

IN THE MATTER OF THE LAST WILL AND TESTAMENT OF JOSE VAÑO, DECEASED. TEODORO VAÑO, PETITIONER AND APPELLANT, VS. PAZ VASO VDA. DE GARCES, ET AL., OPPOSITORS AND APPELLEES.

G.R. No. L-6303. June 30, 1954

Ponente: MONTEMAYOR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/6a54df57a1cb/>

MONTEMAYOR, J.:

This is an appeal by petitioner Teodoro Vaño from a decision of the Court of First Instance of Cebu denying probate of the document (Exhibit "A"), said to be the last will and testament of Jose Vaño. The appeal was first taken to the Court of Appeals where the record on appeal and the briefs of petitioner and oppositors were filed. Subsequently, however, on joint motion of both parties requesting that the appeal be elevated to the Supreme Court on the ground that the value of the properties involved as shown by the inventory was more than P50,000, the case was forwarded to this Tribunal where memoranda were filed in lieu of oral argument.

Jose Vaño died on January 28, 1950, in the City of Cebu. According to the certificate of the City Health Officer and Local Civil Registrar, Exhibit "C", he was 78 years old and he died of P. T. B. (pulmonary tuberculosis). He left properties valued at P95,913.05 as per inventory of the administrator but which according to the evidence are worth much more. On February 11, 1950, Teodoro Ceblero Vaño petitioned the Court of First Instance of Cebu to have a document supposed to be the last will and testament of Jose Vaño, and which he attached to his petition, probated. We reproduce said document—

"LAST WILL AND TESTAMENT

IN THE NAME OF THE FATHER, THE SON AND THE HOLY GHOST, AMEN:

I, Jose Vaño, single, Filipino citizen, of legal age and resident of Cebu City, being of sound and disposing mind and memory, do hereby make, execute and publish, this my Last Will and Testament in English, which language is known to me and which I talk, read and understand, hereby revoking and cancelling any and all testamentary provisions heretofore made by me, and the following shall be my Last Will:

- I hereby make known to the world that Teodoro Ceblero Vaño is my son.
- That I hereby bequeath to aforesaid Teodoro Ceblero Vaño all my properties.

In witness whereof, I have hereunto affixed my name at the City of Cebu, Philippines this 11th day of December, 1949.

(Sgd.) Jose Vaño
Testator

We, the undersigned attesting witnesses, whose residences are stated opposite our respective names, do hereby certify that the testator whose name is signed herein-above, has published unto us the foregoing will consisting

of one page, as his Last Will and Testament, and has signed the same in our presence, and in witness whereof we have each signed the same in the presence of said testator and in the presence of each other.

Cebu City, Philippines, this 11th day of December, 1949.

Pedro C. Ceniza—494-B. Junquera, Cebu City

O, Rama, M. D.—Basak, Sn. Nicolas, Cebu City

Nazario E. Paquiao—553 A. P. del Rosario, St., Cebu City"

Teodoro asked that he be appointed administrator of the estate and that pending his appointment as regular administrator, he be designated special administrator.

On March 24, 1950, Paz Vaño Vda. de Garces and the supposed heirs of Jesus Vaño, brother of Jose Vaño, filed the following opposition—

"OPPOSITION

Comes now Paz Vaño Vda. de Garces, and the heirs of Jesus Vaño, thru their undersigned attorneys, and to this Honorable Court respectfully states:

- That the oppositor Paz Vaño Vda. de Garces is the sister of the deceased Jose Vaño, and Filomena Vaño, Felicidad Vaño, Angel Vaño, Salvador Vaño, Norberto Vaño, Teodorico Vaño, and Ireneo Vaño, are the children and heirs of Jesus (brother of Jose Vaño), and all of them are entitled to participate in the said Estate of the deceased Jose Vaño in case of intestacy;
- That the instrument now offered for probate as will of the deceased Jose Vaño was procured by undue and improper pressure and influence on the part of Teodoro Ceblero who is not an acknowledged natural child of the deceased Jose Vaño;
- That the said Jose Vaño was mentally incapable to make a will on December 11th, 1949;
- That the signature of the testator Jose Vaño was procured by fraud and trick on the part of Teodoro Ceblero and the said deceased Jose Vaño never intended that the said document should be his will at the time of fixing his signature thereto;
- That the instrument now offered for probate as will of the deceased Jose Vaño is written in English language which is not the usual and proper language of the deceased, and if the deceased would have had made any will he should have it written in Spanish;
- That the said deceased Jose Vaño never recognized Teodoro Ceblero as his acknowledged natural child, the same being a mere protegee of the deceased, and not an adopted or acknowledged natural child;
- That the deceased Jose Vaño had time and again told his sister and nephews that he will not execute a will because he wants to leave all his estate in favor of his brother and sister, and nephews;
- That Dolores Garces de Falcon, a niece of the deceased Jose Vaño, being the nearest of kin, is a competent person to act as Administratrix of the estate of the deceased, and she is willing to serve as such;

PRAYER

For all the foregoing considerations, we respectfully pray this Honorable Court that the said will of the deceased Jose Vaño be declared null and void, and that it be not admitted to probate; That an administratrix of the said estate be appointed who shall distribute the same among the legal heirs of the deceased; That Dolores Garces de Falcon be appointed as Administratrix of the Estate of the deceased Jose Vaño.

Cebu City, Philippines, March 23, 1950."

On August 29, 1950, Ireneo Vaño one of the persons included in the opposition, filed a motion of the following tenor.

"MOTION

Comes now Ireneo Vaño and to this Honorable Court respectfully states:

- That he is the son and only heir of Jesus Vaño, now deceased,
- That his father Jesus Vaño is a brother of Jose Vaño, also deceased.
- That in this case a petition has been presented for the probate of the last will and testament of Jose Vaño.
- That an opposition has been filed against the probate of said will.
- That he is named as one of the oppositors, without his knowledge and consent.
- That he does not oppose nor intends to oppose the probate of the will in question, because that document contains a true expression of the wish and desire of Jose Vaño as to who shall inherit his property.
- That he has not authorized anybody to file an opposition in his name.

PRAYER

Wherefore, the undersigned respectfully prays this Honorable Court to cancel his name from the list of oppositors mentioned in the opposition to the petition filed by Teodoro Vaño.

Tagbilaran, Bohol (for the City of Cebu), August 8, 1950" Said motion of Ireneo Vaño was granted by the Court, In the course of the hearing, he was presented as one of the witnesses for petitioner Teodoro and he declared that he was the son of Jesus Vaño, already dead; that he knew Filomena Falcon, Felicidad Calibo, Angel Falcon, Salvador Flores, Norberto Calibo, and Teodorico Falcon, who are sometimes known by the surname Vaño but that they were not related to him because he had no brothers or sisters; that his father Jesus Vaño was a younger brother of the testator Jose Vaño; that petitioner Teodoro Vaño was the cousin, son of Jose Vaño, and that he knew of the blood relationship between the testator and Teodoro Vaño because he (Ireneo) since childhood used to go to his uncle's house where Teodoro lived and he saw that Teodoro was treated as a son by Jose Vaño, who paid for Teodoro's board at the Colegio del Nino where the two of them were students; that he (Ireneo) never authorized anyone to include him as oppositor to the probate of the will of Jose Vaño and that he did not oppose its probate.

The three attesting witnesses Pedro Ceniza, Dr. Osmundo Rama and Atty. Nazario Pacquiao testified for the petitioner and assured the court that Exhibit "A" was the last will and testament of the late Jose Vaño; that he signed Exhibit "A" in their presence, and that each of them signed the same after him, in his presence and in the presence of each other; that at the time of the execution of the document in the afternoon of December 11, 1949, the testator was of sound and disposing mind and memory and that it was his voluntary act, no pressure or influence having been exerted on him; that the blank space after the letter "I" in the first paragraph of Exhibit "A" was filled out by the testator himself although they (witnesses) differ as to who filled out the blank spaces on the document where the words "11th" and "December" appear. Atty. Pacquiao told the court that it was he who prepared the will (Exhibit A) pursuant to the wishes of the testator.

For the opposition Ciriaca Alse who formerly worked as a servant in the household of Teodoro Vaño, Dolores

Garces de Falcon, a daughter of Paz Vaño Vda. de Garces and Carmen Vallore testified. The burden of their testimony is that from November 1949, Jose Vaño was already very sick; that in December he was in serious if not critical condition; that he was always in bed, oftentimes unable to move or open his eyes and he could not maintain any conversation with anyone; that he had to be fed by some- one ; and that he was bed-ridden and already had bed-sore. The idea sought to be conveyed by them was that the testator was in no condition to execute a will.

Mr. Edgar Bond, an examiner of questioned documents and chief of the Questioned Documents and Ballistics Division of the National Bureau of Investigation was also presented by the opposition as a handwriting expert and he told the court that after examining the supposed signature of Jose Vaño on Exhibit "A" and comparing them with his accepted standard signatures, he was convinced that the signatures on Exhibit "A" were forgeries. His testimony was vigorously objected to by counsel for the petitioner on the ground that the genuineness of the signature of the testator on Exhibit "A" was never placed in issue because the written opposition of the opponents virtually admitted said genuineness and merely claimed that the will was not the testator's voluntary act because said signature was obtained thru trickery and that undue pressure and influence were brought to bear upon him.

To counteract the testimony of Bond, the deposition of Dr. Paul Rodriguez Versoza, another handwriting expert was taken and introduced in evidence. Dr. Versoza claims that after examining the signatures of Jose Vaño on Exhibit "A" and comparing them with accepted standard signatures of the testator, he was convinced that the signatures on Exhibit "A" were genuine and that any difference noted between them were due to the age, weakness, and illness of the testator, especially the fact that he was suffering from rheumatism. After hearing, the learned trial court noting discrepancies in the testimonies of the three attesting witnesses as to the due execution of Exhibit "A", and accepting the expert testimony of Mr. Bond over that of Dr. Versoza, came to the conclusion that the supposed signatures of Jose Vaño on Exhibit "A" are not genuine but imitated and held that Exhibit "A" was not the last will and testament of Jose Vaño.

One of the errors assigned by petitioner-appellant is that the trial court erred in permitting appellees over the objection of appellant to present evidence which are contrary to their allegations in their opposition. It is his contention that the opponents not only failed to allege as a basis of their opposition that the signatures of the testator on the supposed will were forged but that on the contrary, they impliedly admitted the genuineness of said signatures, merely claiming that said signatures were obtained through trickery and fraud and under undue pressure and influence. This¹ point brings us to a discussion of what evidence an Opponent to a probate of a will may be permitted to present at the hearing—whether or not he is limited to presenting evidence to sustain the particular objection or ground on which he bases his opposition to the probate.

In some jurisdictions in the United States the rule is that the issue in contested wills is made up by the pleadings or framed from the same, and no evidence can be introduced" except in support of allegations contained in such pleadings. For instance, if the only opposition to the probate of a will is lack of mental capacity of the testator, then the oppositor in presenting evidence will be confined to that point. In other jurisdictions, however, it is said that the issue is fixed by the statute and is practically the old common law issue "devisavit vel non," is the instrument presented for probate the last will and testament of the testator?; that said issue may not be varied by the pleadings and that every ground of attack on the validity of the will may be employed.

As the law in our jurisdiction on the probate of wills now stands, we are inclined to adopt the second view, namely, that the law itself fixes or determines the issue, because under section 12, Rule 77, of the Rules of Court, before the probate court can allow the will it must be satisfied upon proof taken and filed that the will was duly executed, and that the testator at the time of its execution was of sound and disposing mind and not acting under duress, menace, and undue influence, or fraud. Also, under section 9 of the same rule, a will may be disallowed

(a) if not executed and attested as required by law; (b) if the testator was mentally incapable of making a will; (c) if it was executed under duress, or the influence of fear, or threats; (d) if it was procured by undue and improper pressure and influence on the part of the beneficiary; and (e) if the signature of the testator was procured by fraud and trick. The oppositors in the present case therefore were not precluded from attacking the will on the ground of forgery despite the fact that their opposition was confined to grounds (b), (c) and (d) of section 12, Rule 77 as stated above.

On the other hand, section 10 of the same rule 77 provides that "anyone appearing to contest the will must file a writing stating his grounds for opposing its allowance; and serve a copy thereof on the petitioner and other residents of the province interested in the estate." The purpose of this legal provision is clear, and it is to apprise the person or persons seeking the probate of will, as well as any other person interested in the estate, of the reasons in opposing probate so that they may prepare the necessary evidence to counteract and disprove said ground of opposition, this, in addition to apprising the court itself of the issue involved in the proceedings so that it may intelligently direct the presentation of evidence during the hearing. Of course, as we have already stated, an oppositor objecting to the probate of the will on one or two specific grounds may, during the hearing add to the grounds and submit evidence in support of the same, but when this happen as it did in the present case, one is more or less justified in inferring that the oppositors were not sure of their ground; that they were in doubt as to the basis of their opposition, a fact which naturally and not inconsiderably weakens their stand. One of the grounds of their opposition was that the signature of the testator was procured by fraud and trick, thereby leading one to believe, including the court and the petitioner that said signature was genuine but was not valid. At the hearing, said oppositors completely changed their stand and claimed that the signature was actually forged. As we have already said, that conduct and attitude, changeable and uncertain, does not strengthen their position.

Let us now go to the evidence on the alleged forgery of the signatures of the testator Jose Vaño. We have carefully read the testimony of Mr. Bond for the oppositors and the deposition of Dr. Verzosa for the petitioner. There is no reason for doubting the qualifications, sincerity, and honesty of these two witnesses. Their opinions seem to be plausible, arrived at after an analysis and comparison of the questioned signatures with the standard and accepted signatures of the testator; but we fear that the infirmity, age, and state of health of the testator had not been given due consideration by the witness of the opponents and by the court. There is no question that there are differences and discrepancies between the two signatures reading "Jose Vaño" on Exhibit "A" and the genuine, accepted signatures of the testator even as late as the last part of the year 1949. But we should not forget that on December 11th of the same year when he executed Exhibit "A", he was suffering from apparently advanced pulmonary tuberculosis as well as rheumatism which according to Dr. Osmundo Rama who had been treating him until the day he died, affected his joints. The testator was then 78 years old, lying in bed most of the time, so much so that he developed bed-sores, sitting up in bed only once in a while, and at those times, his hands trembled. It is natural that his signatures on Exhibit "A" should lack the firmness, rhythm, lack of effort and continuity of motion that they had before he became quite ill and infirm. Examining the signatures on Exhibit "A", the original of the will, and those on "3-A", a carbon copy thereof, it will be readily observed that while the signatures on the original are already infirm, rough and jagged, suggesting a hand infirm and trembling, those on the duplicate (Exhibit "3-A") are still more so, showing the effects of the concentration of attention, exertion and effort of the testator in reading and signing the original.

But there are other and equally important considerations which favor the conclusion that Exhibit "A" was duly signed and executed by the testator. As already stated, in their written opposition the opponents did not question but on the contrary, assumed if not conceded the genuineness of the signatures of the testator. Then at the hearing, they changed their attitude and for the first time put in issue the genuineness of said signatures; this despite the fact that the original of the will (Exhibit "A") was filed in court on February 11, 1950, and the opposition was filed

on March 24th of the same year. In other words the opponents and their lawyers had almost one and a half months within which to examine and scrutinize the signatures on Exhibit "A", after which examination they did not doubt their genuineness.

Again, the opponents included Ireneo Vaño, a son of Jesus Vaño, brother of the testator, among the oppositors.

This same Ireneo later filed a motion in court repudiating the action taken by the opponents, saying that he was included among the oppositors without his knowledge or consent; that far from opposing the probate of the will of his uncle, he believed that said will was a true expression of the wish and desire of the testator. Not only this, but he testified for the petitioner and said that the petitioner Teodoro Vaño was the son of the testator and had been treated by him as such since childhood.

The learned trial court lays emphasis on the uncertainty of the three subscribing witnesses as to who filled out the blank spaces on the will now occupied by the words "11th" and "December", while they are sure that the name Jose Vaño on the space at the beginning of the first paragraph was written by the testator himself. Said uncertainty on the part of the said three subscribing witnesses instead of affecting their veracity, in our opinion, strengthens it, because it refers to a minor detail and shows that they had not been rehearsed but on the contrary, testified to what they remembered. In this connection, there is every reason to believe that the fact that the space for the name Jose Vaño on Exhibit "A" was left in blank to be filled out later by the testator himself argues against the theory of forgery, because if there had been forgery, by leaving the blank space for the name of the testator to be filled out later, including the space for the date and the month, the forgers would be laying themselves open and unnecessarily creating an additional opportunity for the opponents and for the court to detect the forgery.

After all, there was neither necessity nor occasion for forging the signatures of the testator in the will because there is every reason to believe that said testator would leave all his property to petitioner Teodoro Vaño. The evidence shows that Teodoro was a natural son of the testator. From childhood he had been raised by Jose Vaño, treated like a son, and sent to school, and even after Teodoro had married, he and his wife and family continued to live with the old man, or rather, the old man lived with them. Jose Vaño in 1945, in a public instrument entitled "Special Power of Attorney" (Exhibit "E") referred to Teodoro Vaño as his son and appointed him as his attorney-in-fact to lease to the United States of America any, some or all real properties owned by him in the City of Cebu, under such terms and conditions which Teodoro may deem just and reasonable, and to execute and sign the corresponding deeds of lease, and to collect and receive the rents. This was accepted and acted upon by Teodoro Vaño. In 1946 and 1947 the testator appointed Teodoro his attorney-in-fact giving him a power of attorney with extensive powers such as to lease to the Republic of the Philippines some of his real and personal properties in the City of Cebu, and to collect and receive the rentals accruing from the leased properties; to ask, demand, sue for, recover, and collect any and all sums of money, debts, dues, accounts, legacies, bequests, interests, dividends, etc. which thereafter become due or owing to him and to make, sign, execute, and deliver contracts, documents, agreements, and other writings of whatever nature with any and all third persons upon terms and conditions acceptable to him (Teodoro), Exhibits "F" and "G". In 1946 while the testator was in Bohol, he wrote to Teodoro a note (Exhibit "I") addressing him as his "dear son" and with the complimentary clause "your loving Dad", signing the same, asking Teodoro to send P5,000 to him. It seems that at least in Cebu and Bohol petitioner Teodoro Vaño was known by everyone to be the son of Jose Vaño because the latter had treated and accepted, even recognized him as such, and shortly before his death, entrusted him with the complete management of his business. One of the witnesses for the opposition, Carmen Vallore, cousin-in-law of the testator, in her testimony called Milagros Vaño, wife of Teodoro Vaño, as the daughter-in-law of Jose Vaño, meaning that Teodoro was the son of the testator. During the hearing and while, Teodoro Vaño was testifying, counsel for the oppositors repeatedly referred to the testator as his (Teodoro's) father. Under all these

circumstances, is it any wonder that Jose Vaño should voluntarily by means of a will, leave all his properties to his only son, though natural?

It is not improbable that one of the reasons prompting the filing of the opposition to the petition for probate was that Paz Vaño Vda. de Garces, sister of the testator, could not understand why her brother, a wealthy man should leave all his wealth to a mere natural son (Teodoro) and leave nothing to her; but it was not altogether strange because it seems that the relations between Paz and the testator, were rather strained and in 1949, according to the evidence, Paz had brought a civil action against Jose Vaño and Irineo Vaño, the nephew of Jose Vaño who refused to oppose the probate of the will. And during the last and prolonged illness of the testator, Paz, living in the same city of Cebu, did not even once visit her ailing and bed-ridden brother.

The three subscribing witnesses to the will, under oath assured the court that Jose Vaño voluntarily signed Exhibit "A", and these three witnesses were in no way related to Teodoro or to the testator, had no interest in the execution of the will and stood to gain nothing by its probate. Pedro Ceniza is a responsible businessman, Dr. Osmundo Rama, is a practicing physician and Atty. Nazario Pacquiao, is a member of the bar and at the time he prepared Exhibit "A", he was Assistant Provincial Fiscal of Cebu. Their disinterested testimony cannot be taken lightly. On this question of the weight to be given to the testimony of subscribing witnesses, we held in the case of *Roxas vs. Roxas, et al.*, 48 Off. Gaz. (6) 2177; 87 Phil. 692, that—

"We do not venture to impute bias to the experts introduced during the trial but we hasten to state that the positive testimony of the three attesting witnesses ought to prevail over the expert opinions which cannot be mathematically precise but which, on the contrary are 'subject to inherent infirmities.'"

"The law impliedly recognizes the almost conclusive weight of the testimony of attesting witnesses when it provides that 'if the will is contested, all the subscribing witnesses present in the Philippines and not insane, must be produced and examined, and the death, absence or insanity of any one of them must be satisfactorily shown to the Court.' (Section 11, Rule 77, Rules of Court.)"

In the present case, the opinions of the two handwriting experts presented by the parties are conflicting and even assuming that there is doubt to our mind as to which of the two is to be accepted, the positive and clear testimony of the three subscribing witnesses should prevail. In the case of *In re Will of Medina*, 60 Phil., 391, this Court said:

"In the present case, two of the subscribing witnesses are lawyers. This fact together with the circumstance that they were not shown to have any interest in the subject of the litigation, lead the trial court to consider their testimony as worthy of credit. The intervention of professional men specially lawyers, in the preparation and execution of wills, has been given by this Court the consideration deserved."

Reiterating the doctrine laid down in the case of *Sotelo vs. Luzan*, 59 Phil., 908, we further held in the same case:

"In one case it was said: 'It is hardly conceivable that any attorney of any standing would risk his professional reputation by falsifying a will and then go before a court and give false testimony.'"

There is no reason to believe that Atty. Pacquiao who, at the time was not only a member of the bar but was an assistant provincial fiscal, should commit forgery by drafting Exhibit "A" and take part in forging the signature of the testator and later falsely testify in court on the due execution of said will and subject himself not only to criminal prosecution and dismissal from his post as assistant provincial fiscal, but also to disbarment proceedings.

In view of the foregoing, the decision appealed from is reversed and Exhibit "A" is hereby allowed probate as the Last Will and Testament of Jose Vaño, with costs against appellees.

Paras, C. J., Pablo, Padilla, Reyes, A., Jugo, Bautista Angelo, Labrador and Concepcion, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.