

TESTATE ESTATE OF CATALINA DE LA CRUZ, DECEASED, ANDRES PASCUAL, PETITIONER-APPELLEE, VS. PEDRO DE LA CRUZ, ET AL., OPPOSITORS-APPELLANTS.

G.R. No. L-24819. May 30, 1969

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

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/9bb087d1a28f/>

REYES, J.B.L., Acting C.J.:

This is an appeal from the decision of the Court of First Instance of Rizal (in Sp. Proc. No. 3312) admitting to probate the purported will of Catalina de la Cruz.

On 2 January 1960, Catalina de la Cruz, single and without any surviving descendant or ascendant, died at the age of 89 in her resi-dence at San Roque, Navotas, Rizal. On 14 January 1960, a petition for the probate of her alleged will was filed in the Court of First Instance of Rizal by Andres Pascual, who was named in the said will as executor and sole heir of the decedent.[1]

Opposing the petition, Pedro de la Cruz and 26 other nephews and nieces of the late Catalina de la Cruz contested the validity of the will on the grounds that the formalities required by law were not complied with; that the testatrix was mentally incapable of disposing of her pro-perties by will at the time of its execution; that the will was procured by undue and improper pressure and influence on the part of the petitioner; and that the signature of the testatrix was obtained through fraud.

After hearing, during which the parties presented their respective evidences, the probate court rendered judgment upholding the due execution of the will, and, as therein provided, appointed petitioner Andres Pascual executor and administrator of the estate of the late Catalina de la Cruz without bond. The oppositors appealed directly to this Court, the properties involved being valued at more than P300,000.00, raising only the issue of the due execution of the will.

In this instance, oppositors-appellees claim that the lower court erred in giving credence to the testimonies of the subscribing witnesses and the notary that the will was duly executed, notwithstanding the exist-ence of inconsistencies and contradictions in the said testimonies, and in disregarding their evidence that the will was not signed by all the wit-nesses in the presence of one another, in violation of the requirement of the law.

On this point, the lower court said:

"Regarding the alleged contradictions and inconsistencies in the testimony of the three at-testing witnesses and of the Notary Public, some of which have been enumerated in the Memorandum of Oppositors' counsel, this Court has taken pains in noting said inconsistencies but found the same not substantial in nature sufficient to discredit their entire testimony on the due execution of Ex-hibit 'D'. It is to be 'noted that Exhibit 'D' was signed in 1954 and that the attesting witnesses testified in Court in 1962 or after a lapse of eight years from the date of the signing of the document. It is, therefore, understandable and reasonable to expect that said witnesses will not retain a vivid picture of the details surrounding the execu-tion and signing of the will of Catalina de la Cruz. What is important and essential is that there be unanimity and certainty in their testimony

regarding the identity of the signatures of the testatrix, the attesting witnesses, and the Notary Public, and the fact that they were all present at the time those signatures were affixed on the document Exhibit 'D'. . .”

In this jurisdiction, it is the observed rule that, where a will is contested, the subscribing witnesses are generally regarded as the best qualified to testify on its due execution. However, it is similarly recognized that for the testimony of such witnesses to be entitled to full credit, it must be reasonable and unbiased, and not overcome by competent evidence, direct or circumstantial.[2] For it must be remembered that the law does not simply require the presence of three instrumental witnesses; it demands that the witnesses be credible.[3]

In connection with the issue under consideration, we agree with the trial judge that the contradictions and inconsistencies appearing in the testimonies of the witnesses and the notary, pointed out by the oppositors--appellants (such as the weather condition at the time the will was executed; the sequence of the signing by the witnesses; and the length of time it took to complete the act), relate to unimportant details or to impressions of the witnesses about certain details which could have been affected by the lapse of time and the treachery of human memory, and which inconsistencies, by themselves would not alter the probative value of their testimonies on the due execution of the will [cf. *Peo. vs. Sigue*, 86 Phil. 139-140 (3 years interval)].

In *Estate of Javellana vs. Javellana*, L-13781, 30 January 1960, 106 Phil. 1076, this Court ruled:

"For the purpose of determining the due execution of a will, it is not necessary that the instrumental witnesses should give an accurate and detailed account of the proceeding, such as recalling the order of the signing of the document by the said witnesses. It is sufficient that they have seen or at least were so situated at the moment that they could have seen each other sign, had they wanted to do so. In fact, in the instant case, at least two witnesses, x x x both testified that the testator and the 3 witnesses signed in the presence of each and every one of them (*Jaboneta vs. Gustilo*, 5 Phil. 451; *Neyra vs. Neyra*, 42 Off. Gaz. 2817; *Fernandez vs. Tantoco*, 49 Phil. 380)."

Neither do we believe that the fact that the witnesses were better known to proponent Andres Pascual than to the testatrix suffices to render their testimony suspect. Under the circumstances, considering the admitted fact that when the will was executed (1954) the testatrix was already 83 years old, suffering from rheumatism to the extent that she had to wear thick socks and soft shoes, it is not unlikely that she should have entrusted the task of requesting them to act as witnesses to Andres Pascual himself, albeit the said witnesses, testifying eight years later, should have stated that they were asked by Catalina to witness her testament. The error of recall, considering the eight-year interval, is consonant with the well known vagaries of human memory and recollection, particularly, since the main detail that must have stuck in their minds is that they did witness the signing of the will, upon which their attention must have principally concentrated. That they did so is attested by their signatures and those of the deceased testatrix, which are nowhere impugned; nor is there any claim by appellants that the latter was incapable of reading and understanding the will that she signed. In fact, the evidence is that she did read it before signing. The authorities are to the effect that friendly relations of the witnesses with the testator or the beneficiaries do not affect the credibility of the former,[4] so that the proven friendship between the proponent and the instrumental witnesses would have no bearing on the latter's qualification to testify on the circumstances surrounding the signing of the will.

Appellants' main reliance is the alleged tape recording of a conversation between instrumental witness Manuel Jiongco and oppositor Pedro B. Cruz at the latter's house sometime in 1960 (which recording was admittedly taken without Jiongco's knowledge) wherein said witness is supposed to have stated that when he signed the will the other witnesses' signatures were already affixed, and were not then present, and that he (Jiongco) signed the document in 1958 or 1959 (Exhibit 22; transcription, Exhibit 23 et. seq.).

There are two circumstances that militate against giving credence to this particular evidence. The first is that there

is no adequate proof that the declarations tape recorded were in fact made by Jiongco. The latter denied that the voice was his and in this respect the trial Judge stated (Record on Appeal, pages 83-84):

"We do not doubt the fact that Manuel Jiongco was in the house of Pedro Cruz on the occasion that Exhibit "23" was taken. But it is important to note that when said recording was replayed before Manuel Jiongco in Court he denied that the voice which uttered the above-quoted portions in the conversation was his. So that with that denial of Manuel Jiongco, the Court was left with no other recourse than to make its own comparison between the natural voice of the witness, Manuel Jiongco, while testifying on the witness stand and his supposed recorded voice in Exhibit "23". It is to be admitted that we noted some similarity between the two voices but it was not enough to justify a categorical and definite conclusion that the recorded voice identified by Pedro Cruz to be that of Manuel Jiongco is in truth and in fact the voice of the latter. Between a testimony given in Court under oath which was subjected to and stood a rigorous cross-examination and loose statements made out of Court which even then are of doubtful source, this Court gives full faith and credence to the former. And this is true even if this particular witness admits having a poor memory, and his trustworthiness is assailed due to a previous record of an administrative case filed against him wherein he was fined for a charge of falsification of public document (see Exh. "25"). This is so, because the veracity of his testimony in Court regarding the due execution of Exhibit "D" is corroborated and confirmed by the testimony of two other attesting witnesses to the document and the Notary Public who notarized the same."

Not having heard Jiongco testify, this Court is not in a position to contradict the appreciation of the trial court that the voice in the tape recording was not really that of Jiongco. And considering that he denied that fact under oath, that the tape recording was not supported by truly impartial evidence, and was done without the knowledge of the witness, we can not see our way clear to rule that Jiongco has been successfully impeached, and shown guilty of false testimony. It would be dangerous to rule otherwise.

The second point that renders incredible the alleged assertion of Jiongco in the tape recording, that he signed the testament only in 1958 or 1959, is that in the Notarial Register of the notary, Gatdula, the ratification of the testament appears among the entries for 1954, as well as in the corresponding copies (Exhibit I) filed by him with Bonifacio Sumulong, the employee in charge of the Notarial Section of the Clerk of Court's office, who produced them at the trial upon subpoena, and who testified to his having searched for and found them in the vaults of the Clerk of Court's office. No evidence exists that these documents were not surrendered and filed at the Clerk of Court's office as required by law, and in the regular course of official duty. Certainly, the notary could not have reported in 1954 what did not happen until 1958.

In view of the evidence, we do not feel justified in concluding that the trial court erred in accepting the concordant testimony of the instrumental witnesses as warranting the probate of the will in question, taking into account the unexcelled opportunity of the court *quo* to observe the demeanor, and judge the credibility, of the witnesses thereby. Furthermore, it would not be the first time in this jurisdiction that a will has been admitted to probate even if one instrumental witness testified contrary to the other two, provided the court is satisfied, as in this case, that the will was executed and attested in the manner provided by law (*Fernandez vs. Tantoco*, 49 Phil. 380; *Tolentino vs. Francisco*, 57 Phil. 742; *Cuyugan vs. Baron*, 69 Phil. 639; *Ramirez vs. Butte*, 100 Phil. 635). There is greater reason to admit the will to probate where only the testimony of one witness is subjected to serious, if unsuccessful, attack.

Contestants further assail the admission to probate on the ground that the execution of the will was tainted by fraud and undue influence exerted by proponent on the testatrix, and affirm that it was error for the lower court to have rejected their claim. Said the court in this regard (Record on Appeal, page 87):

"It is a settled rule in this jurisdiction that the mere fact that a Will was made in favor of a stranger is not in itself proof that the same was obtained through fraud and undue pressure or influence, for we have numerous

instances where strangers are preferred to blood relatives in the institution of heirs. But in the case at bar, Andres Pascual, although not re-lated by blood to the deceased Catalina de la Cruz, was definitely not a stranger to the latter for she considered him as her own son. As a matter of fact it was not only Catalina de la Cruz who loved and cared for Andres Pascual but also her sisters held him with affection so much so that Catalina's sister, Florentina Cruz, made him also her sole heir to her property in her Will without any objection from Catalina and Valentina Cruz."

Before considering the correctness of these findings, it is worthwhile to recall the basic principles on undue pressure and influence as laid down by the jurisprudence of this Court: that to be sufficient to avoid a will, the influence exerted must be of a kind that so overpowers and subjugates the mind of the testator as to destroy his free agency and make him express the will of another rather than his own (*Coso vs. Fernandez Deza*, 42 Phil. 596; *Icasiano vs. Icasiano*, L-18979, 30 June 1964; *Teotico vs. Del Val*, L-18753, 26 March 1965); that the contention that a will was obtained by undue influence or improper pressure can not be sustained on mere conjecture or suspicion, as it is not enough that there was opportunity to exercise undue influence, or a possibility that it may have been exercised (*Ozaeta vs. Cuartero*, L-5597, 31 May 1956); that the exercise of improper pressure and undue influence must be supported by substantial evidence that it was actually exercised (*Ozaeta vs. Cuartero*, ante; *Teotico vs. Del Val*, L-18753, 26 March 1965); that the burden is on the person challenging the will to show that such influence was exerted at the time of its execution (*Teotico vs. Del Val*, ante); that mere general or reasonable influence is not sufficient to invalidate a will (*Coso vs. Fernandez Deza*, ante); nor is moderate and reasonable solicitation and entreaty addressed to the testator (*Barretto vs. Reyes*, L-5830-31, 31 January 1956), or omission of relatives, not forced heirs, evidence of undue influence (*Bugnao vs. Ubag*, 14 Phil. 163; *Pecson vs. Coronel*, 45 Phil. 416).

Tested against these rulings, the circumstances marshalled by the contestants certainly fail to establish actual undue influence or improper pressure exercised on the testatrix by the proponent. Their main reliance is on the assertion of the latter, in the course of his testimony, that the deceased "did not like to sign anything unless I knew it" (t.s.n., page 7, 27 January 1962), which does not amount to proof that she would sign anything that proponent desired. On the contrary, the evidence of con-testants-appellants, that proponent purchased a building in Manila for the testatrix, placed the title in his name, but caused the name "Catalina de la Cruz" to be painted thereon in bold letters to mislead the deceased, even if true, demonstrates that proponent's influence was not such as to overpower and destroy the free will of the testatrix. Because if the mind of the latter were really subjugated by him to the extent pictured by the contestants, then proponent had no need to recourse to the deception averred.

Nor is the fact that it was proponent, and not the testatrix, who asked Dr. Sanchez to be one of the instrumental witnesses evidence of such undue influence, for the reason that the rheumatism of the testatrix made it difficult for her to look for all the witnesses. That she did not resort to relatives or friends is, likewise, explainable: it would have meant the disclosure of the terms of her will to those interested in her succession but who were not favored by her, thereby exposing her to unpleasant importunity and recriminations that an aged person would naturally seek to avoid. The natural desire to keep the making of a will secret can, likewise, account for the failure to probate the testament during her lifetime.

We conclude that the trial court committed no error in finding that ap-pellants' evidence established at most grounds for suspicion but fell far short of establishing actual exercise of improper pressure or influence. Considering that the testatrix considered proponent as her own son, to the extent that she expressed no objection to his being made the sole heir of her sister, Florentina Cruz, in derogation of her own rights, we find nothing abnormal in her instituting proponent also as her own beneficiary. As stated by the Court in the *Knutson* case -

"The truth of the matter is that bequests and devises to those in whom the testator has confidence and who have won his affection are more likely to be free from undue influence than bequests or devises to others." (In re

Knutson's Will, 41 Pac. 2d 793).

Appellants invoke a presumption of undue influence held to exist by American authorities where the beneficiary participates in the drafting or execution of the will favoring him; but since the will was prepared by Atty. Pascual, although a nephew of the proponent, we do not think the presumption applies; for in the normal course of events, said attorney would follow the instructions of the testatrix; and a member of the bar in good standing may not be convicted of unprofessional conduct, or of having conspired to falsify a testament, except upon clear proof.

The charge of fraud, being premised on the existence of undue influence, needs no separate discussion.

WHEREFORE, the decree of probate appealed from is affirmed, with costs against contestants-appellants.

Dizon, Makalintal, Zaldivar, Sanchez, Fernando, Capistrano, and Barredo, JJ., concur.

Teehankee, J., took no part.

Concepcion, C.J., and Ruiz Castro, J., on official leave.

[1] Although not related by blood, petitioner claims he was taken into, and grew up with, the family of the deceased.

[2] *Junquera vs. Borromeo*, L-18498, 30 March 1967, 19 SCRA 656.

[3] Article 805, Civil Code of the Philippines.

[4] 95 C.J.S. 326-327; *Yowell vs. Hunter*, 85 NE 2d 674; *In re Reid's Estate*, 138 So. 2d 342.

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.