

**BANK OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLANT, VS.
ESTATE OF NICOLAS CARRANCEJA, DECEASED, DEFENDANT AND
APPELLEE.**

G.R. No. 8435. August 15, 1914

Ponente: MORELAND, J.

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MORELAND, J.:

By reason of certain commercial relations existing between them it was found upon making a settlement on the 31st day of May, 1902, that Nicolas Carranceja was indebted to Francisco Reyes in the sum of \$53,721.04 Mexican. Carranceja died in the pueblo of Daet in the same year the settlement was made. His widow, Josef a Pavon, continued the business relations which her husband had maintained with Francisco Reyes before his death, the business after the death of the husband being conducted in the name of the widow and children of the deceased Nicolas Carranceja. From these relations the said widow became indebted to Reyes in the sum of P6,671.18 conant.

On the 5th day of December, 1905, Francisco Reyes sold to the plaintiff in this case the claim which he held against the estate of Nicolas Carranceja. On the 31st of March the bank presented said claim to the commission on claims which had been duly named for the estate of the said Carranceja. The commissioners, on the 30th of July, 1906, disapproved the claim of the bank and the latter appealed to the Court of First Instance. On the 2d of January, 1907, the Court of First Instance affirmed the decision of the commissioners, which judgment is now final. Later the bank sued Josef a Pavon personally for the amount of the claim which it held against the estate and against her personally and obtained a judgment against her for both amounts, and on the 20th of August, 1909, sold out under said judgment her interest in the estate of her husband, the bank itself purchasing the same for the sum of P37,500. On the 31st of January, 1912, the bank petitioned the court in which the estate of Carranceja was pending to be allowed to intervene in the proceedings for the settlement of that estate in the place and stead of the widow, of whose interest therein the bank was the owner.

The appellant in this case presents, both in his printed record and in his brief, as the only error the following:

"The court erred in overruling the motion of the Bank of the Philippine Islands praying that the P45,000, or thereabouts, be made a part of the estate and that it be divided among the heirs and creditors thereof."

In the printed record appears this statement on the part of the appellant, directed to the clerk of the Supreme Court:

"In conformity with the rule of the Supreme Court, we have the honor to send herewith the only error which is alleged as the basis of the appeal in the above-entitled proceedings, and to inform you that the following documents found in the record are the only ones necessary for the determination of this appeal:

"1. The testimony of the witness Nemesio Reyes.

"2. The judgment of the Court of First Instance of the 2d of January, 1907.

"3. The order of said court of the 20th of August, 1908.

"4. The order of the 24th of August, 1909, of the same court."

From the record it appears that the judgment of the 2d of January, 1907, is one of the Court of First Instance of Ambos Camarines, Hon. Grant T. Trent presiding, which decides that "according to the evidence presented the commission had no jurisdiction to approve the claim of \$53,721.04 Mexican against this estate. This being the conclusion, it is not absolutely necessary to decide at this time whether or not the estate is responsible for all or part of the debt of P60,382.22 conant transferred by Francisco Reyes to the bank."

The order of the 20th of August, 1908, is an order entered by the same court, presided over by the same judge, approving the final account rendered by the executrix of the estate, declaring who the heirs were and their respective shares, appointing Josefa Pavon guardian of certain minors, declaring that claims not theretofore presented against the estate were barred, and naming three commissioners to divide the estate among the persons entitled thereto. This order set a date for a hearing upon the partition to be made by the commissioners therein appointed.

The order of the 24th of August, 1909, was one entered by the same court, presided over by the same judge. The questions presented on the motion in which the order was entered were stated by the judge as follows:

"1. Has the bank sufficient interest in the final settlement of this estate to authorize it to intervene in the same?

"2. Should the court approve the partition made by the commissioners?"

In reference to the first question the court in the order referred to stated:

"The judgment obtained by the bank against Josefa Pavon in the Court of First instance of Manila, was not against the widow as administratrix of the estate of her deceased husband but was against her personally. The widow still had an interest in the rights which were sold at public sale for the reason that she could have redeemed them within a year, and as administratrix and guardian of the minors she also had an interest in the partition of the property of the estate. The bank purchased at public sale and was declared the owner of all the right, title, and interest which the widow had in this estate; and I am of the opinion and decide that the bank has sufficient interest at the present time in this estate to authorize it to appear and take part in the final settlement of this estate notwithstanding the opposition of Mr. Manly, attorney for the widow who is also the administratrix and guardian of the minors."

This order after again approving the accounts rendered by the administratrix ordered a repartition of the property in accordance with the terms of the order and again set a future day upon which the partition would be brought up for a hearing.

These are the only orders presented by the appellant as the basis of its appeal.

In order to show that the appellant had no standing on this appeal, the appellee caused to be brought to this court a decision of the Court of First Instance of Ambos Camarines, Hon. P. M. Moir presiding, made and entered January 31, 1912, in which that court, following, as it believed, a decision of the Supreme Court, found that the appellant bank had no interest which warranted it in intervening in the final settlement of the estate of Carranceja, deceased, or of taking any part in the partition of the property of that estate, or of directly receiving any of such property in such partition. So far as appears of record, this order was not appealed from and was not brought to this court. It cannot, therefore, be made the basis of a decision on this appeal. That being the case, it determines adversely, so far as this appeal is concerned, the right of the bank to appear in the final settlement of the estate in question in place of Josefa Pavon, whose interest it had purchased. It can have, therefore, no interest on this appeal in the determination of whether or not the partition was properly made.

The appeal is dismissed, with costs against the appellant.

Arellano, C. J., Torres, Carson, and Araullo, JJ., concur.

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