

IN THE MATTER OF THE ESTATE OF THE LATE LEODEGARIA VILLANUEVA. ELISA CUISON, ET AL., PETITIONERS AND APPELLANTS, VS. NICOLAS VILLANUEVA, ET AL., OPPOSITORS AND APPELLEES. FLAVIA...

G.R. No. L-3932. February 29, 1952

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

This case, originating in the Court of First Instance of Negros Occidental, involves many facts, but only those necessary to the solution of the appeal will be stated and briefly they are, as follows:

On February 14, 1939, Manuel Cuison filed in the Court of First Instance of Negros Occidental a petition for the probate of a document marked exhibit "A", said to be the last will and testament of Leodegaria Villanueva who died on December 14, 1938. The heirs instituted in said will were Reynaldo Cuison, a nephew of the testatrix and six minor children Maria Dolores, Hernando, Leonardo, Angel, Maria Jimena and Telma, all surnamed Macasa, said to be grandnephews and nieces. Petitioner Manuel Cuison was appointed administrator and he qualified as such.

The petition for probate was opposed by Nicolas Villanueva and others who claim to be relatives of the testatrix.

On January 29, 1941, the lower court, presided over by Judge Sotevo Rodas, dismissed the petition "por falta de gestion del solicitante". Upon motion of the petitioner the order of dismissal was reconsidered, the case reinstated and later, by order of November 28, 1941, the lower court denied the probate of the will and declared that the deceased Leodegaria Villanueva died intestate. Upon another motion for reconsideration filed by Manuel Cuison the order of denial of probate was reconsidered and Manuel Cuison was ordered to secure a transcript of the stenographic notes taken during the hearing of probate held on March 15, 1941. This order of reconsideration was dated December 6, 1941. One or two days later the Pacific war broke out.

On December 16, 1948, the oppositors Nicolas Villanueva, et al., moved for the definite dismissal of the petition for probate. By order of January 10, 1949, Judge Jose Teodoro, then presiding over the trial court, definitely denied the petition for probate. On January 22, 1949, petitioner Manuel Cuison moved for the reconsideration of the order of denial of the petition for probate.

On August 16, 1949, Elisa, Ricardo, Josefina, Luis, Hermenegilda, all surnamed Cuison, for the first time, entered this case, claiming to be legitimate brothers' and sisters of Reynaldo Cuison the nephew of the testatrix Leodegaria Villanueva instituted as one of the heirs in the will, exhibit "A". Further claiming that said Reynaldo Cuison died intestate on February 12, 1939, about two months after the death of the testatrix, they filed a petition for relief under Sections 2 and 3, Rule 38 of the Rules of Court, from the order of January 10, 1949 definitely denying probate of the will. The petitioners Elisa Cuison, et al., further claimed that Reynaldo Cuison, their brother, upon his death, left neither legitimate nor natural acknowledged children, consequently, his only heirs are

the said petitioners and their brother Manuel Cuison. The petition for relief was based on the allegation that they had no actual knowledge of the order of January 10, 1949, denying the probate of the will, until the month of July, 1949; that up to the filing of the petition for relief, petitioners had never been direct or actual parties to the probate proceedings but they were constructive parties, since the proceedings were in rem and the order of the denial of probate would affect them as heirs of the legatee Reynaldo Cuison; that their non-appearance or participation in the probate proceedings may be regarded as excusable negligence; and that if they were given a chance, they could prove the validity and the due execution of the will in question and would present the instrumental witnesses. The trial court presided over by Judge Eduardo D. Enriquez, acting upon the petition, denied the same by order of February 18, 1950. However, instead of considering the merits of the petition for relief, Judge Enriquez based his order of denial on the ground that, pursuant to the provisions of Article 925 of the old Civil Code, present petitioners have no right to represent their deceased brother, Reynaldo Cuison, in the inheritance of the testatrix Leodegaria Villanueva, consequently, they have no interest in the will or the property involved and so have no personality to intervene in these proceedings by filing the petition for relief. It is from that order of February 18, 1950, denying the petition for relief, that the petitioners Elisa Cuison, et al., are appealing.

The trial court was right in holding that before any person may intervene in the proceedings for the probate of a will, he should show an interest in said will or the property affected thereby (*Paras vs. Narciso*, 35 Phil. 244). The lower court was equally right in holding that under Art. 925, paragraph 2, of the old Civil Code, the right of representation shall take place only in favor of children of brothers or sisters, which petitioners Elisa Cuison et al., are not. But said trial court erred in holding and assuming that petitioners Elisa Cuison et al., were invoking file right to represent their brother Reynaldo Cuison, for they were not. They seek to inherit the legacy of their brother provided for in the will in their own right and not in representation of their deceased brother. The law is clear that there is representation only when relatives of a deceased person try to succeed him in his rights which he would have had if still living. In the present case, however, said deceased had already succeeded his aunt, the testatrix herein, and had acquired the right to the legacy given by her to him, upon her death, for the reason that under Arts. 657 and 651 of the old Civil Code the rights to the succession of a person are transmitted from the moment of his death and an heir succeeds to all rights and obligations of the decedent by the mere fact of the latter's death. It is a fact that at the time of the death of the testatrix, Reynaldo Cuison was still alive. He died two months after her (testatrix's) death. And upon his death, he transmitted to his heirs, the petitioners herein Elisa Cuison et al., the legacy or the right to succeed to the legacy, which he received by virtue of the will. In other words, the herein petitioners-appellants are not trying to succeed to the right to the property of the testatrix, but rather to the right of the legatee Reynaldo Cuison in said property.

Inasmuch as the appellants as heirs of the legatee Reynaldo Cuison, clearly have an interest in the will or in the property affected by it, they had the right to intervene in the probate proceedings and to file the petition for relief under Rule 38 of the Rules of Court. The order appealed from is hereby set aside and this case is ordered remanded to the trial court for further proceedings, particularly to rule upon the petition for relief on the basis of its merits. No pronouncement as to costs. So ordered.

Paras, C. J., Pablo, Bengzon, Padilla, Reyes, Jugo, and Bautista Angelo, JJ., concur.

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