

**CECILIO DE LA CRUZ AND EUSTAQUIA DEVIS DE LA CRUZ,
PETITIONERS AND APPELLANTS, VS. MANUEL JESUS DE LA CRUZ,
RESPONDENT AND APPELLEE.**

G.R. No. L-19776. September 29, 1964

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MAKALINTAL, J.;

This is an appeal from the order of the Court of First Instance of Pangasinan dismissing the petition for revocation of the adoption of Manuel J. (Aquino) de la Cruz, filed by his adoptive parents, in accordance with Article 848 of the Civil Code.

By judgment dated August 16, 1954 of the Court of First Instance of Ilocos Sur (Sp. Proc. No. 1401) the minor Manuel J. Aquino was declared the legally adopted child of the spouses Cecilio de la Cruz and Eustaquia Devis de la Cruz. Seven years later the adopting parents filed in the Court of First Instance of Pangasinan[1] a petition to have the decree of adoption revoked on the ground that the adopted minor had definitely repudiated the adoption by open display of defiance, animosity, revulsion and disobedience to petitioners and had for more than three years abandoned petitioners' home by living with his natural mother, Felicidad Dasalla, in Sta. Maria, Ilocos Sur. A special appearance was entered by counsel, for the minor with a motion to dismiss the petition on the grounds that (1) the court lacked jurisdiction over the subject-matter thereof; (2) the Court had not acquired jurisdiction over the person of the adopted minor; (3) venue was improperly laid; and (4) the petition did not state facts sufficient to constitute a cause of action.

The motion to dismiss was granted, the trial court stating that since the "initial proceedings were totally had in the Court of First Instance of Ilocos Sur," the "expedient e in said Case No. 1401 is still, presumably, open for the herein petitioners to come in and ask for the revocation of the decree of adoption." The Court added, by implication, that it had no power to interfere with the judgment of another court of coordinate jurisdiction.

The provisions of the Civil Code on revocation of adoption do not specify the court where the proceedings should be filed. The Rules of Court designate the venue of a proceeding for adoption, which is the place where the petitioner resides (Section 1, Rule 99), but is silent with respect to the venue of a proceeding for rescission and revocation of adoption (Rule 100). It is clear that the two proceedings are separate and distinct from each other. In the first what is determined is the propriety of establishing the relationship of parent and child between two persons not so related by nature. For that purpose the court inquires into the qualifications and disqualifications of the adopter; the personal circumstances of the person to be adopted; the probable value and character of his estate; and whether the adoption would be for his benefit. In the other proceeding either the adopting parent or the adopted seeks to sever the relationship previously established, and the inquiry refers to the truth of the grounds upon which the revocation is sought.

Once the proper court has granted a petition for adoption and the decree has become final the proceeding is terminated and closed. A subsequent petition for revocation of the adoption is neither a continuation of nor an incident in the proceeding for adoption. It is an entirely-new one, dependent on facts which have happened since

the decree of adoption. The venue of this new case, applying Rule 99 in a suppletory character, is also the place of the residence of the petitioner. In the present instance petitioners reside in Pangasinan, having moved there from their former residence in Ilocos Sur.

The doctrine relied upon by the lower court, to the effect that no court has the power to interfere by injunction with the judgments or decrees of a court of coordinate jurisdiction, is not here applicable. There is no such interference. The validity or effectiveness of the decree of adoption issued by the Court of First Instance of Ilocos Sur is not in question. It is not sought to be enjoined, or its execution restrained. What is sought is its revocation because of circumstances subsequently supervening which, under the law, render the continuation of the adoptive relationship unjustified and impractical.

We hold that venue was properly laid in the case; and with respect to the objection that the court does not have jurisdiction over the adopted minor, we note that petitioners-appellants filed a motion below for the appointment of the minor's natural mother, Felicidad Dasalla, as his guardian ad litem, although the court did not think it necessary to grant the same in view of its order of dismissal.

The order of dismissal is set aside and the case remanded for further proceedings. Upon rendition of judgment, a copy thereof should be sent to the Court of First Instance of Ilocos Sur to be filed with the record of the adoption proceeding, aside from the service on the Civil Registrar concerned as required by Section 4 of Rule 100. Costs against appellees.

Bengzon, C.J., Bautista Angelo, Concepcion, Reyes, J.B.L., Paredes, Dizon, Regala, Bengzon, J.P., and Zaldivar, JJ., concur.

[1]Petitioners are residents of Alac, San Quintin, Pangasinan.

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