

**IN THE MATTER OF THE ESTATE OF REMIGIA SAGUINSIN,
DECEASED. ARCADIO DEL ROSARIO, APPLICANT AND APPELLANT,
JOSE A. DEL PRADO ET AL., LEGATEES ANCI APPELLANTS, VS.
RUFINA SAGUINSI...**

G.R. No. 15025. March 15, 1920

Ponente: ARELLANO, C.J.

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ARELLANO, C.J.:

There was presented in the Court of First Instance of the city of Manila for allowance an instrument which the petitioner calls the will of Remigia Saguinsin. It is a manuscript signed by the alleged testatrix and three witnesses on October 3, 1918, the conclusion of which says: "I, the testatrix, sign in the presence of the witnesses this will written by D. Lino Mendoza at my request and under my direction." (Yo, la testadora, firmo en presencia de los testigos este testamento que ha escrito D. Lino Mendoza a mi ruego y bajo mi direccion.)—Then follows a signature and then these expressions: "The testatrix signed in our presence and each of us signed in the presence of the others." (La testadora ha firmado en nuestra presencia y cada uno de nosotros en presencia de los demas.)—"Witness who wrote this will at the request and under the free and voluntary personal direction of the testatrix herself." (Testigo que escribio este testamento a ruego y bajo la libre y voluntaria direccion personal de la misma testadora.) (Sgd.) Lino Mendoza—"Attesting witnesses." (Testigos del testamento.) Then come three signatures.

These three signatures together with that of the alleged testatrix are written also on the left margin of the first page or folio and on the third page or second folio, but not on the second page or reverse side of the first page where, as is seen, the manuscript is continued, the second folio not containing anything but the date and the end of the manuscript.

Under these conditions the instrument was -impugned by a sister of the alleged testatrix and after the taking of the declaration of the authors of the signatures which appear three times and in different parts of the manuscript, the court declared that the document attached to the record could not be allowed as a will.

Certain persons who allege themselves to be legatees appealed jointly with the lawyer for the petitioner.

And upon considering the case on appeal, this court decides:

That, in conformity with Act No. 2645, amendatory to section 618 of the Code of Civil Procedure, the concluding part of the will does not express what that law, under pain of nullity, requires. Section 618, as amended, says: "The attestation shall state the number of sheets or pages used upon which the will is written * * *." None of these requirements appear in the attesting clause at the end of the document presented. The second page, i. e., what is written on the reverse side of the first, engenders the doubt whether what is written thereon was ordered written by the alleged testatrix or was subsequently added by the same hand that drew the first page and the date that appears on the third. With this non-fulfillment alone of Act No. 2645 it is impossible to allow the so-called will

which violates said law.

That besides this violation there is another as evident as the preceding. Said Act No. 2645 provides: "The testator or the person requested by him to write his name and the instrumental witnesses of the will shall also sign, as aforesaid, each and every page thereof, on the left margin, and said pages shall be numbered correlatively in letters placed on the upper part of each sheet." The English text differs from the Spanish text: the former says only pages (paginas) while the latter puts (hojas). "Hoja," according to the Diccionario de la Academia, "is with respect to books or notebooks folio." According to the same dictionary "pagina (page) is each one of the two faces or planes of the leaf of a book or notebook: that which is written or printed on each page, for example I have read only two pages of this book." Two pages constitute one leaf. One page represents only one-half of one leaf. The English text requires that the signature which guarantees the genuineness of the testament shall be placed on the left hand margin of each page and that each page should be numbered by letter in the upper part. This requirement is entirely lacking on the second page that is, on the reverse side of the first. According to the old method of paging "folio 1. y su uto." that is, first folio and the reverse side, should have been stated, and the second page would then have been included in the citation. By the failure to comply with this, requisite the law has been obviously violated. In the English text the word "pages" does not leave any room for doubt and it is invariably used in the text of the law, whereas in the Spanish text, "hoja" and "pagina" are used indifferently as may be seen in the following part which says: "El atestiguamiento hara constar el numero de hojas o paginas utiles en que esta extendido el testamento." This failure to comply with the law also vitiates the will and invalidates it, as the second page is lacking in authenticity.

This is a defect so radical that there is no way by which what is written on the reverse side of the first folio may be held valid. It is possible that this document consists of only the two folios numbered 1 and 2, and that on the reverse side of number 1 nothing may have been written upon the order of the testatrix, the testament ending at the foot of the first folio with the legacy "To my nephew Catalino Ignacio, P200" (A mi sobrino Catalino Ignacio doscientos pesos) and from that part then immediately follows folio No. 2—"Manila a tres de Octubre de mil novecientos diez y ocho—Yo la testadora firmo en presencia etc." (Manila, October 3, 1918.—I, the testatrix, sign in the presence of etc.) There is nothing which guarantees all the contents of page 2. The margin of this page is absolutely blank. There is nothing which gives the assurance that the testatrix ordered the insertion of all the contents of page 2. It may very well be that it was subsequently added thereby substituting the will of the testatrix, a result for the prevention of which this manner of authenticity by affixing the signature on each page and not merely on each folio was provided for by law. This defect is radical and totally vitiates the testament. It is not enough that the signatures guaranteeing authenticity should appear upon two folios or leaves; three pages having been written, the authenticity of all three of them should be guaranteed with the signatures of the alleged testatrix and her witnesses. The English text which requires the signing of pages and not merely leaves or folios should prevail. It is so provided in section 15 of the Administrative Code (Act No. 2711).

The judgment appealed from is affirmed, with costs of this instance against the appellant.

Torres, Street, Araullo, Malcolm, and Avanceña, JJ., concur.

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