

**INTESTATE ESTATE OF PETRA V. ROSALES. IRENEA C. ROSALES,
PETITIONER, VS. FORTUNATO ROSALES, MAGNA ROSALES ACEBES,
MACIKEQUEROX ROSALES AND ANTONIO ROSALES, RESPONDENTS.**

G.R. No. L-40789. February 27, 1987

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

In this Petition for Review of two (2) Orders of the Court of First Instance of Cebu the question raised is whether the widow whose husband predeceased his mother can inherit from the latter, her mother-in-law.

It appears from the record of the case that on February 26, 1971, Mrs. Petra V. Rosales, a resident of Cebu City, died intestate. She was survived by her husband Fortunato T. Rosales and their two (2) children Magna Rosales Acebes and Antonio Rosales. Another child, Carterio Rosales, predeceased her, leaving behind a child, Macikequerox Rosales, and his widow Irene C. Rosales, the herein petitioner. The estate of the deceased has an estimated gross value of about Thirty Thousand Pesos (P30,000.00).

On July 10, 1971, Magna Rosales Acebes instituted the proceedings for the settlement of the estate of the deceased in the Court of First Instance of Cebu. The case was docketed as Special Proceedings No. 3204-R. Thereafter, the trial court appointed Magna Rosales Acebes administratrix of the said estate.

In the course of the intestate proceedings, the trial court issued an Order dated June 16, 1972 declaring the following individuals the legal heirs of the deceased and prescribing their respective share of the estate —

Fortunato T. Rosales (husband), $\frac{1}{4}$;

Magna R. Acebes (daughter), $\frac{1}{4}$;

Macikequerox Rosales, $\frac{1}{4}$ ' and

Antonio Rosales (son), $\frac{1}{4}$.

This declaration was reiterated by the trial court in its Order dated February 4, 1975.

These Orders notwithstanding, Irene C. Rosales insisted in getting a share of the estate in her capacity as the surviving spouse of the late Carterio Rosales, son of the deceased, claiming that she is a compulsory heir of her mother-in-law together with her son, Macikequerox Rosales.

Thus, Irene C. Rosales sought the reconsideration of the aforementioned Orders. The trial court denied her plea. Hence this petition.

In sum, the petitioner poses two (2) questions for Our resolution. First — is a widow (surviving spouse) an intestate heir of her mother-in-law? Second — are the Orders of the trial court which excluded the widow from getting a share of the estate in question final as against the said widow?

Our answer to the first question is in the negative.

Intestate or legal heirs are classified into two (2) groups, namely, those who inherit by their own right, and those who inherit by the right of representation.[1] Restated, an intestate heir can only inherit either by his own right, as in the order of intestate succession provided for in the Civil Code[2], or by the right of representation provided for in Article 981 of the same law. The relevant provisions of the Civil Code are:

"Art. 980. The children of the deceased shall always inherit from him in their own right, dividing the inheritance in equal shares."

"Art. 981. Should children of the deceased and descendants of other children who are dead, survive, the former shall inherit in their own right, and the latter by right of representation."

"Art. 982. The grandchildren and other descendants shall inherit by right of representation, and if any one of them should have died, leaving several heirs, the portion pertaining to him shall be divided among the latter in equal portions."

"Art. 999. When the widow or widower survives with legitimate children or their descendants and illegitimate children or their descendants, whether legitimate or illegitimate, such widow or widower shall be entitled to the same share as that of a legitimate child."

There is no provision in the Civil Code which states that a widow (surviving spouse) is an intestate heir of her mother-in-law. The entire Code is devoid of any provision which entitles her to inherit from her mother-in-law either by her own right or by the right of representation. The provisions of the Code which relate to the order of intestate succession (Articles 978 to 1014) enumerate with meticulous exactitude the intestate heirs of a decedent, with the State as the final intestate heir. The conspicuous absence of a provision which makes a daughter-in-law an intestate heir of the deceased all the more confirms Our observation. If the legislature intended to make the surviving spouse an intestate heir of the parent-in-law, it would have so provided in the Code.

Petitioner argues that she is a compulsory heir in accordance with the provisions of Article 887 of the Civil Code which provides that:

"Art. 887. The following are compulsory heirs:

- (1) Legitimate children and descendants, with respect to their legitimate parents and ascendants;
- (2) In default of the foregoing, legitimate parents and ascendants, with respect to their legitimate children and descendants;
- (3) The widow or widower;
- (4) Acknowledged natural children, and natural children by legal fiction;
- (5) Other illegitimate children referred to in article 287;

Compulsory heirs mentioned in Nos. 3, 4 and 5 are not excluded by those in Nos. 1 and 2; neither do they exclude one another.

In all cases of illegitimate children, their filiation must be duly proved.

The father or mother of illegitimate children of the three classes mentioned, shall inherit from them in the manner and to the extent established by this Code."

The aforesaid provision of law[3] refers to the estate of the deceased spouse in which case the surviving spouse (widow or widower) is a compulsory heir. It does not apply to the estate of a parent-in-law.

Indeed, the surviving spouse is considered a third person as regards the estate of the parent-in-law. We had occasion to make this observation in *Lachenal v. Salas*[4], to wit:

"We hold that the title to the fishing boat should be determined in Civil Case No. 3597 (not in the intestate proceeding) because it affects the lessee thereof, Lope L. Leoncio, the decedent's son-in-law, who, although married to his daughter or compulsory heir, is nevertheless a third person with respect to his estate. xxx." (Emphasis supplied).

By the same token, the provision of Article 999 of the Civil Code aforecited does not support petitioner's claim. A careful examination of the said Article confirms that the estate contemplated therein is the estate of the deceased spouse. The estate which is the subject matter of the intestate estate proceedings in this case is that of the deceased Petra V. Rosales, the mother-in-law of the petitioner. It is from the estate of Petra V. Rosales that Macikequerox Rosales draws a share of the inheritance by the right of representation as provided by Article 981 of the Code.

The essence and nature of the right of representation is explained by Articles 970 and 971 of the Civil Code, viz —

"Art. 970. Representation is a right created by fiction of law, by virtue of which the representative is raised to the place and the degree of the person represented, and acquires the rights which the latter would have if he were living or if he could have inherited.

"Art. 971. The representative is called to the succession by the law and not by the person represented. The representative does not succeed the person represented but the one whom the person represented would have succeeded." (Emphasis supplied.)

Article 971 explicitly declares that Macikequerox Rosales is called to succession by law because of his blood relationship. He does not succeed his father, Carterio Rosales (the person represented) who predeceased his grandmother, Petra Rosales, but the latter whom his father would have succeeded. Petitioner cannot assert the same right of representation as she has no filiation by blood with her mother-in-law.

Petitioner however contends that at the time of the death of her husband Corterio Rosales he had an inchoate or contingent right to the properties of Petra Rosales as compulsory heir. Be that as it may, said right of her husband was extinguished by his death that is why it is their son Macikequerox Rosales who succeeded from Petra Rosales by right of representation. He did not succeed from his deceased father, Carterio Rosales.

On the basis of the foregoing observations and conclusions, We find it unnecessary to pass upon the second question posed by the petitioner.

Accordingly, it is Our considered opinion, and We so hold, that a surviving spouse is not an intestate heir of his or her parent-in-law.

WHEREFORE, in view of the foregoing, the Petition is hereby DENIED for lack of merit, with costs against the petitioner. Let this case be remanded to the trial court for further proceedings.

SO ORDERED.

Yap, (Chairman), Narvasa, Melencio-Herrera, Cruz, Feliciano, and Sarmiento, JJ., concur.

[1] III Tolentino, Commentaries and Jurisprudence on the Civil Code of the Philippines 461, 1979 ed.

[2] Articles 978 to 1014.

[3] Art. 887 (3), Civil Code

[4] 71 SCRA 262, 265, L-42257, June 14, 1976.

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