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FIRST DIVISION

[G.R. No. L-38268. May 31, 1979]

EMPIRE INSURANCE COMPANY, *plaintiff-petitioner,* *vs.* **REMEDIOS S. RUFINO, MERCEDES RUFINO ROXAS, MARIA PAZ RUFINO LAUREL, MARIA AUXILIO RUFINO PRIETO, MARIA SOCORRO RUFINO CARPO, MACARIO S. RUFINO, CARLOS S. RUFINO and SUNVAR, INC.,** *defendants-respondents.*

SYLLABUS

1. **REMEDIAL LAW; SPECIAL PROCEEDINGS; SETTLEMENT OF ESTATE; CLAIMS AGAINST ESTATE; DOES NOT INCLUDE CLAIMS AGAINST HEIRS IN THEIR PERSONAL CAPACITY.** — Where the allegations of the complaint show that the cause of action is based of the undertaking of the heirs in the partition agreement to assume and pay for the outstanding obligations of the decedent, it was held that the claim is not against the estate of the decedent but against the heirs themselves in their personal capacity, and therefore the action was properly prosecuted in an ordinary action and within the jurisdiction of an ordinary court.

2. **ID.; ID.; ID.; FAILURE TO FILE CLAIM, EFFECT.** — Failure of a creditor to file money claim against the decedent in the intestate proceedings within the period fixed in the notice of the creditors, bars forever said creditor from prosecuting any claim against the estate of the decedent. (Secs. 5 and 9, Rule 86).

3. **CIVIL LAW; CONTRACTS; INTERPRETATION OF; RULE.** — In the construction of an instrument, the intention of the parties is to be pursued; and when a general and a particular provision are inconsistent, the latter is paramount to the former. So, a particular intent will control a general one that is inconsistent, with it (Sec. 10, Rule 130). However general the terms of a contract may be, they shall not be understood to comprehend things that are distinct and cases that are different from those upon which the parties intended to agree (Art. 1372, Civil Code). The various stipulations of a contract shall be interpreted

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together, attributing to the doubtful ones the sense which may result from all of them taken jointly. (Art. 1374, Civil Code)

4. **ID.; ID.; *EXPRESSIO UNIUS EST EXCLUSIO ALTERIUS*; APPLICATION.** — Where the heirs in one paragraph of the partition agreement stipulated that they assume the decedent's outstanding obligations and liabilities "which are mentioned in the Inventory" attached to the partition agreement, the phrase "all liability or obligations of the decedent," used in other paragraphs of the agreement should be restricted only to those listed in the Inventory and should not be construed as to comprehend all other obligations of the decedent. In other words, the enumeration in the inventory of the liabilities or obligations of the decedent expressly aknowledged by the heirs and the payment of which had been assumed by them, implied the exclusion of all others. *Expressio unius est exclusio alterius.*

5. **ID.; ID.; ID.; APPLIED TO CONTRACTS.** — Under the maxim *expressio unius est exclusio alterius*, which although more frequently applied in the construction of statutes, is also applicable in the construction of contracts, the expression in a contract of one or more things of a class implies the exclusion of all not expressed, even though all would have been implied had none been expressed.

6. **ID.; ID.; PARTICULARIZATION FOLLOWED BY A GENERAL EXPRESSION; RULE; APPLICATION.** — The rule that "particularization followed by a general expression will ordinarily be restricted to the former" is based on the fact, in human experience, that usually the minds of parties are addressed specifically to the particularization, and that the generalities, though broad enough, are used in contemplation of that upon which the minds of the parties are concerned.

APPEARANCES OF COUNSEL

Ferrer & Ranada for plaintiff-petitioner.
Perfecto S. Reyes and M. M. Roxas for defendants-respondents.

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DECISION

MELENCIO HERRERA, *J.*:

This is a Petition for Review on *Certiorari* of the Order of the Court of First Instance of Rizal (Branch XXI, Pasig) in Civil Case No. 17660, dated October 26, 1973, ordering the dismissal of the case and the cancellation of the notice of *lis pendens* annotated on Transfer Certificates of Title Nos. 348739, 348742, 348738, 397876, 397877 and 397878 of the Registry of the Province of Rizal.

The factual background to this controversy is as follows:

On April 20, 1970, Vicente A. Rufino died intestate, survived by herein respondents, namely: his widow, Remedios S. Rufino, and children Mercedes Rufino Roxas, Maria Paz Rufino Laurel, Maria Auxilio Rufino Prieto, Maria Socorro Rufino Carpo, Macario S. Rufino and Carlos S. Rufino. On May 29, 1970, respondents instituted Special Proceedings No. 59-M (5934), entitled "*Intestate Estate of the late Vicente A. Rufino,*" before the Court of First Instance of Rizal (Branch XV, Makati). A period of six months, counted from September 18, 1970, date of the first publication of notice to creditors, was fixed within which creditors of the deceased could file their claims against the estate. The six month period expired without any creditor having filed any claim against the estate.

On April 12, 1971, respondents executed a Partition Agreement, to which was attached an Inventory of Properties and Estate Liabilities and/or Obligations, the pertinent provisions of which read:

"4. That although no claim against the decedent's estate have been formally filed in these proceedings, the undersigned heirs are fully aware that the decedent left obligations and liabilities which are mentioned in the Inventory, the payment of which is assumed by the decedent's heirs in the manner hereinafter stated.

"5. That pursuant to pertinent provisions of the Civil Code, the decedent's legal heirs have agreed, and do hereby agree, that the entire estate left by the decedent be distributed among, and adjudicated to, his above-named legal heirs on the following bases:

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xxx xxx xxx

(c) All the liabilities or obligations of the decedent, which were incurred during his marriage and redounded to the benefit of the family, shall be borne and paid by the said heirs in proportion to their shares in the conjugal partnership properties.

xxx xxx xxx

"7. That in accordance with the bases of distribution set forth in paragraph 5 hereof, the properties left by the decedent, and listed in the Inventory, Annex 'A', are hereby adjudicated and distributed as follows:

xxx xxx xxx

(d) All the outstanding liabilities or obligations of the decedent, except the one assumed by the heirs Macario S. Rufino and Carlos S. Rufino are hereby assumed by all the legal heirs of the decedent in the proportion of their shares in the conjugal partnership properties established in sub-paragraph (b) hereof."

The Inventory of Estate Liabilities and/or Obligations attached to the Partition Agreement listed the following

"*CLAIMS AGAINST THE ESTATE:*

Security Bank & Trust Company,	₱1,563,485.29
Merchants Banking Corporation,	100,000.00
Investments & Marketing Associates, Inc.	220,000.00
Sunvar, Incorporated,	485,880.00
Heirs of M. Rufino, Inc.,	360,000.00
Luzon Theatres, Inc.,	7,500.00
Mrs. Mercedez R. Roxas,	300,000.00
Dr. Panfilo Castro,	33,000.00
Lincoln National Life Insurance Co. ($17,000.00 at P6.20),	105,400.00
Philippine Banking Corporation,	2,300,000.00
TOTAL CLAIMS AGAINST THE ESTATE, APRIL 29, 1970,	₱5,475,265.29"[1]

[1] Annex "A", Partition Agreement, p. 42, *Rollo*.

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The Partition Agreement was approved by the trial Court in Order dated April 19, 1971.

On May 14, 1971, respondents filed a Petition to Declare Proceedings Terminated alleging that the estate and inheritance taxes had already been fully paid and that they had received their respective shares in the estate of the late Vicente A. Rufino in accordance with the Partition Agreement. In an Order issued on the same date, the trial Court declared the proceedings closed and terminated.

On April 17, 1973, petitioner filed Civil Case No. 17660 against respondents based allegedly on the latter's undertaking in the Partition Agreement to assume and pay all the outstanding liabilities and obligations of the late Vicente A. Rufino. Petitioner claimed that sometime in January, 1965, Commercial Metals, Inc., a domestic corporation of which the late Vicente A. Rufino was a director, imported machinery for a "one-way system hot dip tinning plant"; that it (petitioner) issued a surety bond, on June 28, 1965, on behalf of Commercial Metals, Inc. in the sum of ₱505,816.50 in favor of the Republic of the Philippines; that it issued the surety bond on the strength of an indemnity agreement signed by the late Vicente A. Rufino, jointly and severally with Arsenio Laurel; that Commercial Metals, Inc. then withdrew its imported machinery from the Bureau of Customs under said surety bond without payment of taxes, duties and fees pending action by the Board of Industries on the corporation's application for tax exemption and privilege under Republic Act No. 3127; that on March 7, 1973, it received formal notice from the Bureau of Customs that the petition of Commercial Metals, Inc. for tax exemption was denied and demanding payment of the full face amount of the surety bond; and that it wrote Commercial Metals, Inc. and the estate of the late Vicente A. Rufino concerning the demand against its surety bond. Respondent Sunvar, Inc. was impleaded as party defendant in said case allegedly because some of the properties received by respondents from the estate of the late Vicente A. Rufino had been transferred to said corporation. Petitioner then prayed for the payment by respondents, to the full extent of their respective shares in the estate of the late Vicente A. Rufino, of the sums of ₱505,816.50

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representing the demand of the Government against its surety bond with interest thereon at 12% per annum from March 9, 1973; ₱21,803.61 as accrued or accumulated premiums and stamps on the surety bond plus further accruing premiums and stamps of ₱3,127.83 annually from June 28, 1973; and ₱100,000.00 as and for attorney's fees.

In their Answer to the Complaint, respondents raised the affirmative defenses that the trial Court had no jurisdiction on the ground that petitioner's claim should have been submitted and prosecuted in the intestate proceedings of the late Vicente A. Rufino, and that petitioner had no cause of action against them as whatever claim it had was against the estate of the decedent. Respondents likewise sought the cancellation of the notice of *lis pendens* caused to be annotated by petitioner on the certificates of title covering the properties received by them from the estate of the late Vicente A. Rufino.

On October 26, 1973, the trial Court issued an Order dismissing the case on the grounds that the Court that took cognizance of the settlement of the estate of the late Vicente A. Rufino was the one that had jurisdiction over the case and that petitioner's claim was barred, pursuant to Section 5, Rule 86 of the Rules of Court, not having been filed within the time limited in the notice to creditors in the intestate proceedings. The trial Court likewise ordered the cancellation of the notice of *lis pendens* annotated on Transfer Certificates of Title Nos. 348739, 348742, 348738, 397876, 397877 and 397878 of the Registry of the Province of Rizal.

Its Motion for Reconsideration of the above Order having been denied, petitioner filed the instant Petition, which was given due course in a Resolution dated May 5, 1974.

Petitioner argues that the trial Court erred in concluding that its claim is purely a money claim against the estate of the late Vicente A. Rufino, which should have been presented in the intestate proceedings. It urges that its cause of action is to hold respondents to their undertaking in the Partition Agreement to assume and pay for all the obligations and liabilities of the late Vicente A. Rufino, which may be prosecuted in an ordinary suit.

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On this point, we agree with petitioner that its cause of action is not a money claim against the estate of the late Vicente A. Rufino. It is clear from the allegations of the Complaint that petitioner's cause of action is based on what it believed was respondents' undertaking in the Partition Agreement to assume and pay for all the outstanding liabilities and obligations of the decedent, whether listed in the Inventory of Estate Liabilities or not, in proportion to their respective shares in the estate. In other words, petitioner's claim is not against the estate of the late Vicente A. Rufino but against respondents themselves in their personal capacity. In which case, it was properly prosecuted in an ordinary action and was within the jurisdiction of the Court *a quo*.

The next issue to resolve is whether the indemnity agreement executed in favor of petitioner by the late Vicente A. Rufino, jointly and severally with his son-in-law, Arsenio Laurel, who predeceased him, is one of those obligations and liabilities of the decedent assumed by respondents under their Partition Agreement.

Admittedly, petitioner's claim is not listed in the Inventory of Properties and Estate Liabilities and Obligations of the late Vicente A. Rufino, attached to the Partition Agreement, as one of the obligations acknowledged by respondents to have been left by the decedent and the payment of which had been assumed by them. However, petitioner argues that inasmuch as paragraphs 5(c) and 7(d) of the Partition Agreement, hereinabove quoted, providing for the assumption by respondents of all liabilities or obligations of the late Vicente A. Rufino, omitted any reference to the Inventory in paragraph 4 thereof, those paragraphs were meant to include all other liabilities and obligations of the decedent although not so listed in said Inventory. Respondents, on the other hand, counter that the liabilities and obligations mentioned in paragraphs 5(c) and 7(d) of the Partition Agreement should be restricted only to those liabilities or obligations of the decedent listed in the Inventory, as adverted to in paragraph 4 of said Agreement, and that said paragraphs 5(c) and 7(d) merely define the extent and proportion by which they assumed the decedent's obligations.

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Section 10, Rule 130 of the Rules of Court provides as follows:

"Interpretation according to intention; general and particular provisions. — In the construction of an instrument, the intention of the parties is to be pursued; and when a general and a particular provision are inconsistent, the latter is paramount to the former. So a particular intent will control a general one that is inconsistent with it."

Likewise, Article 1372 of the Civil Code stipulates that "however general the terms of a contract may be, they shall not be understood to comprehend things that are distinct and cases that are different from those upon which the parties intended to agree." Similarly, Article 1374 of the same Code provides that "the various stipulations of a contract shall be interpreted together, attributing to the doubtful ones that sense which may result from all of them taken jointly."

There is no dispute that no claims were filed in the intestate proceedings of the late Vicente A. Rufino within the period fixed in the notice of creditors. Petitioner failed to file its claim even as a contingent claim in consonance with Section 9, Rule 86 of the Rules of Court. Legally speaking, therefore, all creditors of the late Vicente A. Rufino are forever barred from prosecuting any claim against the estate of the decedent, pursuant to Section 5, Rule 86 of the Rules of Court. Nevertheless, respondents, aware that the decedent did leave obligations and liabilities, the existence of which they acknowledged and enumerated in the Inventory attached to the Partition Agreement, personally assumed payment of the same in proportion to their shares in the estate of the decedent. It is thus clear that respondents intended to assume only those obligations of the late Vicente A. Rufino which they acknowledged and enumerated in the Inventory. Thus, they specified:

"4. That although no claim against the decedent's estate have been formally filed in these proceedings, the undersigned heirs are fully aware that the decedent left obligations and liabilities which are mentioned in the Inventory, the payment of which is assumed by the decedent's heirs in the manner hereinafter stated."

Consequently, the phrase "all liabilities or obligations of the decedent" used in paragraphs 5(c) and 7(d) should be then

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restricted only to those listed in the Inventory and should not be construed as to comprehend all other obligations of the decedent. The rule that particularization followed by a general expression will ordinarily be restricted to the former" is based on the fact in human experience that usually the minds of parties are addressed specially to the particularization, and that the generalities, though broad enough to comprehend other fields if they stood alone, are used in contemplation of that upon which the minds of the parties are centered.[2] Two other words, the enumeration in the Inventory of the liabilities or obligations of the late Vicente A. Rufino, expressly acknowledged by respondents and the payment of which had been assumed by them, implied the exclusion of all others. *Expressio unius est exclusio alterius.*

"Under the maxim '*expressio unius est exclusio alterius*,' which, although more frequently applied in the construction of statutes, x x x is also applicable in the construction of contracts, the expression in a contract of one or more things of a class implies the exclusion of all not expressed, even though all would have been implied had none been expressed."[3]

Moreover, considering that the respondents themselves had assumed the obligation of answering to creditors for the debts and obligations of the late Vicente A. Rufino, it is but just that they should be bound only by the exact terms of their promise.

"It is evident that in no contract may a contracting party be obligated to more than what he has really bound himself and that the contract should not to construed as including things and cases different from those with respect to which the persons interested intended to contract. (Art. 1283, now Art. 1372, Civil Code)"[4]

Petitioner's claim not having been expressly included among the obligations of the late Vicente A. Rufino expressly assumed

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[2] *Hoffman vs. Eastern Wisconsin R., etc., Co.*, 134 Wis. 603, 607; 115 NW 383, cited in Francisco, *Revised Rules of Court (Evidence)*, 1973 ed., pp. 180-181.

[3] 17A C.J.S. 172, s 312.

[4] *Sabalvaro vs. Erlanger & Galinger, Inc.*, 64 Phil 588, 595 (1937).

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by respondent, as listed in the Inventory, it may not therefore, hold respondents personally liable on their undertaking in the Partition Agreement.

WHEREFORE, the instant Petition is hereby dismissed for lack of merit.

Costs against petitioner.

SO ORDERED.

Teehankee (Chairman), Makasiar, Fernandez, Guerrero, and *de Castro, JJ.*, concur.

FIRST DIVISION

[G.R. No. L-41813. May 31, 1979]

SALUD N. CARREON, *petitioner, vs.* **WORKMEN'S COMPENSATION COMMISSION, PILAR G. VDA. DE TAÑO, for herself and in behalf of the minors, NENITA, ELMAR and REBECCA, all surnamed TAÑO,** *respondents.*

SYLLABUS

LABOR AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION; ABSENCE OF EMPLOYER-EMPLOYEE RELATIONSHIP HINDERS CLAIM FOR DEATH BENEFIT. — Where it appears that the person against whom a death benefit claim is filed is not the employer of the deceased, said person is not liable on the claim.

APPEARANCES OF COUNSEL

Francisco Carreon for petitioner.
Servando S. Timbol, Jr. for private respondents.
Emilia E. Andres for respondent WCC.