

TESTATE ESTATE OF THE DECEASED PETRA ANGELES, ROSARIO MASCARIÑA, PETITIONER AND APPELLEE, VS. ANASTACIO ANGELES ET AL., OPPOSITORS AND APPELLANTS.

G.R. No. L-1323. June 30, 1948

Ponente: PARAS, J.

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PARAS, J.:

This is an appeal from a judgment of the Court of First Instance of Quezon allowing the last will of the deceased Petra Angeles as evidenced by the document identified in the record as Exhibit "C".

It appears that the attestation clause does not state that the contents of the will were read to the testatrix, who admittedly did not know how to read and write, before she affixed her thumbmark thereto; and it is thus contended by the oppositors-appellants that such omission is fatal to its allowance. It is noteworthy, however, that section 618 of the code of Civil Procedure only requires that "the attestation shall state the number of sheets or pages used, upon which the will is written, and the fact that the testator signed the will and every page thereof, or caused some other person to write his name, under his express direction, in the presence of three witnesses, and the latter witnessed and signed the will and all pages thereof in the presence of the testator and of each other." The requisite invoked by the appellants is clearly not one of those imposed by this provision, the scope of which should of course not be stretched by judicial construction. As there is undisputed evidence that the will had been read to Petra Angeles before the latter thumbmarked it, its allowance by the lower court is absolutely proper.

The appealed judgment is hereby affirmed with costs against the appellants. So ordered.

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

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