

REV. FATHER LUCIO V. GARCIA, ANTONIO JESUS DE PRAGA, MARIA NATIVIDAD DE JESUS AND DR. JAIME ROSARIO, PETITIONERS, VS. HON. CONRADO M. VASQUEZ, AS JUDGE OF THE COURT OF FIRST INS...

G.R. No. L-26615. April 30, 1970

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

G.R. No. L--27200 is an appeal from the order of the Court of First Instance of Manila (in Sp. Proc. 62618) admitting to probate the alleged last will and testament of the late Gliceria Avelino del Rosario, dated 29 December 1960, G. R. Nos. L-26615 and L-26864 are separate petitions for mandamus filed by certain alleged heirs of said decedent seeking (1) to compel the probate court to remove Consuelo S. Gozales-Precilla as special administratrix of the estate, for conflict of interest, and to appoint a new one in her stead; and (2) to order the Register of Deeds of Manila to annotate notice of lis pendens in TCT Nos. 31735, 81736 and 81737, registered in the name of Alfonso Precilla, married to Consuelo Gonzales y Narciso, and said to be properly belonging to the estate of the deceased Gliceria A. del Rosario.

Insofar as pertinent to the issues involved herein, the facts of these cases may be stated as follows:

Gliceria Avelino del Rosario died unmarried in the City of Manila on 2 September 1965, leaving no descendants, ascendants, brother or sister. At the time of her death, she was said to be 90 years old, more or less, and possessed of an estate consisting mostly of real properties.

On 17 September 1965, Consuelo S. Gonzales Vda. de Precilla, a niece of the deceased, petitioned the Court of First Instance of Manila for probate of the alleged last will and testament of Gliceria A. del Rosario, executed on 29 December 1960, and for her appointment as special administratrix of the latter's estate, said to be valued at about P100,000.00, pending the appointment of a regular administrator thereof.

The petition was opposed separately by several groups of alleged heirs: (1) Rev. Fr. Lucio V. Garcia, a legatee named in an earlier will executed by Gliceria A. del Rosario on 9 June 1956; (2) Dr. Jaime Rosario and children, relatives and legatees in both the 1956 and 1960 wills; Antonio Jesus de Praga and Maria Natividad de Jesus, wards of the deceased and legatees in the 1956 and 1960 wills; (3) Remedios, Encarnacion and Eduardo, all surnamed Narciso; (4) Natividad del Rosario Sarmiento; (5) Maria Narciso; (6) Pascuala Narciso de Manahan; (7) Se-verina, Rosa and Josefa, surnamed Narciso, and Vicente and Delfin, surnamed Mauricio, - the latter five groups of persons all claiming to be relatives of Dona Gliceria within the fifth civil degree. The oppositions invariably charged that the instrument executed in 1960 was not intended by the deceased to be her true will; that the signature of the deceased appearing in the will was procured through undue and improper pressure and influence on the part of the beneficiaries and/or other persons; that the testatrix did not know the object of her bounty; that the instrument itself reveals irregularities in its execution, and that the formalities required by law for such execution have not been complied with.

Oppositor Lucio V. Garcia, who also presented for probate the 1956 will of the deceased, joined the group of Dr. Jaime Rosario in registering opposition to the appointment of petitioner Consuelo S. Gonzales Vda. de Precilla as special administratrix, on the ground that the latter possesses interest adverse to the estate. After the parties were duly heard, the probate court, in its order of 2 October 1965, granted petitioner's prayer and appointed her special administratrix of the estate upon a bond for P30,000.00. The order was premised on the fact that petitioner was managing the properties belonging to the estate even during the lifetime of the deceased, and to appoint another person as administrator or co-administrator at that stage of the proceeding would only result in further confusion and difficulties.

On 30 September 1965, oppositors Jaime Rosario, et al. filed with the probate court an urgent motion to require the Hongkong & Shanghai Bank to report all withdrawals made against the funds of the deceased after 2 September 1965. The court denied this motion on 22 October 1965 for being premature, it being unaware that such deposit in the name of the deceased existed.[1]

On 14 December 1965, the same sets of oppositors, Dr. Jaime Rosario and children, Antonio Jesus de Praga, Natividad de Jesus and Fr. Lucio V. Garcia, petitioned the court for the immediate removal of the special administratrix. It was their claim that the special administratrix and her deceased husband, Alfonso Precilla,[2] had caused Gliceria A. del Rosario to execute a simulated and fraudulent deed of absolute sale dated 10 January 1961 allegedly conveying unto said spouses for the paltry sum of P30,000.00 ownership of 3 parcels of land and the improvements thereon located in Quiapo and San Nicolas, Manila, with a total assessed value of P334,050.00. Oppositors con-tended that since it is the duty of the administrator to protect and conserve the properties of the estate, and it may become necessary that an action for the annulment of the deed of sale and for recovery of the aforementioned parcels of land be filed against the special adminis-tratrix, as wife and heir of Alfonso Precilla, the removal of the said administratrix was imperative.

On 17 December 1965, the same oppositors prayed the court for an order directing the Special Administratrix to deposit with the Clerk of Court all certificates of title belonging to the estate. It was alleged that on 22 October 1965, or after her appointment, petitioner Consuelo Gonzales Vda. de Precilla, in her capacity as special administratrix of the estate of the deceased Gliceria A. del Rosario, filed with Branch IV of the Court of First Instance of Manila a motion for the issuance of new copies of the owner's duplicates of certain certificates of title in the name of Gliceria del Rosario, supposedly needed by her "in the preparation of the inventory" of the properties constituting the estate. The motion having been granted, new copies of the owner's duplicates of certificates appearing in the name of Gliceria del Rosario (among which were TCT Nos. 66201, 66202 and 66204) were issued on 15 November 1965. On 8 December 1965, according to the oppositors, the same special administratrix presented to the Register of Deeds the deed of sale involving the properties covered by TCT Nos. 66201, 66202 and 66204 supposedly executed by Gliceria del Rosario on 10 January 1961 in favor of Alfonso Precilla, and, in consequence, said certificates of title were cancelled and new certificates (Nos. 81735, 81736 and 81737) were issued in the name of Alfonso Precilla, married to Consuelo S. Gonzales y Narciso.

On 25 August 1966, the Court issued an order admitting to probate the 1960 will of Gliceria A. del Rosario (Exhibit "D"). In declaring the due execution of the will, the probate court took note that no evidence had been presented to establish that the testatrix was not of sound mind when the will was executed; that the fact that she had prepared an earlier will did not prevent her from executing another one thereafter; that the fact that the 1956 will consisted of 12 pages whereas the 1960 testament was contained in one page does not render the latter invalid that the erasures and alterations in the instrument were insignificant to warrant its rejection, that the inconsistencies in the testimonies of the instrumental witnesses which were noted by the oppositors are even indicative of their truthfulness. The probate court, also considering that petitioner had already shown capacity to

administer the properties of the estate and that from the pro-visions of the will she stands as the person most concerned and interested therein, appointed said petitioner regular administratrix with a bond for P50,000.00. From this order all the oppositors appealed, the case being docketed in this Court as G. R. No. L-27200.

Then, on 13 September 1966, the probate court resolved the opposi-tors' motion of 14 December 1965 for the removal of the then special administratrix, as follows:

"It would seem that the main purpose of the motion to remove the special administra-trix and to appoint another one in her stead, is in order that an action may be filed against the special administratrix for the annulment of the deed of sale executed by the decedent on January 10, 1961. Under existing documents, the properties sold pursuant to the said deed of absolute sale no longer forms part of the estate. The alleged conflict of interest is accordingly not between the estate and third parties, but between different claimants of the same estate. If it is desired by the movants that an action be filed by them to annul the aforesaid deed of absolute sale, it is not necessary that the special administratrix be removed and that another one be appointed to file such action, Such a course of action would only produce confusion and difficulties in the settlement of the estate. The movants may file the aforesaid proceedings, preferably in an independent action, to secure the nullity of the deed of absolute sale even without leave of this court."

As regard the motion of 17 December 1965 asking for the deposit in court of the titles in the name of the decedent, the same was also denied, for the reason that if the movants were referring to the old titles, they could no longer be produced, and if they meant the new duplicate copies thereof that were issued at the instance of the special administratrix, there would be no necessity therefor, because they were already cancelled and other certificates were issued in the name of Alfonso Precilla, This order precipitated the oppositors' filing in this Court of a petition for mandamus (G. R. No. L-26615, Rev. Fr. Lucio V. Garcia, et al, vs. Hon. Judge Conrado M. Vasquez, et al), which was given due course on 6 October 1966.

On 15 December 1965, with that motion for removal pending in this Court, the oppositors requested the Register of Deeds of Manila to annotate a notice of lis pendens in the records of TCT Nos. 81736, 81736, and 81737 in the name of Alfonso Precilla. And when said official refused to do so, they applied to the probate court (in Sp. Proc. No. 62618) for an order to compel the Register of Deeds to annotate a lis pendens notice in the aforementioned titles, con-tending that the matter of removal and appointment of the adminis-tratrix, involving TCT Nos. 81736, 81736, and 81737, was already before the Supreme Court. Upon denial of this motion on 12 November 1 966, oppositors filed another mandamus action, this time against the probate court and the Register of Deeds. The case was docketed and given due course in this Court as G. R. No. L-26864.

Foremost of the questions to be determined here concerns the cor-rectness of the order allowing the probate of the 1960 will.

The records of the probate proceeding fully establish the fact that the testatrix, Glicería A. del Rosario, during her lifetime, executed two wills: one on 9 June 1956 consisting of 12 pages and written in Spanish, a language that she knew and spoke, witnessed by Messrs. Antonio Cabrera, Jesus Y. Ayala and Valentin Marquez, and acknowledged before notary public Jose Ayala; and another, dated 29 December 1960, consisting of 1 page and written in Tagalog, witnessed by Messrs. Vicente Rosales, Francisco Decena, and Francisco Lopez and acknowledged before notary public Remigio M. Tividad.

Called to testify on the due execution of the 1960 will, instrumental witnesses Decena, Lopez and Rosales uniformly declared that they were individually requested by Alfonso Precilla (the late husband of petitioner special administratrix) to witness the execution of the last will of Doña Glicería A. del Rosario; that they arrived at the house of the old lady at No. 2074 Azcarraga, Manila, one after the other, in the afternoon of 29 December 1960; that the testatrix at the time was apparently of clear and sound mind, although she was being aided by

Precilla when she walked;[3] that the will, which was already prepared, was first read "silently" by the testatrix herself before she signed it;[4] that the three witnesses thereafter signed the will in the presence of the testatrix and the notary public and of one another. There is also testimony that after the testatrix and the witnesses to the will acknowledged the instrument to be their voluntary act and deed, the notary public asked for their respective residence certificates which were handed to him by Alfonso Precilla, clipped together;[5] that after comparing them with the numbers already written on the will, the notary public filled in the blanks in the instrument with the date, 29 January 1960, before he affixed his signature and seal thereto. [6] They also testified that on that occasion no pressure or influence has been exerted by any person upon the testatrix to execute the will.

Of course, the interest and active participation of Alfonso Precilla in the signing of this 1960 will are evident from the records. The will appeared to have been prepared by one who is not conversant with the spelling of Tagalog words, and it has been shown that Alfonso Precilla is a Cebuano who speaks Tagalog with a Visayan accent.[7] The witnesses to the will, two of whom are fellow Visayans,[8] admitted their relationship or closeness to Precilla.[9] It was Precilla who instructed them to go to the house of Gliceria del Rosario on 29 December 1960 to witness an important document,[10] and who took their residence certificates from them a few days before the will was signed.[11] Precilla had met the notary public and witnesses Rosales and Lopez at the door of the residence of the old Woman; he ushered them to the room at the second floor where the signing of the document took place;[12] then he fetched witness Decena from the latter's haberdashery shop a few doors away and brought him to the house of the testatrix.[13] And when the will was actually executed, Precilla was present.[14]

The oppositors-appellants in the present case, however, challenging the correctness of the probate court's ruling, maintain that on 29 December 1960 the eyesight of Gliceria del Rosario was so poor and defective that she could not have read the provisions of the will, contrary to the testimonies of witnesses Decena, Lopez and Rosales.

On this point, we find the declarations in court of Dr. Jesus V. Tamesis very material and illuminating. Said ophthalmologist, whose expertise was admitted by both parties, testified, among other things, that when Doña Gliceria del Rosario saw him for consultation on 11 March 1960 he found her left eye to have cataract (opaque lens),[15] and that it was "above normal in pressure", denoting a possible glaucoma, a disease that leads to blindness.[16] As to the condition of her right eye, Dr. Tamesis declared:

Q But is there anything here in the entry appearing in the other documents Exhibits 3-B, 3-C and 3-D from which you could inform the court as to the condition of the vision of the patient as to the right eye?

"A Under date of August 30, 1960, is the record of refraction, that is setting of glass by myself which showed that the right eye with my prescription of glasses had a vision of 20 over 60 (20/60) and for the left eye with her correction 20 over 300 (20/300).

"Q In layman's language, Doctor, what is the significance of that notation that the right had a degree of 20 over 60 (20/60)?

"A It meant that that eye at least would be able to recognize objects or persons at a minimum distance of twenty feet.

"Q But would that grade enable the patient to read print?

"A Apparently that is only a record for distance vision, for distance sight, not for near."

(pages 20-21, t.s.n., hearing of 23 March 1966)

The records also show that although Dr. Tamesis operated on the left eye of the decedent at the Lourdes Hospital on 8 August 1960; as of 23 August 1960, in spite of the glasses, her vision was only "counting fingers"[17] at five feet. The cross-examination of the doctor further elicited the following responses:

"Q After she was discharged from the hospital you prescribed lenses for her, or glasses?

"A After her discharge from the hospital, she was coming to my clinic for further examination and then sometime later glasses were prescribed.

xxxxx xxxxx xxxxx xxxxx

"Q And the glasses prescribed by you enabled her to read, Doctor?

"A As far as my record is concerned, with the glasses for the left eye which I prescribed - the eye which I operated - she could see only forms but not read. That is on the left eye.

" Q How about the right eye?

"A The same, although the vision on the right eye is even better than the left eye." (pages 34, 35, t.s.n., hearing of 23 March 1966).

Then, confronted with a medical certificate (Exhibit H) issued by him on 29 November 1965 certifying that Glicería del Rosario was provided with aphakic lenses and "had been under medical supervision up to 1963 with apparently good vision", the doctor had this to say:

"Q When you said that she had apparently good vision you mean that she was able to read?

"A No, not necessarily, only able to go around, take care of herself, and see. This I can tell you, this report was made on pure recollections and I recall she was using her glasses although I recall also that we have to give her medicines to improve her vision, some medicines to improve her identification some more.

xxxxx xxxxx xxxxx xxxxx

"Q What about the vision in the right eye, was that corrected by the glasses?

"A Yes, with the new prescription which I issued on 30 August 1960. It is in the clinical record.

"Q The vision in the right eye was corrected?

"A Yes. That is the vision for distant objects." (pages 38, 39, 40, t.s.n. , hearing of 23 March 1966).

The foregoing testimony of the ophthalmologist who treated the deceased and, therefore, has first hand knowledge of the actual condition of her eyesight from August, 1960 up to 1963, fully establish the fact that notwithstanding the operation and removal of the cataract in her left eye and her being fitted with aphakic lens (used by cataract patients), her vision remained mainly for viewing distant objects and not for reading print. Thus, the conclusion is inescapable that with the condition of her eyesight in August, 1960, and there is no evidence that it had improved by 29 December 1960, Glicería del Rosario was in-capable of reading, and could not have read the provisions of the will supposedly signed by her on 29 December 1960. It is worth noting that the instrumental witnesses stated that she read the instrument "silently" (t.s.n., pages 164-165), which is a conclusion and not a fact.

Against the background of defective eyesight of the alleged testatrix, the appearance of the will, Exhibit "D", acquires striking significance. Upon its face, the testamentary provisions, the attestation clause and acknowledgment were crammed together into a single sheet of paper, so much so that the words had to be written very close to the top, bottom and two sides of the paper; leaving no margin whatsoever; the word "and" had to be written by the symbol "&", apparently to save on space. Plainly, the testament was not prepared with any regard for the defective vision of Doña Glicería. Further, typographical errors like "HULINH" for "HIRING" (last), "Alfonsa" for "Alfonso", "MERCRRDS" for "MERCEDES", "instrumrntal" for "Instrumental", and "acknowIrdged" for "acknowledge", remained uncorrected, thereby indicating that the execution thereof must

have been characterized by haste. It is difficult to understand that so important a document containing the final, disposition of one's worldly possessions should be embodied in an informal and untidily written instrument; or that the glaring spelling errors should have escaped her notice if she had actually retained the ability to read the purported will and had done so. The record is thus convincing that the supposed testatrix could not have physically read or understood the alleged testament, Exhibit "D", and that its admission to probate was erroneous and should be reversed.

That Doña Glicería should be able to greet her guests on her birthday, arrange flowers and attend to kitchen tasks shortly prior to the alleged execution of the testament, Exhibit "D", as appears from the photographs, Exhibits "E" to "E-13", in no way proves that she was able to read a closely typed page, since the acts shown do not require vision at close range. It must be remembered that with the natural lenses removed, her eyes had lost the power of adjustment to near vision, the substituted glass lenses being rigid and uncontrollable by her. Neither is the signing of checks (Exhibits "G" to "G-3") by her indicative of ability to see at normal reading distances. Writing or signing of one's name, when sufficiently practiced, becomes automatic, so that one only to have a rough indication of the place where the signature is to be affixed in order to be able to write it. Indeed, a close examination of the checks, amplified in the photograph, Exhibit "C" et seq., reinforces the contention of oppositors that the alleged testatrix could not see at normal reading distance: the signatures in the checks are written far above the printed base lines, and the names of the payees as well as the amounts written do not appear to be in the handwriting of the alleged testatrix, being in a much firmer and more fluid hand than hers.

Thus, for all intents and purposes of the rules on probate, the deceased Glicería del Rosario was, as appellant oppositors contend, not unlike a blind testator, and the due execution of her will would have required observance of the provisions of Article 808 of the Civil Code.

"ART. 808. If the testator is blind, the will shall be read to him twice; once, by one of the subscribing witnesses, and again, by the notary public before whom the will is acknowledged."

The rationale behind the requirement of reading the will to the testator if he is blind or incapable of reading the will himself (as when he is illiterate),^[18] is to make the provisions thereof known to him, so that he may be able to object if they are not in accordance with his wishes. That the aim of the law is to insure that the dispositions of the will are properly communicated to and understood by the handicapped testator, thus making them truly reflective of his desire, is evidenced by the requirement that the will should be read to the latter, not only once but twice, by two different persons, and that the witnesses have to act within the range of his (the testator's) other senses.^[19]

In connection with the will here in question, there is nothing in the records to show that the above requisites have been complied with. Clearly, as already stated, the 1960 will sought to be probated suffers from infirmity that affects its due execution.

We also find merit in the complaint of oppositors Lucio V. Garcia, et al., against the denial by the probate court of their petition for the removal of Consuelo Gonzales Vda, de Precilla as special administratrix of the estate of the deceased Doña Glicería (Petition, G. R. No. L-26615, Annex "B").

The oppositors' petition was based allegedly on the existence in the special administratrix of an interest adverse to that of the estate. It was their contention that through fraud her husband had caused the deceased Glicería del Rosario to execute a deed of sale, dated 10 January 1961, by virtue of which the latter purportedly conveyed unto said Alfonso D. Precilla, married to Consuelo Gonzales y Narciso, the ownership of 3 parcels of land and the improvements thereon, assessed at P334,050.00, for the sum of P30,000.00.

In denying the petition, the probate court, in its order of 13 September 1966 (Annex "F", Petition) reasoned out

that since the properties were already sold they no longer form part of the estate. The conflict of interest would not be between the estate and third parties, but among the different claimants of said properties, in which case, according to the court, the participation of the special administratrix in the action for annulment that may be brought would not be necessary.

The error in this line of reasoning lies in the fact that what was being questioned was precisely the validity of the conveyance or sale of the properties. In short, if proper, the action for annulment would have to be undertaken on behalf of the estate by the special administratrix, affecting as it does the property or rights of the deceased.[20] For the rule is that only where there is no special proceeding for the settlement of the estate of the deceased may the legal heirs commence an action arising out of a right belonging to their ancestor.[21]

There is no doubt that to settle the question of the due execution and validity of the deed of sale, an ordinary and separate action would have to be instituted, the matter not falling within the competence of the probate court.[22] Considering the facts then before it, i.e., the alleged deed of sale having been executed by Gliceria del Rosario on 10 January 1961, when she was already practically blind; and that the consideration of P30,000.00 seems to be unconscionably small for properties with a total assessed value of P334,050.00, there was likelihood that a case for annulment might indeed be filed against the estate or heirs of Alfonso Precilla. And the administratrix, being the widow and heir of the alleged transferee, cannot be expected to sue herself in an action to recover property that may turn out to belong to the estate.22a Not only this, but the conduct of the special administratrix in securing new copies of the owner's duplicates of TCT Nos. 66201, 66202, and 66204, without the court's knowledge or authority, and on the pretext that she needed them in the preparation of the inventory of the estate, when she must have already known by then that the properties covered therein were already "conveyed" to her husband by the deceased, being the latter's successor, and having the contract bind the land through issuance of new titles in her husband's name, cannot but expose her to the charge of unfitness or unsuitableness to discharge the trust, justifying her removal from the administration of the estate.

With respect to the orders of the court a quo denying (1) the oppositors' motion to require the Hongkong and Shanghai Bank to report all withdrawals made against the funds of the deceased after 2 September 1965 and (2) the motion for annotation of a lis pendens notice on TCT Nos. 81735, 81736 and 31737, the same are to be affirmed.

The probate court pointed out in its order of 22 October 1965 (Annex "H") that it could not have taken action on the complaint against the alleged withdrawals from the bank deposits of the deceased, because as of that time the court had not yet been apprised that such deposits exist. Furthermore, as explained by the special administratrix in her pleading of 30 October 1965, the withdrawals referred to by the oppositors could be those covered by checks issued in the name of Gliceria del Rosario during her lifetime but cleared only after her death. That explanation, which not only appears plausible but has not been rebutted by the petitioners-oppositors, negates any charge of grave abuse in connection with the issuance of the order here in question.

On the matter of lis pendens (G. R. No. L-26864), the pro-visions of the Rules of Court are clear: notice of the pendency of an action may be recorded in the office of the register of deeds of the province in which the property is situated, if the action affects the title or the right of possession of (such) real property",[23] In the case at bar, the pending action which oppositors seek to annotate in the records of TCT Nos. 81735, 81736, and 81737 is the mandamus proceeding filed in this Court (G.R. No. L-26615). As previously discussed in this opinion, however, that case is concerned merely with the correctness of the denial by the probate court of the motion for the removal of Consuelo Gonzales Vda. de Precilla as special administratrix of the estate of the late Gliceria del Rosario. In short, the issue in controversy there is simply the fitness or unfitness of said special administratrix to continue holding the trust; it does not involve or affect at all the title to, or possession of, the properties covered by said

TCT Nos. 81735, 81736 and 81737. Clearly, the pendency of such case (L-26615) is not an action that can properly be annotated in the record of the titles to the properties.

FOR THE FOREGOING REASONS, the order of the court below allowing to probate the alleged 1960 will of Gliceria A. del Rosario is hereby reversed and set aside. The petition in G. R. No. L-26615 being meritorious, the appealed order is set aside and the court below is ordered to remove the administratrix, Consuelo Gonzales Vda. de Precilla, and appoint one of the heirs in-testate of the deceased Doña Gliceria Avelino del Rosario, as special administrator for the purpose of instituting action on behalf of her estate to recover the properties allegedly sold by her to the late Alfonso D. Precilla. And in Case G. R. No. L-26864 petition is dismissed. No costs.

Concepcion, C.J., Dizon, Makalintal, Fernando, Teehankee, and Villamor, JJ., concur.

Zaldivar and Ruiz Castro, JJ., took no part.

Barredo, J., on leave.

[1] At that time, no inventory of the properties belonging to the estate has yet been submitted by the special administratrix.

[2] Precilla died on 17 July 1965 or before the death of Gliceria, Rosario.

[3] Page 24, hearing of 2 Dec. 1965; page 75, hearing of 3 Dec. 1965; page 61, hearing of 22 Dec. 1965,

[4] Pages 17, 31, hearing of 2 Dec. 1965; page 110, 3 Dec. 1965; page 61, hearing of 22 Dec. 1965.

[5] Page 15, hearing of 22 Dec. 1965.

[6] Page 16, *idem*.

[7] Page 58, *t.s. n.*, hearing of 2 December 1965.

[8] Pages 85, 86, *t.s.n.*, hearing of 3 December 1965; pages 47, 48, *t.s.n.*, hearing of 22 December 1965.

[9] Pages 10, 37, *t.s.n.*, hearing of 2 December 1965; page 83, *t.s.n.*, hearing of 3 December 1965; pages 37, 38, *t.s.n.*, hearing of 22 December 1965.

[10] Page 44, *t.s.n.*, hearing of 3 December 1965; pages 45-46, *t.s.n.*, 22 December 1965.

[11] Pages 69-70, *t.s.n.*, hearing of 3 December 1965; page 47, *t.s.n.*, hearing of 22 December 1965; page 30, *t.s.n.*, 2 December 1965.

[12] Page 47, *t.s.n.*, 3 December 1965; pages 54, 55, *t.s.n.*, hearing of 22 December 1965; pages 35, 36, *t.s.n.*, 21 January 1966.

[13] Pages 14, 15, 2 December 1965.

[14] Page 14, *t.s.n.*, 1 December 1965; page 13, *t.s.n.*, 3 December 1965; page 27, *t.s.n.*, 22 December 1965; page 9, *t.s.n.*, 21 January 1966.

[15] Page 13, *t.s.n.*, hearing of 23 March 1966.

[16] Page 17, *t.s.n.*, hearing of 23 March 1966.

[17] "Counting fingers" is a standard procedure adopted to determine the extent of vision of a patient with very poor vision. (page 25, *t.s.n.*, hearing of 23 March 1966)

[18] Article 808, New Civil Code.

[19] Vol. III, Reyes and Puno, An Outline of Philippine Civil Law, 1967 ed., page 21, citing Alexander on Wills.

[20] 20 Section 2, Revised Rule 87.

[21] Vera vs. Galauran, 67 Phil. 213.

[22] Baquial vs. Amihan, 92 Phil. 501; Mallari vs. Mallari, 92 Phil. 694; Ongsingco vs. Tan, 97 Phil. 330.

22a Jaroda vs. Gusi, L-28214, 30 July 1969, 28 SCRA 1008.

[23] Section 24, Revised Rule 14.

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