

IN THE MATTER OF THE PETITION TO APPROVE THE WILL OF THE LATE GLORIA JOSON TIBURCIO AND FOR THE ISSUANCE OF LETTERS OF ADMINISTRATION MARILOU TIBURCIO-HERNANDEZ, PETITIONER-APPE...

Ponente: DICDICAN, J.

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DICDICAN, J.:

The law favors the probate of a Will[1]. Upon those who oppose it rests the burden of showing why it should not be allowed[2].

Before us is an appeal filed by the oppositors-appellants Erlinda T. Alejandro and Ellen T. Go (“oppositors-appellants”) seeking a review of the Decision[3] dated October 10, 2011 rendered by Branch 77 of the Regional Trial Court (“RTC”) in Quezon City, National Capital Judicial Region in Special Proceeding Case No. 07-061094.

The material and relevant facts of the case, as culled from the record, are as follows:

The late Gloria Joson Tiburcio (“Gloria”) died on January 7, 2007 and was survived by her three (3) daughters, herein petitioner-appellee Marilou Tiburcio-Hernandez (“petitioner-appellee”) and oppositors-appellants Erlinda T. Alejandro and Ellen T. Go.

Gloria also had two sons who predeceased her. Renato Tiburcio, who died in 1993 with three (3) children namely: Rowena, Roxanne Marie and Ryan Joseph, and Romulo Tiburcio, who died in 1997, with only one child, Harri Tiburcio.

Gloria, was a Filipino citizen and a resident of Quezon City at the time of her death, with real properties located in San Miguel, Bulacan and Quezon City.

Upon the death of Gloria, herein oppositors-appellants initiated intestate proceedings through a Petition for the Issuance of Letters of Administration of the Estate of the Late Gloria Tiburcio which was filed before the Regional Trial Court in Quezon City and was docketed as Special Proceedings No. Q-07-60331.

However, on August 27, 2007, while the petitioner-appellee was sorting the decedent's articles in the latter's room, she accidentally discovered a holographic will which was dated December 4, 2002. The will, entirely written by hand, read as follows:

“Last Will and Testament

December 4, 2002

Sa Mga Minamahal Kong Maiiwan sa buhay,

Ito ang aking 'Last Will and Testament'. Ang pinirmahan kong Last Will and Testament noon kay Linda ay binabale wala ko na. Ang masusunod ay ang Testamentong ito, na may petsang December 4, 2002.

Dahilan sa nadiskubre kong panloloko sa akin ni Ellen at Linda, sa halos lahat ng naipon ko ay nakuha na nila, ay iyon na ang parti nila sa mga ari-arian na maiiwan ko dahil hindi ko na sila sisingilin dito.

At lahat ng maiiwanan ko na ay ibinibigay ko sa minamahal kong anak na si Marilou na siyang gumagabay sa akin at kundi dahil sa kaniya ay hindi ko matutuklasan ang mga panloloko sa akin nila Ellen at Linda.

Gumagalang,
Gloria Joson Tiburcio

Witnesses

Ernesto A. Nidoy (sgd.)

Loreta B. Nidoy (sgd.)(4]

On the lower portion of the Will, there appeared a signature and a stamp of a notary public named Atty. Humberto B. Basco which bore the date September 24, 2004.

On account of such development, on September 6, 2007, the petitioner-appellee filed a Petition to Approve the Will of the Late Gloria Joson Tiburcio and for the Issuance of Letters of Administration[5] with the Regional Trial Court in Quezon City.

Consequently, Special Proceedings No. Q-07-60331 was archived by the trial court.

On October 8, 2007, an Opposition to the Petition[6] was filed by the oppositors-appellants on the ground that the purported signature on the supposed Will was not the customary signature of the named testatrix therein. Moreover, since the Will was entirely handwritten by the testatrix, the presence of the signatures of two witnesses and the stamp of the notary public cast doubt on its compliance with the formalities required by the law on testamentary succession.

In the same manner, the oppositors-appellants contended that there was preterition as there was only one heir instituted therein, to the exclusion of the other compulsory heirs. The oppositors-appellants likewise questioned the alleged disinheritance as the same was baseless and unsupported in fact and in law.

Finding the petition to be sufficient in form and in substance, the case was set for initial hearing on May 22, 2008 in an Order dated December 10, 2007. Said Order was published in a weekly newspaper of general circulation in Metro Manila on April 12, 19 and 26, 2008.

The case then proceeded to trial on the merit. Aside from the petitioner-appellee, the signatories in the Last Will and Testament of the late Gloria, namely, Loreta Bernabe Nidoy and Ernesto Nidoy, testified in open court. On the part of the oppositors-appellants, Harri Muñiz Tiburcio testified together with his aunts, herein oppositors-appellants Erlinda and Ellen.

After a trial on the merits, the RTC admitted the Will to probate in a Decision dated October 10, 2011, the dispositive portion of which is cited herein as follows:

“WHEREFORE, the foregoing premises considered, the holographic Last Will and Testament of the late Gloria Joson Tiburcio, executed pursuant to Article 838 of the Civil Code, and proved in accordance with Rule 76 of the Revised Rules of Court, is hereby ALLOWED. Let a certificate for the allowance of the Last Will and Testament of the late Gloria Joson Tiburcio be issued under the seal of this Court, and attached to the said Will, and recorded by the Register of Deeds of Quezon City. The petition for the issuance of Letters Testamentary to Marilou Tiburcio-Hernandez is GRANTED.

“SO ORDERED.”

The court a quo favorably took into account the testimonies of the witnesses who were physically present at the time when the holographic will was executed and signed by the late Gloria. The RTC likewise ruled that the witnesses' signatures on the Will were a mere superfluity on the ground that the disputed Will had complied with the requirements of the law for a holographic will as to form and substance.

The RTC also opined that there was no preterition regardless of the fact that the Will was silent as to the other heirs, specifically, Gloria's grandchildren from her predeceased sons, Renato and Romulo.

Undaunted, the oppositors-appellants filed this instant appeal raising the following errors purportedly committed by the trial court:

I.

THE TRIAL COURT COMMITTED A REVERSIBLE ERROR IN RENDERING THE ASSAILED DECISION WHEN IT HELD THAT THE OPPOSITORS-APPELLANTS DID NOT CONTEST THE FACT THAT THE SIGNATURE ON THE SUBJECT WILL BELONGED TO THE TESTATRIX.

II.

THE TRIAL COURT COMMITTED A REVERSIBLE ERROR IN RENDERING THE ASSAILED DECISION WHEN IT HELD THAT THE WITNESSES AND THE NOTARIZATION OF THE SUBJECT WILL ARE MERE SUPERFLUITIES THAT DO NOT AFFECT ITS HOLOGRAPHIC CHARACTER.

III.

THE TRIAL COURT COMMITTED A REVERSIBLE ERROR IN RENDERING THE ASSAILED DECISION WHEN IT HELD THAT THERE WAS NO PRETERITION NOR DISINHERITANCE IN THE WILL OF THE SUPPOSED TESTATRIX.

A fortiori, the primordial issue brought before us for resolution is whether the holographic will of the late Gloria complied with the formal and substantial requirements of the law on testamentary succession.

After a careful and judicious scrutiny of the whole matter, together with the applicable laws and jurisprudence in the premises, we find the instant appeal to be devoid of merit.

According to the oppositor-appellant, it was an error for the RTC to rule that the witnesses' signatures on the Will and the notarization thereof were superfluities as the same would affect the voluntary nature and freedom of the testatrix from undue influence in the preparation of the Will.

Under Article 810 of the New Civil Code, a holographic will must be entirely written, dated and signed by the hand of the testator/testatrix himself/herself. It is subject to no other form and may be made in or out of the Philippines. It also need not be witnessed.

In the case at hand, the Last Will and Testament of the late Gloria was dated, signed and entirely written by her in her own handwriting. As it is, the presence of the signatures of the witnesses as well as the notarization of the Will did not in any way invalidate the same. Indeed, the Last Will and Testament executed by the late Gloria conformed to the formalities of a holographic will as prescribed by law.

It is a fundamental principle that the intent or the will of the testator/testatrix, expressed in the form and within the limits prescribed by law, must be recognized as the supreme law in succession. All rules of construction are designed to ascertain and give effect to that intention. It is only when the intention of the testator/testatrix is

contrary to law, morals or public policy that it cannot be given effect[7].

Holographic wills, therefore, being usually prepared by one who is not learned in the law, as illustrated in the present case, should be construed more liberally than the ones drawn by an expert, taking into account the circumstances surrounding the execution of the instrument and the intention of the testator/testatrix[8].

To support their objection to the probate of the contested Will, the oppositors-appellants asseverated that the presence of the witnesses could indicate that there was undue influence exerted upon the testatrix during the execution of the Will.

Article 839 of the New Civil Code states the instances when a Will may be disallowed, as follows:

“Article 839. The will shall be disallowed in any of the following cases:

- (1) If the formalities required by law have not been complied with;
- (2) If the testator was insane, or otherwise mentally incapable of making a will, at the time of its execution;
- (3) If it was executed through force or under duress, or the influence of fear, or threats;
- (4) If it was procured by undue and improper pressure and influence, on the part of the beneficiary or of some other person;
- (5) If the signature of the testator was procured by fraud;
- (6) If the testator acted by mistake or did not intend that the instrument he signed should be his will at the time of affixing his signature thereto.”

The insinuation that there was undue influence exerted upon the testatrix by the two witnesses was not satisfactorily proven by the oppositors-appellants herein. There was no showing that the witnesses to the execution of the Will of Gloria stood to receive any benefit from the allowance of the Will. Veritably, there is no evidence in the case to show any undue influence exercised by anyone.

More importantly, the contention of the oppositors-appellants that the Will was obtained by undue influence or improper pressure exerted by the witnesses of the Will cannot be sustained on mere conjecture or suspicion. It is not enough that there was opportunity to exercise undue influence or a possibility that it may have been exercised[9]. The exercise of improper pressure or undue influence must be supported by substantial evidence that it was actually exercised[10].

We stress that the party challenging the Will bears the burden of proving the existence of undue influence at the time of its execution[12]. The burden to show otherwise shifts to the proponent of the Will only upon a showing of credible evidence of undue influence[12]. Unfortunately in this case, other than the self-serving allegations of the oppositors-appellants, no evidence of undue influence was ever presented.

The foregoing notwithstanding, the oppositors-appellants contend that the evidence presented before the trial court showed that the signature on the Will itself was not the signature of the testatrix. It is the postulation of the oppositors-appellants that, had the late Gloria intended the document to be her Last Will and Testament, she would have signed the same with her usual signature, rather than made a variation or deviation from her customary signature.

Article 811 of the New Civil Code of the Philippines is to the following effect:

“ART. 811. In the probate of a holographic will, it shall be necessary that at least one witness who knows the handwriting and signature of the testator explicitly declare that the will and the signature are in the handwriting

of the testator. If the will is contested, at least three of such witnesses shall be required.

“In the absence of any competent witnesses referred to in the preceding paragraph, and if the court deems it necessary, expert testimony may be resorted to.”

During the trial on the merit in the probate court, three (3) witnesses were presented by the petitioner-appellee who declared that the contested Will and the signature therein were in the handwriting of the testatrix. As a matter of fact, two of the witnesses testified that they saw the testatrix execute and sign the Last Will and Testament in their presence. These testimonies more than satisfy the requirements of the afore-mentioned rule in conjunction with Section 11 of Rule 76 of the Revised Rules of Court for the probate of holographic wills.

Furthermore, contrary to the claim of the oppositors-appellants, the testatrix evidently intended the document that she executed on December 4, 2002 to be her “Last Will and Testament”. An intent to dispose mortis causa could be clearly deduced from the terms of the instrument in conformity with Article 783 of the New Civil Code which states that a Will is an act whereby a person is permitted, with the formalities prescribed by law, to control to a certain degree the disposition of his estate, to take effect after his death. In other words, the intention of the testatrix in executing her “Last Will and Testament” was to dispose her properties in favor of her daughter, the petitioner-appellee.

Lastly, the oppositors-appellants would want to impress upon us that the Will should not be allowed probate on the ground that there was preterition. In the same manner, the oppositors-appellants asseverated that the exclusion of the other heirs in the Will was, in effect, an invalid disinheritance. Similarly, the oppositors-appellants claim that the ground for their disinheritance was unsupported and without legal basis. For the oppositors-appellants, the institution of the petitioner-appellee as the only heir, to the exclusion of all the other compulsory heirs, effectively annulled the Will.

The statute that we are called upon to apply is Article 854 of the New Civil Code which, in part, provides:

Art. 854. The preterition or omission of one, some, or all of the compulsory heirs in the direct line, whether living at the time of the execution of the will or born after the death of the testator, shall annul the institution of heir; but the devisees and legacies shall be valid insofar as they are not; inofficious.

“If the omitted compulsory heirs should die before the testator, the institution shall be effectual, without prejudice to the right of representation.” (Emphasis supplied)

As a general rule, courts in probate proceedings are limited to pass only upon the extrinsic validity of the Will sought to be probated[13]. The court merely inquires on its due execution, whether or not it complies with the formalities prescribed by law, and the testamentary capacity of the testator. It does not determine nor even by implication prejudge the validity or efficacy of the Will’s provisions[14]. The intrinsic validity is not considered since the consideration thereof usually comes only after the Will has been proved and allowed.

There are, however, notable circumstances wherein the intrinsic validity was first determined as when the defect of the Will is apparent on its face and the probate of the Will may become a useless ceremony if it is intrinsically invalid[15]. The intrinsic validity of a Will may be passed upon because practical considerations demanded it as when there is preterition of heirs or the testamentary provisions are of doubtful legality[16]. Where the parties agree that the intrinsic validity be first determined, the probate court may also do so[17]. Parenthetically, the rule on probate is not inflexible and absolute. Under exceptional circumstances, the probate court is not powerless to do what the situation constrains it to do and pass upon certain provisions of the Will[18].

Under the foregoing circumstances, We are of the opinion that, from the face of the Will, the conclusion that there was preterition is not indubitable.

As correctly ruled by the trial court in this wise:

“The will omits mention of the compulsory heirs who predeceased the testatrix, namely Renato J. Tiburcio and Romulo J. Tiburcio. But this is a cause neither for the disallowance of the Will, nor for the annulment of the institution of an heir or heirs. This is a situation, rather, that brings into play the second paragraph of Article 854 of the Civil Code, which provides: ‘If the omitted compulsory heirs should die before the testator, the institution shall be effectual, without prejudice to the right of representation.’ (italics added). In this way, the will of the testatrix may still be allowed, subject to the right of representation.”

This interpretation is in consonance with the doctrine that testacy is preferable to intestacy. To give effect to the intention and wishes of the testatrix is the first and principal law in the matter of testaments[19]. An interpretation that will render a testamentary disposition operative takes precedence over a construction that will nullify a provision of the Will²⁰. Doubts are resolved in favor of testacy especially where the Will evinces an intention on the part of the testator to dispose of practically his whole estate. So compelling is the principle that intestacy should be avoided and that the wishes of the testator should prevail that sometimes the language of the Will can be varied for the purpose of giving it effect[21]. Indeed, the law has a tender regard for the wishes of the testator as expressed in his Will because any disposition therein is better than that which the law can make[22].

With respect to the issue on disinheritance, its legality would involve a determination of the intrinsic validity of the Will which is decidedly premature at this stage.

Considering that the questioned document is Gloria's holographic will and that the law favors testacy over intestacy, it is but proper to allow the probate of the Will.

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us DENYING the instant appeal. The Decision dated October 10, 2011 rendered by Branch 77 of the Regional Trial Court in Quezon City in Special Proceeding Case No. 07-061094 is hereby AFFIRMED.

SO ORDERED.

C E R T I F I C A T I O N

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Elbinas and Paredes, JJ., concur.

[1] Ortega v. Valmonte, G.R. No. 157451, December 16, 2005.

[2] Ibid.

[3] Records, SP Proc. Q-07-61094, pp. 24-43.

[4] Ibid, p. 15.

[5] Ibid, pp. 9-12.

[6] Ibid, pp. 21-22.

[7] Tolentino, Arturo M., "Commentaries and Jurisprudence on the Civil Code of the Philippines," Volume III.

[8] Ibid.

- [9] Ozaeta v. Cuartero, L-5597, 31 May 1956, 99 Phil. 1041.
- [10] Teotico v. Del Val, 13 SCRA 406.
- [11] Pecson v. Coronel, 45 Phil. 216, October 11, 1923.
- [12] Cuyugan v. Baron, 62 Phil. 859, January 16, 1936.
- [13] Ajero vs. Court of Appeals, 236 SCRA 488; Cayetano vs. Leonidas, 129 SCRA 522.
- [14] Palacios vs. Palacios, 106 Phil. 739.
- [15] Nepomuceno vs. Court of Appeals, 139 SCRA 206; Nuguid vs. Nuguid, 17 SCRA 499.
- [16] Balanay vs. Martinez, 64 SCRA 452; Cayetano vs. Leonidas, 129 SCRA 522.
- [17] Nuguid vs. Nuguid, *supra*.
- [18] Nepomuceno vs. Court of Appeals, *supra*.
- [19] Dizon-Rivera vs. Dizon, L-24561, June 30, 1970, 33 SCRA 554, 561.
- [20] Balanay v. Martinez, G.R. No. L-39247, June 27, 1975.
- [21] Austria vs. Reyes, L-23079, February 27, 1970, 31 SCRA 754, 762.
- [22] Castro vs. Bustos, L-25913, February 28, 1969, 27 SCRA 327, 341.

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