

IN THE MATTER OF THE INTESTATE ESTATE OF LEONCIO PACTOR (DECEASED). MIGUEL G. PACTOR, PETITIONER AND APPELLANT, VS. LUCRECIA P. PESTAÑO, OPPOSITOR AND APPELLEE.*G.R. No. L-12410. April 27, 1960*

Ponente: LABRADOR, J.

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In the intestate proceedings for the settlement of the estate of Leoncio Pactor, petitioner herein Miguel G. Pactor filed a petition for the issuance of letters of administration in his favor and the settlement of the intestate estate of said deceased. According to the petition, the surviving heirs of the deceased are Clemencia R. Pactor, his widow, and the petitioner, his illegitimate child. Attorney Alfredo Marigomen, allegedly representing the widow and the nieces and nephews of the deceased, opposed the petition and prayed that Pantaleon Pepito be appointed administrator of the estate. The court appointed Lucrecia Pactor de Pestano, a niece of the deceased, as special administratrix.

Thereafter, said Lucrecia P. Pestaño filed a motion, dated February 1, 1955, to exclude Miguel Pactor from participation in the proceedings on the ground that he is not acknowledged and cannot bring an action to compel recognition as an illegitimate child. The court denied said motion on the ground that no regular administrator had yet been appointed. In an order dated March 3, 1956, the court appointed Pantaleon Pepito as regular administrator. Thereafter, on December 26, 1956, attorney for Lucrecia P. Pestaño asked the court to call a hearing of the case and, at the same time, that a ruling be made excluding Miguel Pactor. The surviving spouse of the deceased filed a manifestation explaining that Miguel Pactor is an illegitimate child of the deceased and a maid and that the deceased had recognized Pactor as his child, giving him support and education, spending for his marriage, and assigning him some parcels of land for cultivation. Despite this opposition the court on December 29, 1956, found the motion to exclude Miguel Pactor to be well founded for the reason that as there was no showing that said Miguel Pactor was recognized by the deceased in a will or in an undisputable right or by an order of the court, his intervention in the proceedings cannot be allowed. Miguel Pactor filed a motion for reconsideration attaching a copy of an affidavit of the widow to the effect that he, Miguel Pactor, had been born of the deceased with one Cirila Gitgano, and that he had been in continuous possession of the status of a child of the deceased, and prayed that the order disallowing his intervention in the proceedings be reconsidered and that he be permitted to resume the presentation of his evidence regarding his relationship to the deceased Leoncio Pactor. This motion was denied and after a motion to reconsider the denial was also denied, Miguel Pactor brought this case to us.

The motion of the widow of the deceased and her affidavit attached to the motion for reconsideration of Miguel G. Pactor, which have not in any manner been denied by the oppositors, show that the petitioner Miguel G. Pactor is an illegitimate child of the deceased and had, during the lifetime of the latter, been recognized by the latter as an illegitimate child, receiving support not only for himself but also for his child. The order of the court prohibiting Miguel Pactor from proceeding to submit any evidence that may prove his status is certainly

premature and incorrect. It is a denial of Pactor's day in court. Since it is not denied that the petitioner Miguel P. Pactor had been in continuous possession of the status of an illegitimate child, recognized as such by the deceased, it is possible that there may have been other evidence that petitioner had desired to submit, to support his claim to the status of an illegitimate child of the deceased, although the same had not been disclosed. The trial court seems to have been of the impression that inasmuch as the petitioner had not been recognized by the deceased, in a will or by an order of the court during his lifetime, he has no right at all and should be excluded from the proceedings. It is not in a will alone or by an order of the court that petitioner's status as an illegitimate child may be recognized by a court, especially as it is not denied that he had been in possession of such status during the lifetime of the deceased. It will be noted that Article 289 of the Civil Code of the Philippines allows the investigation of the paternity of illegitimate children under the circumstances specified in Articles 283 and 284 of said code. Inasmuch as it is not denied that Miguel Pactor had been in continuous possession of the status of a child of the deceased by the latter's own acts and by that of his wife in accordance with paragraph 2 of Article 283, the investigation of the paternity of the petitioner is fully justified. Whether or not he shall be recognized as having such a status and entitled to the hereditary rights of an illegitimate child is to be determined after the results of the investigation above mentioned have been disclosed.

For the foregoing considerations, the order appealed from is hereby set aside and the case is hereby remanded to the court below for further proceedings in accordance with this decision. Costs against oppositor Lucrecia P. Pestaño. So ordered.

Paras, C. J., Bengzon, Montemayor, Bautista Angelo, Concepcion, Endencia, Barrera, and Gutierrez David, JJ., concur.

Padilla, J., on leave.

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