

[ G.R. No. 1388. March 05, 1904 ]

**SILVERIO PAGUIA FERNANDO, PLAINTIFF AND APPELLEE, VS. PACIFICO SANTOS VILLALON ET AL., DEFENDANTS AND APPELLANTS.**

**D E C I S I O N**

**TORRES, J.:**

In a petition dated March 11, 1902, the plaintiff, Silverio Paguia Fernando, prayed that the defendants be required to make delivery of a will alleged to have been executed by the late Lucia Villalon, in order that the same might be annulled; that judgment be rendered against the defendants declaring the said will null and void; that the estate of the deceased be administered according to law, and that plaintiff have judgment against the defendants for the costs. To this effect he alleged that on the 7th of August, 1899, the said Lucia Villalon, the widow of the late Perfecto Bunag, of whom she was the lawful heir, died in the town of Bulacan; that the said Lucia Villalon died intestate, leaving no descendants or ascendants, lawful or natural, brothers, nephews, husband, or other collateral relatives, with the exception of the plaintiff, who was a first cousin of the deceased and the only heir to the estate; that Pacifico Santos Villalon was appointed by the court on the 23d of September, 1901, as administrator of the estate of the late Victoriano Villalon, who died on the 2d of September, 1900; that the said Victoriano Villalon, deceased, pretended that the property of said Lucia Villalon had been bequeathed to him by means of a holographic will which he alleged had been written in her own handwriting by the said Lucia Villalon in the barrio of Bagumbayan of the town of Malolos on the 25th of March, 1899; that the said alleged will was false, and was not executed or written by the said Lucia Villalon; that on the 26th of March, 1900, said holographic will was filed in the office of the notary, Don Genaro Heredia, in Manila; that the late Victoriano Villalon left four children, to wit: Augusto, Patrocinia, Teofilo, and Rosalio Villalon, from whom the plaintiff claimed the

property left by the said Lucia Villalon as heirs of Victoriano Villalon, deceased, by virtue of the holographic Avill alleged to have been executed by the said Lucia Villalon in favor of their late father.

The holographic will, written in Tagalog, a translation into Spanish whereof appears in the complaint, reads as follows :

“In the barrio of Bagumbayan, Bulacan, the 25th of March, 1899, I, Lucia Villalon, of this vicinity, 60 years of age, more or less, widow of Perfecto Bunag, and legitimate daughter of Paulino and Brigida Mataranos, fearing that the closed will which I executed on the 16th of this month may be destroyed or lost, have endeavored to write this present one in witness of the fact that of all the property I may leave, I institute as my heir my cousin, Victoriano Villalon, of Mariquina, or his six children, amongst whom is Augusto, to whose good conscience I leave the fulfillment of my charges in regard to the images of my saints, masses, and alms to the poor of any place whom he may deem worthy, since I have no forced heirs or even brothers. In witness whereof I sign.”

On the 22d of June, 1902, the defendants made reply, first, that as to the facts alleged in paragraph 1 of the complaint, they denied that Lucia Villalon was the legal heir of Perfecto Bunag; that as to the allegations of the second paragraph they denied that Lucia Villalon had died intestate, because she had made a will twice, and denied likewise that the plaintiff was the first cousin and heir of the testatrix; that as to the third paragraph they denied that the defendant Pacifico Santos had been appointed administrator of the property of the late Victoriano Villaon, because the court had made delivery to him of the said property to which he was entitled by virtue of the will above referred to; that they specially denied that said holographic will was false, and alleged that it was written by the testatrix herself as her last will and testament; that they could not make delivery of the said will because the original was filed in the public archives and could not be withdrawn therefrom except by order of a court. The defendants also objected to any change in the administration of the property of the testatrix, alleging that it was being administered in accordance with law, praying that judgment be entered in their favor, declaring said will valid, for judgment against the plaintiff for the

costs, and for any other further relief as to which they might be entitled.

In this case the validity or invalidity of a holographic will is involved, and it is evident that of the four facts discussed in the litigation, the one which is to determine the result of the action is the second of said facts, which is the only real issue, the other facts found in the decision appealed from being merely secondary.

Article 688 of the Civil Code, under which the holographic will appears to have been executed, provides among other things the following: "In order that this will may be valid it must be drafted on stamped paper corresponding to the year of its execution, and be written in its entirety and signed by the testator, giving the year, month, and day of its execution."

One of the guaranties of the authenticity of a holographic will is that the same should be in its entirety written by the testator and signed by him, it not being permissible to intrust to another person the drafting or material operation of writing it out, because in such an event there would be lacking the basis for identifying the writing and signature of the will as those of the testator by comparison with other genuine specimens of his handwriting, which is the reason for this essential formality, since it is easier to forge the signature of the testator than the whole text of the will.

It is therefore an indispensable condition that the holographic will shall be written in its entirety by the person who executes the same, that it be wholly autographic, as this constitutes an efficient guaranty against all falsifications or alterations in the will of the testator.

The so-called heir, Victoriano Villalon, on the 8th of March, 1900, presented the original will of the late Lucia Villalon to the Judge of First Instance of the district of Tondo, who was authorized by the military government, as per communication on the 14th of said month from the Chief Justice of the former *Audiencia*, to take cognizance of the probate of said holographic will, as if he were the judge of the locality. The said judge proceeded to take the evidence required by the law, and examined three witnesses, all of whom affirmed that the handwriting and signature of said will were those of the late Lucia Villalon, and that they were satisfied beyond a reasonable doubt that the will

was written and signed by her. Thereupon, by an order of the 24th of said month of March, 1900, it was ordered that the said will be filed in the office of the notary public, Señor Genaro Heredia, in conformity with the provisions of articles 688 to 693 of the Civil Code.

During the trial of this action no document has been introduced written in its entirety and signed by the alleged testatrix, Lucia Villalon. All the documents and letters exhibited by the parties appear written by other persons, and only signed by Lucia Villalon. The four-line note, written on the back of the document which appears at page 102 of the record, is the only document which, by reason of its conciseness, may have been written by the said Villalon, who signed the same, but this can not be regarded as a matter of certainty, since the hand in which the note is written bears no similarity in outlines or general appearance to the letters which appear in the signature at the end of the note.

Enoc Guansing, one of the three witnesses who testified before the judge of the District of Tondo as to the authenticity of the holographic will in question, upon being examined during the trial, stated (bill of exceptions, p. 71) that he knew the testatrix and that he had been the lessee of a fish pond which had belonged to her; that he knew that Lucia Villalon had executed a will, because he had been one of the witnesses to the filing of the same in Manila; that he knew the handwriting of the testatrix, because he had in his possession documents signed by her, which he exhibited, and which were admitted without objection by the plaintiff (bill of exceptions, p. 72).

Lorenzo Salvador, Leoncio Barcelon, Isabelo Pineda, and Claudio Galves, witnesses for the plaintiff, testified to the contrary. Salvador said that he knew the signature of Lucia Villalon, because he had frequently seen receipts signed by her, some of which he had in his possession; that he was a relative of the deceased; that neither the writing nor the signature of the will, exhibited by the notary, Heredia, and which was shown to the witness, were those of Lucia Villalon; that the latter was unable to write a long document, as she only knew how to write her name and nothing more; that the signatures on documents marked 2 and 3, were the genuine signatures of the late Lucia Villalon, but that the signature attached to document No.4 was not genuine. Leoncio Barcelon testified that he knew the late Lucia Villalon, who, during her lifetime, could hardly

write her own name; he identified as genuine the signatures which appear on documents marked 3, 4, 6, and 7, and said that he had dealt with the deceased frequently and had seen her write many times. Isabelo Pineda stated that he had known Lucia Villalon for twenty years, and that during her lifetime she could hardly write her name—that he did not know whether she was able to write anything more than her name. Claudio Galves testified that he knew Lucia Villalon during her lifetime, and had had dealings with her. He stated that he understood that she was only able to write her name, and testified that the signature which appeared in document No. 6 was that of the testatrix, adding that on the three occasions on which he had seen her sign he observed that she did so with difficulty.

In view of this testimony this court decided to send for the protocol wherein the original holographic will, alleged to have been executed by the late Lucia Villalon, was filed, as well as the original court records containing documents and letters with the genuine signature of the deceased. Said protocol, having been received in the office of the clerk, with the holographic will and the original record, sent up by the court of Bulacan, a comparison was made of the signature and writing which appear in the will with the signature and writing in the original documents filed in the record, which both parties accept as genuine, special attention being paid to the signatures to the three letters of the late Lucia Villalon which appear on folios 74, 75, and 76, of the original record, transcribed at folios 49 and 51 of the bill of exceptions. From this examination, which was made by each one of the seven members of the court, the conclusion is reached that the writing and signature of the said will bear no resemblance to the genuine writing and signature of the late Lucia Villalon. The outlines of said signatures, which appear in documents of undisputed authenticity, are quite different.

Therefore the court is convinced that said will was not written or signed by the late Lucia Villalon, as provided by law, and consequently that it is not proper to treat said document which was filed in the protocol as an autographic will of the alleged testatrix, and that it is not proper to admit the said document as a holographic will capable of producing legal effects with respect to the descent of the estate of the deceased.

This conclusion is a logical consequence reached from an examination of the

alleged will of the late Lucia Villalon, and of various indisputable signatures of Lucia Villalon which appear on various authentic documents exhibited by the parties, as well as from the result of the evidence adduced by both parties as to the ability of the deceased during her lifetime to write or sign. Four witnesses presented by the plaintiff affirmed that they knew the late Lucia Villalon and testified that she was only accustomed to write her name when signing documents, some testifying that she could hardly write her name, others adding that they did not know whether she was able to write anything more. One of the four witnesses mentioned likewise stated that neither the writing nor the signature which appear in the document filed in the protocol, alleged to be the will of the late Lucia Villalon, was hers, alleging that the deceased was unable to write a long document. This appears to be true in view of the fact that the party interested in upholding the will was unable to present any document or letter written by the alleged testatrix, and succeeded only in exhibiting a few documents and letters upon which appear only the signature of the late Lucia Villalon.

Only one witness, Enoc Guansing—one of the three who testified before the judge of Tondo, and who then identified the writing and signature of the alleged will—testifies as to the authenticity of said will, adding that he knew the writing of the deceased because he had in his possession documents signed by her, and produced said documents. But this testimony can not overcome the weight of the opposing evidence or bring about a different conviction from that already mentioned or change our conclusion that the document filed in the protocol, alleged to be a holographic will, was not written and signed in its entirety by the late Lucia Villalon. Moreover, even taking it for granted that the signature of the alleged holographic will is authentic, it is still invalid because it does not appear that it was written in its entirety by the testatrix, Lucia Villalon.

After what has been stated, it is almost useless to take up the three remaining facts which have been contested and appear set forth in the decision appealed from. They are as follows:

First. That the testatrix was not in the town of Bulacan on the 25th of March, 1899, the date of the execution of said will;

Second. That in the same the alleged testatrix declares herself to be the daughter of Brigida Mataranos, when her mother's name was Brigida Santa Maria, and

Third. That the will has not been drafted on stamped paper but on paper bearing the stamp of the Philippine Government, which never had a legal existence.

Apart from the fact that this last circumstance as to the kind of paper used might, perhaps, not authorize the annulment of the will the evidence adduced by the parties does not show conclusively the truth of the first two facts above stated, and for this reason, without giving any weight as did the trial court to the contradictory statements made by the witness Eugenio Pagua, we find that the said document found in the protocol is not the holographic will of Lucia Villalon, that it was not executed, written, or signed by her, and consequently, it being null and void, her estate descended by operation of law to her legal heirs, who are in consequence entitled to take the property left by her.

For the reasons stated the judgment of the court below is affirmed, with the costs to the appellant.

Judgment will be entered accordingly twenty days from the filing of this decision and the case remanded to the lower court for compliance therewith. So ordered.

*Arellano, C. J., Cooper, Willard, Mapa, McDonough, and Johnson, JJ., concur.*