

PAULINA SOCHAYSENG, PLAINTIFF AND APPELLEE, VS. ANDRES TBUJILLO, DEFENDANT AND APPELLANT.*G. R. No. 8926. July 24, 1915*

Ponente: ARELLANO, C.J.

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On November 14, 1911, Paulina Sochayseng filed a written complaint wherein she alleges that the defendant is the widower of her daughter, Marcela Yatco y Sochayseng; that the latter died on June 25, 1911, without leaving any legitimate heir other than the plaintiff; that her said daughter, five months prior to her death and while sick, left her husband's house, with his knowledge and consent, and removed to that of the plaintiff for the purpose of being attended by the latter during her sickness; that the attendance, care, and subsistence of Marcela Yatco, during her stay in plaintiff's house, cost the latter the sum of P410, and that upon her death, her burial expenses amounted to P320, both of which amounts were paid by plaintiff; that at the time of the death of Marcela Yatco, the conjugal partnership between her and the defendant was the owner of a piece of real estate valued at P1,000, which property is now in defendant's possession; that defendant has not paid plaintiff the whole, nor any part of the P730 which the latter expended for the purposes above specified; and that, despite the time that has elapsed since the death of Marcela Yatco, the defendant has not liquidated the affairs of the conjugal partnership. For the foregoing reasons plaintiff prayed that defendant be sentenced to pay her the sum of P730, with the costs of the suit, and, furthermore, that he be ordered to proceed with the settlement and partition of the conjugal partnership estate.

In his written answer defendant admitted all the facts alleged in the complaint, excepting those expressly or tacitly denied in his special defense. In this latter he set forth that his wife left his house without his knowledge or consent; that he requested her on several occasions to return and live with him again, but did not succeed in persuading her so to do on account of plaintiff's opposition; and that, during the time his wife was living in her mother's house, he sent her P12 a month for her support. In a cross-complaint defendant demanded that plaintiff deliver to him certain articles belonging to the conjugal partnership, valued at P615. Subsequently defendant filed an additional answer wherein he alleged that the claim for P730, presented by plaintiff, should have been made to the commissioners of appraisal appointed in the proceedings for the settlement of the intestate estate of Marcela Yatco. He therefore prayed the court to dismiss the said claim.

At trial, evidence was introduced by both parties. Among the exhibits presented by the defense appears defendant's appointment as administrator of the estate left by the deceased Marcela Yatco.

On March 11, 1912, the lower court rendered judgment in which it held that the causes of action therein set forth should have been presented in the proceedings for the administration and distribution of the estate of Marcela Yatco, and dismissed the complaint.

Plaintiff filed her exception to this ruling and moved for a new trial on the ground that the dismissal was contrary to law.

By an order of April 20, 1912, the court quashed its aforesaid ruling and directed that the defendant proceed with

the settlement of the conjugal partnership affairs in accordance with section 7, title 3, book 4 of the Civil Code. The defendant entered an exception to this order (p. 46 of the record).

On May 11, 1912, defendant filed with the court a copy of the inventory which, as administrator of the intestate estate of Marcela Yatco, he had presented in the proceedings relative to the administration and distribution of the said estate. This inventory appears on pages 12 and 13 of the bill of exceptions.

On August 2 the court ordered defendant to file an inventory of the property of the conjugal partnership in conformity with article 1419 of the Civil Code. To this ruling defendant excepted.

Complying with the aforementioned order, defendant presented the inventory and proposed settlement of the property of the conjugal partnership that appear on pages 15 to 19 of the bill of exceptions.

On December 14, 1912, the court rendered final judgment in the case wherein he held that the total value of the conjugal partnership property amounted to P1,615, and said: "From this sum of P1,615 there must first be paid the value of the property brought into the partnership by Marcela Yatco at her marriage, which, as we have seen, amounts to P1,490. Once this sum of P1,490 has been paid, there will remain of the property of the conjugal partnership only the sum of P125, and out of this the debts, charges and obligations of the conjugal partnership will be paid, in accordance with article 1422 of the Civil Code. After payment of the said debts, charges and obligations, should there still be anything left, the capital brought in by the husband at marriage shall be paid, pursuant to article 1423 of the same Code, and what remains, if any, will be the conjugal property, which shall be divided in accordance with the laws governing the subject."

Defendant excepted to this judgment and at the same time moved for a new trial on the ground that the judgment was contrary to law and openly at variance with the evidence. This motion was overruled by the court; defendant excepted thereto and, by bill of exceptions, has brought the case before the Supreme Court.

In his brief the defendant makes the following and only assignment of error: "In view of the nature of plaintiff's claim, the court erred in annulling its judgment of March 11, 1912, and in continuing the hearing thereof after pronouncing final judgment on December 14 of the same year, 1912, entirely excluding the proceedings relative to the administration of the estate left by the deceased Marcela Yatco y Sochayseng, instituted by her widower, the defendant Andres Trujillo."

The lower court did not incur such error. The matter involved is a claim for expenditures to the benefit of a married woman. During her lifetime a third person furnished her subsistence which amounted to P410 in value, and at her death defrayed her funeral and burial expenses, amounting to P320, both sums aggregating P730. The first of these debts is not a personal and exclusive one of the said married woman; it pertains to the marriage or the conjugal partnership. The widower must pay it out of the property of the conjugal partnership. Were this claim to be adjusted in the special proceedings for the settlement of the estate of this married woman, which estate is composed of the property she left at her death, her husband, now the widower-spouse, would be exempted from the payment of this debt and this would not be just, because the debt is one that lies principally against him as the legal administrator of the partnership property acquired during the marriage.

The surviving spouse is obliged upon the death of the other to settle the conjugal partnership. In this settlement a deduction should be made of the debts incurred during the marriage, and what remains should be divided into two parts, the part corresponding to the deceased spouse, together with his own property, being that which should be submitted to the probate court in the special proceedings for the settlement of the wife's estate. The decision of this court in the case of *Amancio vs. Pardo* (13 Phil. Rep., 297) is based upon this principle. It says: "When a conjugal partnership is dissolved by the death of the wife, the surviving husband, and not the judicial

administrator appointed in the proceedings for the settlement of the estate, is entitled to the possession of the property of the conjugal partnership until he has liquidated its affairs.

"It is an error to settle the affairs of a conjugal partnership, dissolved by the death of the wife, in the special proceedings for the settlement of the wife's estate."

The record shows that the property acquired during the marriage amounts to P2,603, according to the inventory presented by the husband, and to this plaintiff agrees (p. 76 of the record) ; that, in accordance with the inventory, the wife's paraphernal property is valued at P1,490 (p. 73); that plaintiff is willing that from this total a deduction be made of P615, "the value of the property which the deceased Marcela Yatco took away with her upon leaving the conjugal home" (p. 113). Hence, the paraphernal property is reduced to P875, and deducting this amount from the whole estate, worth P2,603, there remains the sum of P1,728. The law provides: "After the dowry and the parapherna of the wife have been paid, the debts, charges, and obligations of the partnership shall be paid." (Civil Code, art. 1422.)

"The conjugal partnership shall be liable for:

"5. The support of the family * * * " (Civil Code, art. 1408.)

The amount claimed for the subsistence of the deceased, amounting to P410, is of this nature. Deducting it, therefore, from the P1,728, there remains P1,318.

The law likewise provides that, with regard to the other property of the debtor, the following credits are preferred:

"2. Those due—

"(b) For the funeral expenses of the debtor * * * and also those of his wife and of his children under their parental authority should they have no property of their own." (Civil Code, art. 1924.)

As the deceased left property of her own, it is improper to deduct the P320 demanded for her funeral expenses. So, as this sum cannot be paid out of the remaining funds, which amount to P1,318, this remainder "shall constitute the assets of the conjugal-partnership." (Civil Code, art. 1424.)

It is this remainder that should be divided equally between the wife, now deceased, and the surviving husband, the share of each spouse being P659.

The important feature of this case is the part thereof which relates to the demand for the settlement of the legal conjugal partnership and the collection of a debt owed by the same. The trial court held that there was an amount payable for subsistence furnished by plaintiff to defendant's deceased wife.

This credit, which is admitted in this decision, must be paid by the defendant.

But, by the settlement made, it has been shown that, out of the property acquired during marriage, the estate of the deceased is entitled to P875 as paraphernal property and to P659 as community property, that is, to a total amount of P1,534, which forms the assets of the estate of the deceased Marcela Yatco.

This amount of P1,534 should have been claimed in the special proceedings which it appears have been commenced in the same court, as case No. 9348. This is the only hereditary property of the deceased Marcela Yatco. In these special proceedings there should be presented, if proper, the claim of P320 for the funeral

expenses of the deceased, to which preference should be given as prescribed by section 735 of the Code of Civil Procedure: "1. The necessary funeral expenses."

But of course we must not lose sight of the provision of article 1192 of the Civil Code: "Whenever the characters of creditor and debtor are merged in the same person, the obligation is extinguished."

However, as the matter involved pertains, not to probate proceedings, but to the settlement of an intestate estate in which there is only one interested party of legal age, who is the herein plaintiff; and the demand for the part of the community property to which the deceased was entitled, and for her paraphernal property, being a matter which properly pertains to an action for the settlement of the legal conjugal partnership property, apparently such demand is not allowable and it must be held that the estate of the deceased Marcela Yatco is entitled to P659, as community property, and P875, as paraphernal property, or to the total sum of p1,534. From this must be deducted the other part of the credit demanded, to wit, P320, for the funeral expenses of the said deceased, which must be paid, not by the husband, but by the heir.

In the present action final judgment should be rendered decreeing that defendant pay to the plaintiff (a) P875, as the paraphernal property of his deceased wife, Marcela Yatco; (b) P659, as her one-half of the community property; and P410, as the debt owed by him as the legal administrator of the community property for the cost of the subsistence to which the deceased was entitled, making a total of P1,944.

Plaintiff will collect the P410 under her personal right as a creditor of the defendant, like any third person who might have furnished that subsistence, and the remaining P1,534 as the legitimate heir of the deceased Marcela Yatco.

The right, if to such he is entitled, is reserved to the defendant, in his capacity of surviving widower, to bring the proper action for the share allowed him by law as legal usufructuary. As this action is not one for the partition of an inheritance, but for settlement of the community property of the marriage, no finding can be made herein with respect to such a right. We therefore conclude that we should, as we hereby do, sentence the defendant to pay to the plaintiff P1,944, without special finding as to costs. The judgment appealed from is thus modified and affirmed. So ordered.

Torres, Johnson, Carson, and Araullo, JJ., concur.

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