

TESTATE ESTATE OF CARLOS GIL, DECEASED. ISABELA HERREROS VDA. DE GIL, PETITIONER AND APPELLANT, VS. ROBERTO TOLEDO Y GIL III, OPPOSITOR AND APPELLEE.

G.R. No. L-254. April 30, 1948

Ponente: PERFECTO, J.

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PERFECTO, J.:

On December 27, 1943, a petition was filed for the probate of the will of Carlos Gil, who died in Manila on November 28, 1943.

Roberto Toledo y Gil III, a nephew of the deceased, filed an opposition, dated June 13, 1944, alleging that on the day of the execution of the will the deceased was not in possession of his mental faculties, being seriously ill and under a state of coma, and the signature appearing in the will is not his, adding that the subsequent adoption of Carlos Worrell, also known as Carlos Gil, Jr., made by the deceased, worked as a revocation of the alleged will.

On June 17, 1944, the widow of the deceased filed a motion praying that the opposition be denied, upon the ground that the opposition was filed out of time, and that it is a fact that the deceased has adopted as his son Carlos Worrell or Carlos Gil, Jr., as attested to by the decree of adoption issued by the Court of First Instance of Pampanga on April 15, 1940.

The oppositor replied, on June 30, 1944, praying that the decree of adoption be declared as a nullity, upon the theory that the court which issued it acted without jurisdiction, because Carlos Worrell was of legal age at the time of his adoption, and the jurisdiction of the court is limited to adoption of minors.

On July 21, 1944, the court issued an order denying the dismissal of the opposition and setting aside the adoption of Carlos Worrell upon the theory that Courts of First Instance have no jurisdiction to decree the adoption of a person of legal age.

Appeal against the order is under our consideration. The whole controversy in this case revolves on whether the lower court acted correctly in setting aside the decree of adoption, which was issued on April 15, 1940, more than four years before the appealed order.

Whether or not the Court of First Instance of Pampanga committed an error in decreeing the adoption of a person of legal age, the error, if any, could and should have been corrected by the same court, through reconsideration, or by an appellate court, on appeal. The court had jurisdiction on matters of adoption. Any error in the exercise of said jurisdiction cannot be attacked collaterally.

The lower court in this case acted beyond its jurisdiction in the testate proceedings in setting aside the decree of adoption of Carlos Worrell.

The appealed order of the lower court, dated July 21, 1944, is reversed in so far as it declares null and void and sets aside the decree of adoption of Carlos Worrell issued by the Court of First Instance of Pampanga on April 15,

1940. No costs.

Feria, Pablo, Bengzon, and Tuason, JJ., concur.

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