

TESTATE ESTATE OF JUAN JOSE VIDAURRAZAGA, DECEASED. TEOPISTA VIDAURRAZAGA, PETITIONER, VS. THE COURT OF APPEALS AND FRANCISCO RUIZ, RESPONDENTS.

G.R. No. L-3943. June 24, 1952

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

Juan Jose Vidaurrazaga was killed in February, 1945 during the battle for the liberation of Manila. Shortly after his death, a document dated May 5, 1931, purporting to be his last will and testament was filed in the Court of First Instance of Manila for probate and was docketed as Civil Case No. 70186. On June 23, 1945, petitioner Teopista Vidaurrazaga filed her appearance in the case and on March 21, 1946, filed her motion stating that she is an acknowledged natural child of the deceased and praying that she be declared an heir and entitled to share in the estate left by him. She claims to have been born on December 6, 1912 in Kabankalan, Negros Occidental, daughter of Balbina Iligan and the deceased Juan.

The administrator of the estate, Francisco Ruiz, opposed her motion, denying her claim as a natural daughter of the deceased Juan, and that assuming that she were his natural daughter she had not been recognized and so had no right to inherit from his estate. After hearing on the motion, the petition of Teopista was denied by the trial court. She appealed directly to the Supreme Court, but by resolution dated September 8, 1949, the case was certified to the Court of Appeals on the ground that the appeal raised questions of fact. The Court of Appeals subsequently affirmed the decision on resolution appealed from and Teopista has brought the case here on certiorari for review of the decision of said appellate court.

The old Civil Code provides for two kinds of acknowledgment or recognition of a natural child,—first, voluntary under article 131, and second, compulsory under article 135.[1] We understand and there is reason to believe that the petition originally filed by Teopista in the trial court by means of a motion was under the first, namely, Art. 131 of the old Civil Code. In his opposition to the petition the administrator claimed that said petition was vague and ambiguous, because it did not state clearly whether she was claiming to be a recognized or acknowledged natural child or whether she wanted that she be recognized as a natural child, and that to avoid any surprise to the legitimate children of the deceased, she should make her stand clear. The objection of the administrator was sustained by the trial court which ordered Teopista to clarify her stand and in her motion of April 8, 1946, Teopista stated that her father was Juan Jose Vidaurrazaga, her mother was Balbina Iligan, both single at the time or date of her birth, and that her father had recognized her, moreover, any action to compel recognition under Art. 135 of the old Civil Code has prescribed. Under article 137 of the same Code, the action must be commenced only during the lifetime of the putative parent, except if said parent died during the minority of the child, or when some document before unknown should be discovered in which the child is expressly acknowledged, in which case, the action may be filed within the six months next following said discovery. Teopista was already about thirty-three years old when her putative father died; and there is no document subsequently discovered in which she is acknowledged.

The question to be determined therefore is whether or not her case comes under Art. 131 of the old Civil Code. In support of her claim she presented in court among other things, Exhibit "A", the certificate issued by the local Registrar of Kabankalan, to the effect that on page 14 of a certain registry book of his office there appears an entry known as Register No. 226 reading: Name of child—Teopista Vidaurrazaga; Date of Birth—December 6, 1912; Place of birth—Talubangui, Kabankalan; living; Female; Nationality—Filipina; Illegitimate; Name of father—Juan Vidaurrazaga; Birthplace—Derio, Viscaya España; Age—45; Occupation—Agricultor, Name of mother—Balbina Yligan; Birthplace—Kabankalan; Age—20 years; Number of children born by—first; and Exhibit "E", said to be an affidavit of Braulio Roque, a clerk of Atty. Zosimo Rivas, counsel of Teopista, to the effect that Juan Vidaurrazaga executed a public document expressly acknowledging Teopista as his natural daughter; also the testimony of Atty. Zosimo Rivas to the effect that the deceased Juan had in writing acknowledged Teopista as his natural daughter, but that said document was lost during the battle for the liberation of Manila, altho Atty. Rivas was not sure whether or not the document was ratified before a notary public. Then there were other evidence to the effect that Teopista had enjoyed the status of a natural child justified by the conduct of the father such as that she had always been supported by her said father, and that he had financed her education, paying her tuition fees and other school expenses; that when she came to Manila to continue her studies, her father gave her P5,000; that on one occasion residents of the town of Kabankalan went to talk to said father to get his consent for Teopista to be the queen at the Puericulture Center celebration, and that he not only consented to it, but defrayed all the incidental expenses; that while she was studying in Manila he used to come to visit her and represented himself as her father; that before she married, her husband, had asked him for her hand, and that he not only gave his consent, but also gave Teopista a marriage present of P10,000, and that in her marriage certificate (Exhibit "B") it was made to appear that she is the daughter of Juan Vidaurrazaga. It is clear that all this evidence a regarding her alleged enjoyment of the status of natural child is material only in a case of compulsory recognition under Art. 135. However, inasmuch as this action has already prescribed, and as already stated, the present case only involves the voluntary recognition or acknowledgment under Article 131, said evidence is irrelevant and immaterial.

Speaking of Exhibit "A", the certificate issued by the local Registrar of Kabankalan, the Court of Appeals thru Mr. Justice Rodas has this to say:

"It is a settled doctrine in this jurisdiction that a baptismal certificate or a certificate of birth issued by a local civil registrar are not considered record of birth for the purpose of Article 131 of the Civil Code, which record of birth refers to the one provided for in Art. 326 of the same code that was never enforced in the Islands and, therefore, any acknowledgment appearing in said certificate is of no value. Article 5 of Act 3753 establishing the registry of civil status in these islands provides, partly as follows:

'In case of an illegitimate child, the birth certificate shall be signed and sworn to jointly by the parents of the infant or only by the mother if the father refuses. In the latter case it shall not be permissible to state or reveal in the document the name of the father who refuses to acknowledge the child or to give therein any information by which such father can be identified.'

Exhibit A does not comply with the provisions of Sec. 5, of Act No. 3753 because it is not signed nor sworn to jointly by Juan Jose Vidaurrazaga and Balbina Yligan in order that it may produce the acknowledgment sought by Teopista Vidaurrazaga, their alleged illegitimate (daughter) child."

We are in full accord with the opinion embodied in the above quotation. The baptismal certificate or certificate issued by a civil registrar is not the record of birth mentioned in article 131; neither can the present case come under section 5 of Act No. 3753 for the reason that the birth certificate (Exhibit A) does not bear the signature under oath of the deceased Juan Vidaurrazaga.

As regards the alleged lost document said to have been executed by the deceased in which he recognized Teopista as his natural child, the Court of Appeals correctly considered the secondary evidence to establish said acknowledgment to be unsatisfactory. Atty. Zosimo Rivas testified on the alleged loss but according to the appellate court he was not sure whether it was ratified before a notary public and he does not even remember the name of the notary public before whom it was ratified. And as to Exhibit "E", said to be the affidavit of Braulio Roque who claims to have witnessed the execution of said lost document, the Court of Appeals said that Exhibit "E" was not in the list of appellant's exhibits forwarded to the Court and the same could not be found among the exhibits received; and that furthermore, altho the lost document was said to have been executed in 1941 and Braulio Roque died only on March 28, 1948, or several months after the filing of the appearance of Atty. Rivas for Teopista in the probate proceedings, still, Roque was not brought before the court nor his deposition taken. The Court of Appeals said that said Exhibit "E" was not only inadmissible but also suspicious.

We agree with the Court of Appeals that the secondary evidence sought to establish the execution of said document of acknowledgment is far from satisfactory. As counsel for the respondent states in his brief, if it had really been acknowledged and ratified before a notary public, it is strange that Atty. Rivas as notary public had not notarized it himself but had to go to another notary public. This, considering the statement that he was not sure whether it was notarized at all; also that as counsel for Teopista who claims to have been responsible for the execution of said lost document for her protection, he must have kept a copy thereof and yet he was unable to furnish the court said copy in spite of the fact that his papers and records must have escaped the destruction brought by the war as shown by the fact that he was able to furnish the court copies of his records, such as a copy of the supposed letter to Juan Vidaurrazaga and the registry card said to be related to the sending and receipt of said letter, and that moreover, had Atty. Rivas been willing and able to inform the court as to the notary public before whom said document was acknowledged, it should have been easy to get a copy thereof from the Division of Archives of the National Library which according to respondents' counsel, was not destroyed during the war.

Finally, counsel for petitioner invokes some provisions of the new Civil Code which purport to relax the rigidity of the rules of the old Civil Code regarding proof of recognition of natural children. But as counsel for the respondents states, petitioner was not only born before the promulgation of the new Civil Code, but she filed her claim and prayer for recognition and the enjoyment of the status of a natural child, which claim and prayer were passed upon and decided by the trial court and the Court of Appeals, all during the effectiveness of the old Civil Code. Besides, article 2263 the new Civil Code provides that "rights to the inheritance of a person who died with or without a will before the effectivity of this Code, shall be governed by the Civil Code of 1889. * * *" and this provision applies to Teopista for the reason that her supposed father Juan Vidaurrazaga died before the new Code went into effect.[2] It is therefore evident that the provisions of the new Civil Code may not be applied to establish and support the bid of Teopista for recognition and consideration as a duly acknowledged natural child of Juan Jose Vidaurrazaga in order to share in his estate as an heir.

Because of the conclusion we have arrived at, we deem it unnecessary to pass upon the other errors assigned by appellant. In view of the foregoing, finding no reversible error in the decision appealed from, the same is hereby affirmed, with costs.

Paras, C. J., Feria, Pablo, Bengzon, Padilla, Tuason, Bautista Angelo, and Labrador, JJ., concur.

[1] Canales vs. Arrogante (supra p. 6).

[2] Canales vs. Arrogante (supra, p. 6).

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