

81 Phil. 373

[ G.R. No. L-576. August 04, 1948 ]

**INTESTATE ESTATE OF THE SPOUSES ANGELA JOAQUIN AND JOAQUIN NAVARRO, DECEASED.  
RAMON JOAQUIN, PETITIONER AND APPELLEE, VS. ANTONIO NAVARRO Y CASTRO, OPPOSITOR AND APPELLANT.**

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

**PARAS, J.:**

This is an appeal by the oppositor from an order of the Court of First Instance of Manila appointing the petitioner as administrator of the intestate estate of the spouses Angela Joaquin and Joaquin Navarro

Counsel for the petitioner presented In evidence Exhibit "3", a certificate of the cleric of Court of First Instance of Manila containing entries appearing in the probate docket of said court to the effect that in 1910 Ramon Jose Joaquin y Patricio was decreed to be the adopted son of Joaquin Navarro and Angela Joaquin, and that his name was ordered changed to Ramon Jose Navarro y Joaquin. Counsel for the oppositor- appellant did not object to Exhibit "B", but it is now contended, under the first assignment of error, that there is no proof tending to show that the 'petitioner is che same person mentioned in said exhibit, especially when the name used by him in the case at bar is Ramon Joaquin. This point has, however, been satisfactorily explained by petitioner's counsel who stated that after the adoption of the petitioner, the latter continued to use his old name "Ramon Joaquin" because the adopted name "Ramon Navarro" had often elicited jokes in view of its analogy to the name of a popular actor Ramon Navarro, and that, as a matter of fact, the petitioner filed a petition in the court of first Instance of Manila for a change of his name from Ramon Jose Navarro to Ramon Joaquin, the name used in the case at bar, which petition had already been granted.

The decisive argument of the oppositor-appellant is that advanced by his counsel in the third assignment of error, namely, that even assuming the existence of the decree of petitioner's adoption, the same is null and void, for the reason that the adoptive parents (Angela Joaquin and Joaquin Navarro) admittedly had a legitimate son in the person of the appellant. In this connection, the latter invokes Article 174 of the Civil Code prohibiting those having legitimate or legitimated descendants from adopting another. The question that here arises is whether, as contended by counsel for petitioner, the provisions of the Civil Code relating to adoption had been replaced and repealed by the corresponding provisions of the Code of Civil Procedure which do not contain the prohibition specified by Article 174 of the Civil code. This question, unluckily for the appellant, has heretofore been answered by this Court in the affirmative in the case of *In re*, adoption of Emiliano Guzman,<sup>[1]</sup> decided June 30, 1941, 40 Off.

Gaz., No. 10, p. 2083, in which the following pronouncement was made:

"appellants argue, however, that the provisions of Article 178 of the Civil Code, which impliedly sanctions the adoption of a person of age, cannot be deemed repealed by the provisions of the Code of Civil Procedure. It will be noted that Chapter XII of the Code of Civil Procedure appears to be a complete enactment on the subject of adoption, and may thus be regarded as the expression of the whole law thereon. So viewed, that chapter must be deemed to have repealed the provisions of the Civil Code on the matter. While, as a general rule, implied repeal of a former statute by a later one is not favored, yet if the later act covers the whole subject of the earlier one and is clearly intended as a substitute it will operate similarly as a repeal of the earlier.'

(*Posadas vs. National City Bank of New York*, 296 U.S., 497, 80 Law ed., 351.)" No sufficient reason has here been adduced justifying the reversal of this pronouncement .

Appellant in his memorandum further claims that even under the code of Civil Procedure petitioner's adoption is null and void, because section 766, which provides that "any inhabitant of the Philippine Islands being the husband of any woman who has a minor child by a former husband, may petition the Court of First Instance of she Province in which he resides for leave to adopt such minor child," evidently limits the right of the stepfather to adopt to a legitimate minor child; and that since the petitioner is admittedly a natural child of

Angela Joaquin, his adoption by Joaquin Navarro is illegal. There can be no doubt that section 766 refers only to the adoption of a legitimate minor child but it does not operate as a prohibition for the adoption by a husband and wife jointly of the latter's illegitimate minor child which is clearly permissible under the general provision of section 765 providing that "an inhabitant of the Philippine Islands, not married, or a husband and wife jointly, may petition the Court of a First Instance of the province in which they reside for leave to adopt a minor child." Moreover, that an illegitimate child may be adopted is clearly indicated by section 769 which generally ordains that "if the child to be adopted is illegitimate the consent of his father to the adoption shall not be required."

Having come to the conclusion that petitioner's adoption is valid under the Code of Civil Procedure, we do not need to discuss appellant's third assignment of error which refers to the right of the petitioner to present evidence tending to show relationship to Angela Joaquin other than his adoption; the fourth assignment of error which assails the ruling of the lower court to the effect that the validity of the decree of adoption cannot be impeached in the case at bar; and the fifth assignment under which the appellant maintains that the lower court erred in appointing the petitioner as administrator, it appearing that opposition to petitioner's appointment is principally based on the ground that the petitioner is not an adopted son of the deceased Angela Joaquin and Joaquin Navarro.

Wherefore, the appealed order is hereby affirmed, with costs against the appellant. So ordered.

*Feria, Pablo, Perfecto, Bengzon, Briones,  
Padilla and Tuason, JJ., concur.*

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<sup>[1]</sup> 73 Phil., 51.

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