

RUBEN AUSTRIA, CONSUELO AUSTRIA-BENTA AND LAURO AUSTRIA MOZO, PETITIONERS, VS. HON. ANDRES REYES, JUDGE, COURT OF FIRST INSTANCE OF RIZAL, PERFECTO CRUZ, BENITA CRUZ-MEÑEZ, ISAG...

G.R. No. L-23079. February 27, 1970

Ponente: CASTRO, J.

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CASTRO, J.:

On July 7, 1956 Basilia Austria vda. de Cruz filed with the Court of First Instance of Rizal (Special Proceedings 2457) a petition for probate, ante mortem, of her last will and testament. The probate was opposed by the present petitioners Ruben Austria, Consuelo Austria-Benta and Lauro Austria Mozo, and still others who, like the petitioners, are nephews and nieces of Basilia. This opposition was, however, dismissed and the probate of the will allowed after due hearing.

The bulk of the estate of Basilia, admittedly, was destined, under the will to pass on to the respondents Perfecto Cruz, Benita Cruz-Meñez, Isagani Cruz, Alberto Cruz, and Luz Cruz-Salonga, all of whom had been assumed and declared by Basilia as her own legally adopted children.

On April 23, 1959, more than two years after her will was allowed to probate, Basilia died. The respondent Perfecto Cruz was appointed executor without bond by the same court in accordance with the provisions of the decedent's will, notwithstanding the blocking attempt pursued by the petitioner Ruben Austria.

Finally, on November 5, 1959, the present petitioners filed in the same proceedings a petition in intervention for partition alleging in substance that they are the nearest of kin of Basilia, and that the five respondents Perfecto Cruz, et al., had not in fact been adopted by the decedent in accordance with law, in effect rendering these respondents mere strangers to the decedent and without any right to succeed as heirs.

Notwithstanding opposition by the respondent Perfecto Cruz, as executor of the estate, the court a quo allowed the petitioners' intervention by its order of December 22, 1959, couched in broad terms, as follows: "The Petition in Intervention for Partition filed by the above-named oppositors [Ruben Austria, et al.] dated November 5, 1959 is hereby granted."

In the meantime, the contending sides debated the matter of authenticity or lack of it of the several adoption papers produced and presented by the respondents. On motion of the petitioners Ruben Austria, et al., these documents were referred to the National Bureau of Investigation for examination and advice. The N.B.I. report seems to bear out the genuineness of the documents, but the petitioners, evidently dissatisfied with the results, managed to obtain a preliminary opinion from a Constabulary questioned-document examiner whose views undermine the authenticity of the said documents. The petitioners Ruben Austria, et al., thus moved the lower court to refer the adoption papers to the Philippine Constabulary for further study. The petitioners likewise located former personnel of the court which appeared to have granted the questioned adoption, and obtained written

depositions from two of them denying any knowledge of the pertinent adoption proceedings.

On February 6, 1963, more than three years after they were allowed to intervene, the petitioners Ruben Austria, et al., moved the lower Court to set for hearing the matter of the genuineness of the adoption of the respondents Perfecto Cruz, et al., by the late Basilia. Before the date set by the court for hearing arrived, however, the respondent Benita Cruz-Meñez, who entered an appearance separately from that of her brother Perfecto Cruz, filed on February 28, 1963 a motion asking the lower court, by way of alternative relief, to confine the petitioners' intervention, should it be permitted, to properties not disposed of in the will of the decedent.

On March 4, 1963, the lower court heard the respondent Benita's motion. Both sides subsequently submitted their respective memoranda, and finally, the lower court issued an order on June 4, 1963, delimiting the petitioners' intervention to the properties of the deceased which were not disposed of in the will.

The petitioners moved the lower court to reconsider this latest order, eliciting thereby an opposition from the respondents. On October 25, 1963 the same court denied the petitioners' motion for reconsideration.

A second motion for reconsideration which set off a long exchange of memoranda from both sides, was summarily denied on April 21, 1964.

Hence this petition for certiorari, praying this Court to annul the orders of June 4 and October 25, 1963 and the order of April 21, 1964, all restricting petitioners' intervention to properties that were not included in the decedent's testamentary dispositions.

The uncontested premises are clear. Two interests are locked in dispute over the bulk of the estate of the deceased. Arrayed on one side are the petitioners Ruben Austria, Consuelo Austria-Benta and Lauro Austria Mozo, three of a number of nephews and nieces who are concededly the nearest surviving blood relatives of the decedent. On the other side are the respondents brothers and sisters, Perfecto Cruz, Benita Cruz-Meñez, Isagani Cruz, Alberto Cruz and Luz Cruz-Salonga, all of whom heirs in the will of the deceased Basilia, and all of whom claim kinship with the decedent by virtue of legal adoption. At the heart of the controversy is Basilia's last will -- immaculate in its extrinsic validity since it bears the imprimatur of duly conducted probate proceedings.

The complaint in intervention filed in the lower court assails the legality of the tie which the respondent Perfecto Cruz and his brothers and sisters claim to have with the decedent. The lower court had, however, assumed, by its orders in question, that the validity or invalidity of the adoption is not material nor decisive on the efficacy of the institution of heirs; for, even if the adoption in question were spurious, the respondents Perfecto Cruz, et al., will nevertheless succeed not as compulsory heirs but as testamentary heirs instituted in Basilia's will. This ruling apparently finds support in article 842 of the Civil Code which reads:

"One who has no compulsory heirs may dispose of by will all his estate or any part of it in favor of any person having capacity to succeed.

"One who has compulsory heirs may dispose of his estate provided he does not contravene the provisions of this Code with regard to the legitime of said heirs."

The lower court must have assumed that since the petitioners nephews and niece are not compulsory heirs, they do not possess that interest which can be prejudiced by a free-wheeling testamentary disposition. The petitioners' interest is confined to properties, if any, that have not been disposed of in the will, for to that extent intestate succession can take place and the question of the veracity of the adoption acquires relevance.

The petitioners nephews and niece, upon the other hand, insist that the entire estate should descend to them by intestacy by reason of the intrinsic nullity of the institution of heirs embodied in the decedent's will. They have

thus raised squarely the issue of whether or not such institution of heirs would retain efficacy in the event there exists proof that the adoption of the same heirs by the decedent is false.

The petitioners cite, as the controlling rule, article 850 of the Civil Code which reads:

"The statement of a false cause for the institution of an heir shall be considered as not written, unless it appears from the will that the testator would not have made such institution if he had known the falsity of such cause."

Coming closer to the center of the controversy, the petitioners have called the attention of the lower court and this Court to the following pertinent portions of the will of the deceased which recite:

"III

"Ang aking mga sapilitang tagapagmana (here-deros forzosos) ay ang aking itinuturing na mga anak na tunay (Hijos legalmente adoptados) na sina Perfecto, Alberto, Luz, Benita at Isagani, na pawang may apelyidong Cruz.

"* * *

"V

"Kung ako ay bawian ng Dios ng buhay, ay aking ipinamamana ang aking mga ari-ariang ma-iiwan, sa kaparaanang sumusunod:

"A. - Aking ipinamamana sa aking nabanggit na limang anak na sina Perfecto, Alberto, Luz, Benita at Isagani, na pawang may apelyidong Cruz, na parepareho ang kaparti ng bawa't isa at walang lamangan (en partes iguales), bilang kanilang sapili-tang mana (legiti[ma]), ang kalahati (1/2) ng aking kaparti sa lahat ng aming ari-ariang gananciales ng aking yumaong asawang Pedro Cruz na napapaloob sa Actuacion Especial No. 640 ng Hukumang Unang Dulugan ng Rizal at itinutukoy sa No. I ng parafo IV ng testamentong ito, ang kalahati (1/2) ng mga lagay na lupa at palaisdaan na nasa Obando at Polo, Bulacan, na namana ko sa aking yumaong ama na si Calixto Austria, at ang kalahati (1/2) ng ilang lagay na lupa na nasa Tinejeros, Malabon, Rizal, na aking namana sa yumao kong kapatid na si Fausto Austria."

The tenor of the language used, the petitioners argue, gives rise to the inference that the late Basilia was deceived into believing that she was legally bound to bequeath one-half of her entire estate to the respondents Perfecto Cruz, et al. as the latter's legitimate. The petitioners further contend that had the deceased known the adoption to be spurious, she would not have instituted the respondents at all -- the basis of the institution being solely her belief that they were her compulsory heirs. Proof therefore of the falsity of the adoption would cause a nullity of the institution of heirs and the opening of the estate wide to intestacy. Did the lower court then abuse its discretion or act in violation of the rights of the parties in barring the petitioners' nephews and niece from registering their claim even to properties adjudicated by the decedent in her will?

Before the institution of heirs may be annulled under article 850 of the Civil Code, the following requisites must concur: First, the cause for the institution of heirs must be stated in the will; second, the cause must be shown to be false; and third, it must appear from the face of the will that the testator would not have made such institution if he had known the falsity of the cause.

The petitioners would have us imply, from the use of the terms, "sapilitang tagapagmana" (compulsory heirs) and "sapilitang mana" (legitimate), that the impelling reason or cause for the institution of the respondents was the testatrix's belief that under the law she could not do otherwise. If this were indeed what prompted the testatrix in instituting the respondents, she did not make it known in her will. Surely if she was aware that succession to the legitimate takes place by operation of law, independent of her own wishes, she would not have found it convenient

to name her sup-posed compulsory heirs to their legitimes. Her express adoption of the rules on legitimes should very well indicate her complete agreement with that statutory scheme. But even this, like the petitioners' own proposition, is highly speculative of what was in the mind of the testatrix when she executed her will. One fact prevails, however, and it is that the decedent's will does not state in a specific or unequivocal manner the cause for such institution of heirs. We cannot annul the same on the basis of guess work or uncertain implications.

And even if we should accept the petitioners' theory that the decedent instituted the respondents Perfecto Cruz, et al. solely because she believed that the law commanded her to do so, on the false assumption that her adoption of these respondents was valid, still such institution must stand.

Article 850 of the Civil Code, quoted above, is a positive injunction to ignore whatever false cause the testator may have written in his will for the institution of heirs. Such institution may be annulled only when one is satisfied, after an examination of the will, that the testator clearly would not have made the institution if he had known the cause for it to be false. Now, would the late Basilia have caused the revocation of the institution of heirs if she had known that she was mistaken in treating these heirs as her legally adopted children? Or would she have instituted them nonetheless?

The decedent's will, which alone should provide the answer, is mute on this point or at best is vague and uncertain. The phrases, "mga sapilitang tagapagmana" and "sapilitang mana," were borrowed from the language of the law on succession and were used, respectively, to describe the class of heirs instituted and the abstract object of the inheritance. They offer no absolute indication that the decedent would have willed her estate other than the way she did if she had known that she was not bound by law to make allowance for legitimes. Her disposition of the free portion of her estate (*libre disposicion*) which largely favored the respondent Perfecto Cruz, the latter's children, and the children of the respondent Benita Cruz, shows a perceptible inclination on her part to give to the respondents more than what she thought the law enjoined her to give to them. Compare this with the relatively small devise of land which the decedent had left for her blood relatives, including the petitioners Consuelo Austria-Benta and Lauro Mozo and the children of the petitioner Ruben Austria. Were we to exclude the respondents Perfecto Cruz, et al. from the inheritance, then the petitioners and the other nephews and nieces would succeed to the bulk of the estate by intestacy -- a result which would subvert the clear wishes of the decedent.

Whatever doubts one entertains in his mind should be swept away by these explicit injunctions in the Civil Code: "The words of a will are to receive an interpretation which will give to every expression some effect, rather than one which will render any of the expressions inoperative; and of two modes of interpreting a will that is to be preferred which will prevent intestacy." [1]

Testacy is favored and doubts are resolved on its side, especially where the will evinces an intention on the part of the testator to dispose of practically his whole estate, [2] as was done in this case. Moreover, so compelling is the principle that intestacy should be avoided and the wishes of the testator allowed to prevail, that we could even vary the language of the will for the purpose of giving it effect. [3] A probate court has found, by final judgment, that the late Basilia Austria Vda. de Cruz was possessed of testamentary capacity and her last will executed free from falsification, fraud, trickery or undue influence. In this situation, it becomes our duty to give full expression to her will. [4]

At all events, the legality of the adoption of the respondents by the testatrix can be assailed only in a separate action brought for that purpose, and cannot be the subject of a collateral attack. [5]

To the petitioners' charge that the lower court had no power to reverse its order of December 22, 1959, suffice it to state that, as born by the records, the subsequent orders complained of served merely to clarify the first -- an act

which the court could legally do. Every court has the inherent power to amend and control its processes and orders so as to make them conformable to law and justice. [6] That the court a quo has limited the extent of the petitioners' intervention is also within its powers as articulated by the Rules of Court.[7]

ACCORDINGLY, the present petition is denied, at petitioners cost.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Fernando, Teehankee, Barredo, and Villamor, JJ., concur.

[1] Article 791.

[2] 53 Cal. Jur. 2d 678.

[3] Rodriguez v. Court of Appeals, L-28734, March 24, 1969, 27 SCRA 546, 552; Solla v. Ascueta, 49 Phil. 333, 347-348.

[4] Ibid, citing Barrera v. Tampoco, 94 Phil. 346, 353.

[5] See Gomez v. Concepcion, 47 Phil. 717; Ramos v. Mañalac, 89 Phil. 270; Santos v. Aranzaso, L-23828, Feb. 28, 1966, 16 SCRA 352.

[6] Sec. 5, par. (g), Rules of Court.

[7] Sec. 2, par. (b), Ibid; Seva, et al. v. Rivera, etc., 73 Phil. 477, 479-480, cited in Moran, Comments on the Rules of Court, 1963 edition, Vol. 1, pp. 354-355.

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