

CLAUDIA QUERUBIN VDA. DE QUERIDO FOR HERSELF AND AS ADMINISTRATRIX OF THE ESTATE OF THE LATE LUIS QUERIDO AND ENCARNACION LLANES, PLAINTIFFS AND APPELLEES, VS. JOSE JIMENEZ QUER...

G.R. No. L-2373. July 25, 1950

Ponente: TUASON, J.

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TUASON, J.:

The adoption of defendant-appellant Jose Jimenez Querido by Luis Querido and Claudia Querubin, husband and wife, was, upon these spouses' application, decreed by the Court of First Instance of Ilocos Sur on September 17, 1924, when Jose Jimenez Querido was already 23 years of age. On August 15, 1947, after Luis Querido's death, action to annul the adoption was commenced by Luis Querido's widow in her own behalf and as administratrix of the estate of her late husband, and by Encarnacion Llanes as joint plaintiff. The action was grounded on the assumption that Jose Jimenez Querido's adoption was void ab initio, and was prompted by the attempted intervention by the adopted person in the administration and settlement of Luis Querido's estate.

Upon trial, His Honor, Judge Zoilo Hilario, concluded that the adoption in question was absolutely null and void and gave judgment for the plaintiffs.

A similar question was raised in the testate estate of Carlos Gil, deceased, 40 Off. Gaz., No. 9, September 1949 Sup., 411. In that proceeding, Roberto Toledo y Gil III, a nephew of the deceased, impugned the validity of the latter's will, and also prayed that the adoption of Carlos Worrel or Carlos Gil, Jr. by Carlos Gil and his wife be declared a nullity on the ground that when Carlos Gil, Jr. was adopted he was already of age. The court below set aside the adoption upon the theory that courts of first instance had no jurisdiction to decree the adoption of adult persons. On appeal, this Court, speaking through Mr. Justice Perfecto, held:

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

This ruling controls the case at bar, and the appealed judgment is therefore reversed with costs against the appellees.

Ozaeta, Pablo, Bengzon, Montemayor, and Reyes, JJ., concur.

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