

**IN THE MATTER OF THE INTESTATE ESTATE OF PEDRO SANTILLON,
CLARO SANTILLON, PETITIONER AND APPELLANT, VS. PERFECTA
MIRANDA, BENITO U. MIRANDA AND ROSARIO CORRALES,
OPPOSITORS AND...**

G.R. No. L-19281. June 30, 1965

Ponente: BENGZON, C.J.

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BENGZON, C.J.:

This is an appeal from the order of the Court of First Instance of Pangasinan, specifying the respective shares of the principal parties herein in the intestate estate of Pedro Santillon.

On November 21, 1953, Santillon died without testament in Tayug, Pangasinan, his residence, leaving one son Claro, and his wife, Perfecta Miranda. During his marriage, Pedro acquired several parcels of land located in that province.

About four years after his death, Claro Santillon filed a petition for letters of administration. Opposition to said petition was entered by the widow Perfecta Miranda and the spouses Benito U. Miranda and Rosario Corrales on the following grounds: (a) that the properties enumerated in the petition were all conjugal, except three parcels which Perfecta Miranda claimed to be her exclusive properties; (b) that Perfecta Miranda by virtue of two documents had conveyed 3/4 of her undivided share in most of the properties enumerated in the petition to said spouses Benito and Rosario; (c) that administration of the estate was not necessary, there being a case for partition pending; and (d) that if administration was necessary at all, the oppositor Perfecta Miranda and not the petitioner was better qualified for the post. It appears that subsequently, oppositor Perfecta Miranda was appointed administratrix of the estate.

On March 22, 1961, the court appointed commissioners to draft within sixty days, a project of partition and distribution of all the properties of the deceased Pedro Santillon.

On April 25, 1961, Claro filed a "Motion to Declare Share of Heirs" and to resolve the conflicting claims of the parties with respect to their respective rights in the estate. Invoking Art. 892 of the New Civil Code, he insisted that after deducting 1/2 from the conjugal properties as the conjugal share of Perfecta, the remaining 1/2 must be divided as follows: 1/4 for her and 3/4 for him. Oppositor Perfecta, on the other hand, claimed that besides her conjugal half, she was entitled under Art. 996 of the New Civil Code, to another 1/2 of the remaining half. In other words, Claro claimed 3/4 of Pedro's inheritance, while Perfecta claimed 1/2. .

After due notice and hearing, the court, on June 28, 1961/ issued an order, the dispositive portion of which reads:

"In view of the foregoing considerations it is hereby ruled and ordered that in the intestate succession of the deceased Pedro Santillon, the surviving spouse Perfecta Miranda shall inherit ONE-HALF (1/2) share and the remaining one-half (1/2) share for the only son, Atty. Claro Santillon. This is after deducting the share of the widow as co-owner of the conjugal properties. * * *."

From this order, petitioner Claro Santillon has appealed to this Court. Two questions of law are involved. The first, raised in Perfecta's Motion to Dismiss Appeal, is whether the order of the lower court is appealable. And the second, raised in appellant's lone assignment of error, is: How shall the estate of a person who dies intestate be divided when the only survivors are the spouse and one legitimate child?

THE FIRST ISSUE:—It is clear that the order of the lower court is final and therefore appealable to this Court.

Under Rule 109, sec. 1, a person may appeal in special proceedings from an order of the Court of First Instance where such order determines * * * "the distributive share of the estate to which such person is entitled."

THE SECOND ISSUE:—Petitioner rests his claim to 3/4 of his father's estate on Art. 892, of the New Civil Code which provides that:

"If only the legitimate child or descendant of the deceased survives, the widow or widower shall be entitled to one-fourth of the hereditary estate. * * *."

As she gets one-fourth, therefore, I get 3/4, says Claro Perfecta, on the other hand, cites Art. 996 which provides:

"If a widow or widower and legitimate children or descendants are left, the surviving spouse has in the succession the same share as that of each of the children."

Replying to Perfecta's claim, Claro says the article is unjust and inequitable to the extent that it grants the widow the same share as that of the children in intestate succession, whereas in testate, she is given 1/4 and the only child 1/2.

Oppositor Perfecta Miranda, on the other hand, contends that Art. 996 should control, regardless of its alleged inequity, being as it is, a provision on intestate succession involving a surviving spouse and a legitimate child, inasmuch as in statutory construction, the plural word "children" includes the singular, "child".

Art. 892 of the New Civil Code falls under the chapter on Testamentary Succession; whereas Art. 996 comes under the chapter on Legal or Intestate Succession. Such being the case, it is obvious that Claro cannot rely on Art. 892 to support his claim to 3/4 of his father's estate. Art. 892 merely fixes the legitime of the surviving spouse and Art. 888 thereof, the legitime of children in testate succession. While it may indicate the intent of the law with respect to the ideal shares that a child and a spouse should get when they concur with each other, it does not fix the amount of shares that such child and spouse are entitled to when intestacy occurs. Because if the latter happens, the pertinent provision on intestate succession shall apply; i. e. Art. 996.

Some commentators of our New Civil Code seem to support Claro's contention; at least, his objection to fifty-fifty sharing. But others confirm the half and half idea of the Pangasinan court.

This is, remember, intestate proceedings. In the New Civil Code's chapter in legal or intestate succession, the only article applicable is Art. 996. Our colleague Mr. Justice J-B. L. Reyes, professor of Civil Law, is quoted as having expressed the opinion that under this article, when the widow survives with only one legitimate child, they share the estate in equal parts[1]. Senator Tolentino in his commentaries writes as follows:

"One child Surviving.—If there is only one legitimate child surviving with the spouse, since they share equally, one-half of the estate goes to the child and the other half goes to the surviving spouse. Although the Jaw refers to "children or descendants," the rule in statutory construction that the plural can be understood to include the singular is applicable in his case." (Tolentino, Civil Code of the Philippines, Vol. III, p. 436.)

The theory of those holding otherwise, seems to be premised on these propositions: (a) Art. 996 speaks of "children," therefore it does not apply when there is only one "child"; consequently Art. 892 (and Art. 888) should be applied, thru a process of judicial construction and analogy; (b) Art. 996 is unjust or unfair because whereas in

testate succession, the widow is assigned one-fourth only (Art. 892), she would get 1/2 in intestate.

A. Children:—It is a maxim of statutory construction that words in plural include the singular.[2] So Art. 996 could or should be read (and so applied) : "if the widow or widower and a legitimate child are left, the surviving spouse has the same share as that of the child." Indeed, if we refuse to apply the article to this case on the ground that "child" is not included in "children", the consequences would be tremendous, because "children" will not include "child" in the following articles:

Art. 887.—The following are compulsory heirs:

(1") legitimate children and descendants * * *

ART. 888.—The legitime of legitimate children and descendants consists of one-half of the hereditary estate * *

*,

ART. 896.—Illegitimate children who may survive * * * are entitled to one-fourth of the hereditary estate * * *.
(See also Art. 901.).

In fact, those who say, "children" in Art. 996 does not include "child" seem to be inconsistent when they argue from the premise that "in testate succession the only legitimate child gets one-half and the widow, one-fourth." The inconsistency is clear, because the only legitimate child gets one-half under Art. 888, which speaks of "children", not "child". So if "children" in Art. 888 includes "child", the same meaning should be given to Art. 996.

B. Unfairness of Art. 996.—Such position, more clearly stated is this: In testate succession, where there is only one child of the marriage, the child gets one-half, and the widow or widower one-fourth. But in intestate, if Art. 996 is applied now, the child gets one-half, and the widow or widower one-half. Unfair or inequitable, they insist.

On this point, it is not correct to assume that in testate succession the widow or widower "gets only one-fourth." She or he may get one-half—if the testator so wishes. So, the law virtually leaves it to each of the spouses to decide (by testament) whether his or her only child shall get more than his or her survivor.

Our conclusion (equal shares) seems a logical inference from the circumstance that whereas Article 834 of the Spanish Civil Code, from which Art. 996 was taken, contained two paragraphs governing two contingencies, the first, where the widow or widower survives with legitimate children (general rule), and the second, where the widow or widower survives with only one child (exception), Art. 996 omitted to provide for the second situation, thereby indicating the legislator's desire to promulgate just one general rule applicable to both situations.

The resultant division may be unfair as some writers explain,—and this we are not called upon to discuss—but it is the clear mandate of the statute, which we are bound to enforce.

The appealed decision is affirmed. No costs in this instance.

Concepcion, Reyes, J.B.L., Paredes, Dizon, Regala, Makalintal, Bengzon, J.P. and Zaldivar, JJ., concur.

Decision affirmed.

[1] V. Francisco, Civil Code Annotated, Vol. III, p. 931.

[2] 82 C. J. S. pp. 675, 676.

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