

**IN THE MATTER OF THE TESTATE ESTATE OF JOSE L. COLLANTES,
DECEASED. FELIX COLLANTES AND ANITA RIUS DE COLLANTES,
PETITIONERS-APPELLEES, VS. JUAN M. COLLANTES, ET. AL.,
OPPOSITOR...**

G.R. No. L-15341. July 20, 1961

Ponente: DE LEON, J.

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DE LEON, J.:

This is an appeal from an order of the Court of First Instance of Manila admitting to probate the last will and testament of the deceased Jose L. Collantes and issuing letters testamentary to Felix Collantes who was named executor therein.

The petition for probate of the will above referred to was filed by Felix Collantes and his wife, Anita Rius de Collantes, on September 19, 1957, with the prayer that letters testamentary be issued to them. It is alleged, among other things, that the decedent Jose L. Collantes, a full-blood brother of the petitioner Felix Collantes and resident of Manila, died a bachelor on August 8, 1957, leaving "a one-third proindiviso share in the real property located at 829 R. Hidalgo, Quiapo, Manila, which share is valued at P38,780.00, more or less, as well as bank deposits, the exact amounts of which has not yet been verified."

Pacita, Maria, Juan, Antonio and Celerina, all surnamed Collantes, interposed objection to the petition and prayed that the deceased be declared to have died intestate on the grounds stated by them in their respective oppositions. In the opposition filed by Juan Collantes, it is alleged that the deceased left real and personal properties "worth P176,000.00, more or less."

Finding that the last will and testament has been executed and attested in the manner required by law, the lower court, on January 21, 1959, issued the order now complained of. Oppositors Antonio, Maria and Pacita in due time filed a motion for reconsideration. Juan Collantes also filed a separate motion for reconsideration, while Celerina M. Collantes Vda. de Hilario filed a motion for reconsideration and new trial. As all the three motions were denied by the lower court, the oppositors filed a notice of appeal stating that they were appealing to the Court of Appeals. In their amended record on appeal, however, which was approved by the court, they prayed that the record of the case be forwarded to this Court instead of the Court of Appeals, it being alleged that "the amount of the Testate Estate of Jose L. Collantes is over P50,000.00."

In their brief, the oppositors assign the following errors:

"First

"THE TRIAL COURT ERRED IN NOT DECLARING ANITA RIUS DE COLLANTES INCOMPETENT TO TESTIFY IN THE PROBATE OF THE ALLEGED WILL EXHIBIT F, AND IN ADMITTING HER TESTIMONY IN EVIDENCE.

"Second

"THE TRIAL COURT ERRED IN GIVING FULL FAITH AND CREDENCE TO THE TESTIMONY OF ANITA RIUS DE COLLANTES AND IN NOT HOLDING THAT SHE COULD NOT HAVE WITNESSED THE ALLEGED EXECUTION OF EXHIBIT F.

"Third

"THE TRIAL COURT ERRED IN NOT HOLDING THAT THE DECEASED, JOSE L. COLLANTES DID NOT EXECUTE THE DOCUMENT, EXHIBIT F.

"Fourth

"THE TRIAL COURT ERRED IN HOLDING THAT THE DOCUMENT, EXHIBIT F, HAS BEEN EXECUTED AND ATTESTED IN THE MANNER REQUIRED BY LAW AND IN ADMITTING IT TO PROBATE.

"Fifth

"THE TRIAL COURT ERRED IN NOT FINDING THAT PETITIONERS FAILED TO ADDUCE THE QUANTUM OF EVIDENCE NECESSARY FOR THE PROBATE OF A WILL AND THAT THEIR EVIDENCE IS WEAK, INCONCLUSIVE AND OF DOUBTFUL VERACITY."

It appearing that the amount involved in the proceedings does not exceed P200,000.00 and considering that the questions raised in most of the errors assigned are purely factual, it is evident that this case comes within the appellate jurisdiction of the Court of Appeals in line with the provision of section 2 of Republic Act No. 2613.

Wherefore, it is ordered that this case be certified to the Court of Appeals for determination in accordance with law.

Bengzon, Padilla, Labrador, Concepcion, Reyes J. B. L., Barrera, Paredes, Dizon, and Natividad JJ., concur.

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