is also stated in the same volume (p. 327) that, "it will be presumed on appeal, in the absence of a showing to the contrary, that the discretionary powers of the lower court have been exercised without abuse. The burden of showing abuse is upon the party complaining."

In the case at bar the appellant failed to show that the court below abused the discretion given it by law. In the first place, the appellant has not shown that he has a meritorious claim against the estate. There appears nothing in the record demonstrating what the nature of the claim is, how it was contracted, or when. There is simply a naked allegation that appellant has a claim. In the second place, the appellant, admitting full knowledge of the time within which he should have presented his claim and the date on which the time for presentation expired, presents no sufficient explanation for failure to present the claim within that period. His only excuse is that during the running of the period he was maintaining negotiations with one of the heirs for the payment of the claim. Even if that were true, it furnishes no reason why the claim was not presented. Although the negotiations may have been pending, the claim could have been presented nevertheless and, on payment thereof by the heir, further proceedings could have been prevented.

Under these circumstances the court committed no error in refusing to extend the time within which the claim could be presented. (In re estate of Ceballos, 13 Phil. Rep., 315.)

The order appealed from is affirmed, with costs.

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

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