

44 Phil. 212

[G. R. No. 19759. December 20, 1922]

B. E. JOHANNES, PRINCIPAL ADMINISTRATOR, CARLOS D'ALMEIDA, JOHN E. JOHANNES AND IDA D'ALMEIDA, PETITIONERS AND APPELLEES, VS. ALFRED D'ALMEIDA, ANCILLARY ADMINISTRATOR, OPPONENT AND APPELLANT.

D E C I S I O N

STATEMENT

This is an appeal by the defendant from the following decision of Judge Harvey of the Court of First Instance:

“This refers to a petition presented by B. E. Johannes in his capacity as administrator appointed by the Supreme Court of Singapore, Straits Settlements, where the deceased Carmen D’Almeida resided on the date of her death, to order the delivery to him of the balance of the funds of this estate.

“The records show that the administrator has presented his final report in which it appears that he has paid all the debts and expenses of the administration and which report was approved by this court.

“It appears of record that Mr. B. E. Johannes is the lawful husband of the deceased Carmen D’Almeida Johannes and the legally appointed administrator of the estate of Carmen D’Almeida Johannes in Singapore, Straits Settlements; that the said B. E. Johannes is actually within the jurisdiction of this court and by request Of his attorney of record asks the court to direct the administrator here (the ancillary administrator) to turn over to him as the domicile administrator appointed in the residence of the deceased all the cash money, liberty bonds and Spanish shares pertaining to said estate.

“Ordinarily the court would have been justified in transmitting the funds of this estate to the probate court of the last residence of the deceased for distribution in accordance with the laws of said jurisdiction, but in this case the administrator B. E. Johannes is temporarily within this jurisdiction and asks the court, through his attorney, to deliver to him the balance of the funds of the estate in his capacity as administrator appointed by the court of the last residence of the deceased and the court is of the opinion that it is proper to deliver the funds to said administrator.

“By virtue of which, the administrator Alfred D’Almeida is authorized to withdraw the deposit slips and all the money deposited in the bank and, after payment of the corresponding inheritance tax, make delivery of same to the referred B. E. Johannes in his capacity as administrator of the estate of Carmen D’Almeida Johannes, together with the liberty bonds and Casino Español shares, and after making the delivery of the funds and the payment of the tax, administrator Alfred D’Almeida shall be relieved of his duties and responsibilities.”

The appellant contends that the court erred in considering the application of B. E. Johannes, the principal administrator, and the motion of August 25, 1922, for the reason that it was not presented within the rules of the court; in ordering the ancillary administrator to pay the inheritance tax; and in ordering him to deliver the property of the estate to B. E. Johannes, as administrator, and in denying the motion of reconsideration.

Johns, J.:

In different forms this is the third time this case has been before this court. The proceedings had their origin in the death of Carmen D’Almeida, who was then a resident of Singapore, Straits Settlements. The plaintiff B. E. Johannes, her surviving husband, was duly appointed administrator of her estate by the Supreme Court of Singapore, qualified and entered upon the discharge of his duties.

At the time of her death Carmen D’Almeida left an estate in the Philippine Islands, consisting of liquid assets of about P100,000, over which Alfred D’Almeida was appointed ancillary administrator by the Court of First Instance of Manila. It appears that the deceased left few, if any, debts or claims in the Philippine Islands, and that all of the duties of the defendant were simple, and that there was nothing to do but to comply with the formalities of law. It also appears that the administration in the Philippine Islands has been

completed, and that any and all debts and expenses of administration have been paid, and that the only remaining thing to be done is to turn over the remaining assets to someone that is legally authorized to receive them. Apparently, about the only question involved on this appeal is as to whether the defendant should turn over the assets in Manila, or whether they should be forwarded to the Supreme Court of Singapore for distribution.

The record is conclusive that the plaintiff is the surviving husband of Carmen D'Almeida, and in the absence of any will, it is very apparent that, under the laws of Singapore, as such, he is entitled to have and receive all the proceeds of her estate. The defendant is a resident of the Philippine Islands, and claims or asserts that he is an heir of the deceased and is entitled to share in the distribution of the estate.

Be that as it may, that question is not before this court, and under the law and the decisions of this court, after the administration has been completed, it is the duty of the defendant to deliver the assets to the plaintiff as domiciliary administrator of the Supreme Court of Singapore, and, in legal effect, that was the decision of the Court of First Instance.

It is the inherent duty of courts to protect property rights of its own citizens in so far as it can legally be done.

The record before us clearly indicates that the defendant Alfred D'Almeida is not an heir of Carmen D'Almeida, and is not entitled to share in her estate. But no harm or injustice will be done in retaining a sufficient amount of the assets of the estate in *custodia legis* within the Philippine Islands pending a final decision of the question as to whether or not he is entitled to share in the estate. To that extent and for that purpose, the decision of the lower court will be modified, so that P40,000 of the estate of the deceased now within the jurisdiction of the Philippine Islands shall be and remain here in *custodia legis* pending the final decision as to who is entitled to share in the estate of the deceased Carmen D'Almeida, and subject to the control and jurisdiction of the Court of First Instance in which the probate proceedings were instituted. Such money to be placed as a special deposit in some good bank in the city of Manila to be selected by the Judge presiding over the probate proceedings in the city of Manila, and to remain there subject to the approval and order of such Judge. The bank so selected shall receipt the defendant for the money, and such receipt shall be a full and complete voucher to the defendant for that amount in the settlement of the estate. It is further ordered that at any time pending the final decision of such heirship when the plaintiff shall file a good bond to be approved by the Judge presiding in the branch of the Court of First Instance to which probate matters are assigned, that he

shall then be entitled to have and receive any and all of the proceeds of the estate. In all other things and respects the decision of the lower court is affirmed, with costs in favor of the plaintiffs, and the defendant is peremptorily ordered to turn over and deliver all other assets to the plaintiff, as the principal administrator of Carmen D'Almeida, or his order. So ordered.

Araullo, C. J., Street, Malcolm, Avanceña, Villamor, Ostrand, and Romualdez, JJ., concur.

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