

**IN THE MATTER OF ESTATE OF DON PABLO TECSON OCAMPO,
DECEASED. TOMASA V. BULOS, PETITIONER AND ADMINISTRATRIX
AND APPELLEE, VS. VICENTE TECSON, OPPOSITOR AND APPELLEE.
JOSE TECSON...**

G. R. No. L-18285. October 31, 1962

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Appeal from an order of the Court of First Instance of Nueva Ecija denying a motion of Jose Tecson Tantoco, hereinafter referred to as the appellant.

It appears that Pablo Tecson died in Manila on April 30, 1940. Soon thereafter, or on May 15, 1940, Tomasa V. Bulos, his widow by second marriage, initiated this proceeding with a petition for the probate of a document said to be the last Will of the deceased. In due course, said court issued, on October 16, 1940, an order allowing said instrument to probate. Subsequently, or on November 28, 1953, appellant filed a motion praying that, after due hearing, he be declared an illegitimate child of the deceased, with the right to succeed him and have in his estate a share equivalent to four-fifths (4/5) of the legitime of an acknowledged natural child. Vicente Tecson, a legitimate child of the deceased, objected to said motion and, when the same was heard, the parties stipulated:

"* * * that Jose Tecson Tantoco was born on April 10, 1904; that the movant Jose Tecson Tantoco is the son of the deceased Pablo Tecson with Felisa Tantoco y Clemente; that the movant Jose Tecson Tantoco was conceived and born when the deceased Pablo Tecson was legally married to Juana Mendoza; that the marriage was then subsisting; that consequently the movant Jose Tecson Tantoco is an illegitimate, not natural, son of said deceased Pablo Tecson; that this Court has not made any declaration as to the heirs of the deceased Pablo Tecson; that the document marked as Exhibit 'A' is an exact copy of the portions of the record of Criminal Case No. 734 of the Court of First Instance of Bulacan, filed against the deceased Pablo Tecson, for seduction."

On December 2, 1960, the lower court issued an order holding that appellant's rights, as an adulterous son of the deceased, should be determined pursuant to the provisions of the Spanish Civil Code, the same being the law in force when Pablo Tecson died in 1940; that an illegitimate child, other than a natural child, is entitled, under said Code, not to a legitime, but, only, to support, which may not be availed of by appellant, he being already of age; and that, since the rights of the heirs of Pablo Tecson under said Code vested immediately upon his death in 1940 and the legitime of four-fifths (4/5) of the share of an acknowledged natural child under the Civil Code of the Philippines cannot be given to appellant herein without affecting the rights thus vested in said heirs under the Civil Code of Spain, appellant can not avail himself of the benefits of the Civil Code of the Philippines and his aforementioned motion should be and was denied.

Appellant maintains that the lower court erred in not granting said motion for the estate of the deceased is still undistributed and the Civil Code of the Philippines, provides:

"ART. 287. Illegitimate children other than natural in accordance with article 269 and other than natural children by legal fiction are entitled to support and such successional rights as are granted in this Code."

ART. 2264. The status and rights of * * * illegitimate children mentioned in article 278, shall also be acquired by children born before the effectivity of this Code."

ART. 2266. The following shall have not only prospective but also retroactive effect:

* * * * *

"(3) Articles 283, 284 and 289, concerning the proof of illegitimate filiation."

There is no merit in this appeal. Although the status and rights of illegitimate children under Article 278 of our new Civil Code are, also, extended, by Article 2264, thereof, to children born before the effectivity of said Code, said Article 2264, in so far as relevant to cases of succession, applies only when the illegitimate father dies after said Code has become effective, for Article 2263 thereof explicitly provides that "rights to the inheritance of a person who died, with or without will, before the effectivity of this Code, shall be governed by the Civil Code of 1889, by other previous laws and by the Rules of Court" (Uson vs. Del Rosario, 92 Phil., 530; Montilla vs. Montilla, 112 Phil., 598).

Wherefore, the order appealed from is hereby affirmed, with costs against appellant Jose Tecson Tantoco. It is so ordered.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Reyes, J. B. L., Barrera, Paredes, Dizon and Makalintal, JJ., concur.

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