

FLORENCIO RUFO FABIE, PLAINTIFF AND APPELLEE, VS. PEDRO YULO ET AL., DEFENDANTS AND APPELLANTS.*G.R. No. 8109. February 03, 1913*

Ponente: TORRES, J.

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Appeal taken through bill of exceptions by counsel for the defendants from judgment of April 27, 1912, wherein the Honorable J. S. Powell, judge, directed that the plaintiff in this case recover from the defendants the sum of P30,000 as principal and P8,200 as interest and that the principal draw interest at the rate of 15 per cent a year from this date, with the costs.

On January 15, 1912, Florencio R. Fabie presented in the Court of First Instance of Iloilo a written amended complaint against the defendants, alleging as grounds of action that said defendants are the children and lawful heirs of Teodoro Yulo y Belleza and Mrs. Gregoria Regalado Yulo, both deceased, the testamentary proceedings in the case of the former being now pending in said court; that his present administrator is Francisco Yulo, who is sued in his own personality and in his character as judicial administrator of said estate and also in his character as legal guardian of the incompetent Teodoro Yulo Regalado, while Mariano Yulo is likewise sued in his character as legal guardian of the minor Jose Yulo; that Teodoro Yulo y Belleza in his lifetime owed the plaintiff Fabie the sum of P30,000, with the obligation of paying as interest the sum of P2,250 for each six months at the rate of 15 per cent a year; that on March 23, 1904, the defendants and their mother, Mrs. Gregoria Regalado Yulo, acknowledged Teodoro Yulo's debt of P30,000 to the plaintiff, took upon themselves the responsibility of paying it and promised to settle it with the plaintiff at the end of five years from that date, March 23, 1904, with the right reserved to them to renew the debt if they could come to terms with the plaintiff, payment of P2,250 in current money being stipulated as semiannual interest on the debt; that the defendants punctually paid said interest until July 31, 1910, but from that date they violated the agreement and ceased to pay the interest stipulated and refused to pay the principal with interest thereon, in spite of the demands of the plaintiff and the fact that the agreement ended on July 31, 1910. Neither has the administrator of the testamentary estate of Teodoro Yulo, despite the demands made, paid the interest amounting to P6,250 owed to the plaintiff from the date when they ceased to pay up to December 31, 1911. Judgment was prayed sentencing either the defendants as heirs of the deceased Teodoro Yulo y Belleza or the administrator of his estate to payment of the principal of the debt, P30,000, the interest due up to December 31, 1911, which amounts to P6,250, and in addition the interest that might become due from that date until complete payment of the debt on the basis of P2,250 for each six months, and also the legal interest upon the interest due and unpaid, with the costs of this suit.

The demurrers filed by the defendants to the foregoing complaint of March 27, 1912, having been overruled, counsel for the defendants, with the exception of Pedro Yulo, replied to the foregoing amended complaint admitting the allegations contained in the first and second paragraphs thereof and denying each and all of the allegations contained in each and all of the other paragraphs thereof. Counsel for the other defendant, Pedro Yulo, in his reply admitted the allegations contained in the first and second paragraphs of the amended complaint and

denied each and all of the facts alleged in each and all of the remaining paragraphs thereof.

After due trial and presentation of evidence by the parties, the court rendered the judgment mentioned, to which counsel for the plaintiffs excepted, asking for a new trial. This motion was denied by order of April 30, 1912, with exception on the part of the defendants. The proper bill of exceptions was submitted by the defendants, except Gregorio Yulo, approved and forwarded to the clerk of this court.

In this suit payment is sought of the sum of P30,000 that Teodoro Yulo y Belleza owed at his death to the plaintiff Florencio Fabie, with interest at 15 per cent a year. The justness of the debt is positive and indisputable, for the widow and heirs of the deceased, duly represented by one of their number, Gregorio Yulo y Regalado, through power of attorney executed by them on April 11, 1903, not only freely and spontaneously acknowledged said debt but also further agreed to pay it to the creditor Fabie or his representative, with interest at the rate of 15 per cent a year in the sum of P2,250 for each six months from June, 1904, and each quarter thereafter for five years, at the end of which period it would be optional with the creditor to draw in his principal or extend the time of payment under the same conditions or others that might be stipulated. The property of the estate of the deceased Enrique Castillo, wherein said sum had been invested, with the personal property of the said widow and heirs of the deceased debtor, was fixed as guaranty for fulfillment of the obligation. All this is recorded in an instrument executed by them on March 23, 1904, and ratified before a notary on the same date.

It is a fact beyond doubt and admitted by the defendants that the deceased Teodoro Yulo y Belleza in his lifetime received from the plaintiff creditor various amounts of money which for purposes of settlement reach the important sum of P30,000. The only point not cleared up, or duly proven in the case, is whether upon receiving as a loan the sum now demanded and in signing the notes he gave for the loan the debtor did so as administrator and heir of the deceased Enrique Castillo or simply as a personal debtor for that amount. In his sworn statement Gregorio Yulo asserts the former, saying that his deceased father, by virtue of an appointment made by the provost court of Iloilo during the military government, signed among other documents the said notes in Fabie's favor and countersigned them administrator, but did not remember whether he did so also as heir of the deceased Castillo. But the creditor Fabie swore that he did not know that Teodoro Yulo y Belleza was the administrator of the property of said deceased and he did not remember having seen any countersign on the notes issued to him indicating in any way that the former was the administrator of Castillo's property, for he lent his money to Teodoro Yulo, who in his lifetime paid the amount of the notes with interest thereon, until his death, and after his death his son, Gregorio Yulo, told him that he was authorized by the widow and his brothers and sisters to continue the payments in the same manner as had been done previously, and since that time he had dealt with him, for he thought him honest, and in fact while he was in Europe Gregorio continued to send him the interest stipulated, through Messrs. Inchausti & Co., until June, 1910. But when Gregorio Yulo ceased to be administrator of the property of his father, his brother, Francisco Yulo, who assumed the administration, failed to pay said interest from that month of June to date. He added that the notes were returned to the heirs of the debtor upon the execution of the said instrument of March 23, 1904.

Although it is recorded in this instrument that the said amount was used for the improvement of the property that formed part of the estate of the deceased Castillo, which point the creditor says he did not pay any great attention to on signing the instrument when he was arranging to start, for Europe, still it is certain that the various sums making up the total amount demanded were received as a loan, not by Enrique Castillo in his lifetime, but by Teodoro Yulo, who, according to the defendants, was the administrator of the property of the said Castillo and also his heir; and the creditor on his part asserts that he delivered his money as a loan to Teodoro Yulo personally, a fact not denied by Gregorio Yulo in his testimony.

Even though Teodoro Yulo may have in his lifetime borrowed from the creditor Fabie various amounts up to

P30,000, with interest at 15 per cent a year, in the character of administrator of the property of the deceased Castillo, whose heir he was, as both parties admitted and stipulated, the obligation to pay the sum borrowed rests upon Teodoro Yulo himself, who received it, as the only person responsible for payment thereof, without obligation or right on the creditor's part to proceed against the testate succession or against the administration of Enrique Castillo's property, even admitting that the money was used for the benefit of that estate.

If, then, Teodoro Yulo was the only one personally responsible for the amount he received, even as administrator of the property of the deceased Castillo, it follows that after his death, which occurred on April 9, 1903, his heirs would be responsible for the fulfillment of the obligation assumed in life by the dead debtor, their predecessor in interest.

Article 661 of the Civil Code says: "Heirs succeed the deceased in all his rights and obligations by the mere fact of his death."

Article 659 of the same Code also says: "The inheritance includes all the property, rights, and obligations of a person, which are not extinguished by his death."

But, aside from the obligation to which the deceased debtor's children have succeeded to pay the sum demanded, which he owed when alive, it appears in the notarial instrument executed on March 23, 1904, that the widow and heirs of the deceased Teodoro Yulo acknowledged and took upon themselves the responsibility contracted by him when alive and bound themselves to pay the principal and the interest stipulated, wherefore it is beyond question that the defendants as successors of the deceased debtor Teodoro Yulo and his widow, their mother, Gregoria Regalado y Santa Ana, who also later died, are under obligation to pay the sum demanded.

The allegation that the money received in his lifetime by the deceased Teodoro Yulo from Florencio Fabie was used in improving the property of the deceased Enrique, Castillo cannot, as the judgment appealed from says, affect the creditor's rights, for the reason that Teodoro Yulo was the debtor and the debtor personally responsible for payment of the debt and not the estate of the deceased Castillo, for the latter at his death owed nothing to the plaintiff, and therefore his estate cannot be responsible for the amounts borrowed and received by the administrator of his property after his death, since the law does not authorize the executor or administrator of the property of a deceased person to contract debts or establish obligations to the injury and prejudice of the deceased's heirs, and in case the administrator or executor has so acted, he alone will be responsible with his own property for the debts and obligations contracted by him.

On the hypothesis that the testate or intestate succession of the deceased Teodoro Yulo is solely responsible and his property is liable for payment of the sum demanded in the complaint, the action exercised by the defendants, with the sole exception of the incompetent Teodoro Yulo and the minor Jose Yulo, forthwith becomes proper, for until all the debts of a deceased person are paid his undivided estate must be regarded as under administration, and only after the obligations and debts contracted by the deceased have been settled can the portion to be divided among the heirs be known. (Sec. 753, Code of Civil Procedure.)

Article 1026 of the Civil Code prescribes: "Until all the known creditors and the legatees have been paid, it shall be understood that the estate is under administration." And according to the principle laid down by the Supreme Court in a judgment of March 2, 1896, only after all the obligations of the estate have been settled can the portion to be divided among the heirs be known.

Therefore, the defendants as heirs of the deceased Teodoro Yulo, are under obligation to pay the sum demanded by Florencio Fabie, and with greater reason, since the widow and heirs who were of age took upon themselves the obligation contracted by the deceased toward the plaintiff and bound themselves to pay the debt with the interest

thereon.

In the power of attorney executed by the widow and adult children in favor of some of their own number, among these, Gregorio Yulo, it appears that the widow, Gregoria Regalado, executed it as guardian of the incompetent Teodoro Yulo, and as mother and guardian of her minor children, Concepcion and Jose, the former of whom seems to have become of age even before this suit was instituted, and the other is now represented by Mariano Yulo. Nor has Concepcion directly impugned the validity of the obligation contracted by her mother in her behalf and therefore it may be taken for granted that she has by her silence ratified the obligation to pay, jointly with her mother and brothers, the sum her father owed when he died. (Art. 1313, Civil Code.)

Even keeping in mind that the mother of said minors and incompetent could not validly represent them in the execution of the power of attorney in favor of some of her children, among these Gregorio Yulo, to contract said obligation, for the Code of Civil Procedure was already in force in the Islands, it cannot be denied that the adult executors of said power of attorney through Gregorio Yulo, as their representative, bound themselves in said instrument to acknowledge and assume the debt of their deceased father and to pay it in the manner agreed upon; and it is improper to impugn said instrument of March 23, 1904, for the sole reason that their mother was not duly authorized by law to represent their brothers and sisters, one an incompetent and the other two minors, especially when at best said incompetent and minors would not have been obligated, but the adults are perfectly bound to fulfill the obligation therein assumed, which with reference to them is absolutely valid and effective under the law.

If three days after Teodoro Yulo's death his widow and adult children realized that it was very necessary for them to continue his business in the manner he, their predecessor in interest, had carried it on and that they should administer and take charge of all his property and assume the obligations and contracts he had left, and for this purpose they ought to execute the power of attorney discussed, so that the representatives appointed, as the instrument itself says, might continue to administer and manage all the branches of their business in the same way as their deceased father had in his lifetime, might sign any kind of document in the name of the widow and children of the deceased Teodoro Yulo, lend or borrow for the best management of the business, etc., it follows that they are then under obligation to fulfill the contract in the said instrument in favor of the creditor Florencio Fabie, whom they made to believe, as they did everybody with whom they made a contract, that they were disposed to keep their agreements.

It is to be noted that up to date the property of the deceased Teodoro Yulo is still undivided and that this suit deals with a hereditary debt acknowledged and assumed by his widow and heirs. It must also be remembered that under the law their obligation to pay the sum demanded by a creditor is a joint one even though it is not so openly expressed, for he has the right to demand the whole of his credit from all or any of the heirs of the deceased debtor, they having accepted the inheritance without benefit of inventory, as well as from the minors and the incompetent up to the amount of their respective shares in the inheritance. The number of heirs of his deceased debtor is a matter of indifference to the creditor, as the debt is a single one, for which the still undivided estate is liable, and the obligation of the heirs toward the creditor is one and indivisible. The divisibility of the debt among the heirs responsible and that of the estate resulting from their common relations cannot affect the creditor's right, which existed prior to the death of Teodoro Yulo, defendants' predecessor in interest. Neither law nor reason exists to oblige the creditor to divide his action according to the number of his debtor's heirs, with the risks and expenses involved in a multiplicity of suits.

The obligation contracted by the widow and adult heirs of the deceased Teodoro Yulo in the instrument mentioned would be ineffective, with respect to the incompetent and the minor Jose Yulo, but there can be no question about the force and effect of the obligation contracted by the adults and by the representative of the

minor Concepcion Yulo, who has not since she became of age directly impugned the obligation contracted on her account by her mother, Gregoria Regalado.

Article 1085 of the Civil Code says: "The coheir who shall have paid more than pertains to his share in the inheritance, may demand his proportionate part of the others."

It is a principle of law that while lawful debts exist there cannot be a net inheritance divisible among the heirs of the deceased debtor, and therefore it cannot be denied that the lawful portions belonging, respectively, to the incompetent Teodoro, and the minor Jose Yulo, are liable and legally responsible for payment of the debt of their deceased father, Teodoro Yulo y Belleza. Nor can they receive any part of their respective lawful portions until the debts of their predecessor in interest, among these the amount demanded, have been paid up to the sum or quantity of their respective portions. Therefore, the adult heirs who with their respective shares in this inheritance may have settled in full the debt claimed, with the interest thereon, are entitled to collect what they have also paid upon the portions that belong to the incompetent Teodoro and the minor Jose, for this is a question of a lawful debt and the obligation that the adult heirs have contracted toward the creditor is undoubtedly valid and effective.

The errors assigned to the judgment appealed from are held to be refuted by these considerations, and therefore, with the express declaration that the incompetent Teodoro and the minor Jose Yulo are excluded from this decision, it is proper to affirm, as we hereby do affirm, the judgment appealed from, in all its parts, with the costs against the appellants.

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

MORELAND, J., with whom concurs Trent, J., concurring:

I agree to the judgment on the ground that the action is founded on a written agreement made by the heirs, and not on the original debt, under which written agreement neither the incompetent nor the minor is liable.

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