

IN RE: IN THE MATTER OF THE PETITION TO APPROVE THE WILL OF RUPERTA PALAGANAS WITH PRAYER FOR THE APPOINTMENT OF SPECIAL ADMINISTRATOR, MANUEL MIGUEL PALAGANAS AND BENJAMIN GREG...

G.R. No. 169144. January 26, 2011

Ponente: ABAD, J.

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ABAD, J.:

This case is about the probate before Philippine court of a will executed abroad by a foreigner although it has not been probated in its place of execution.

The Facts and the Case

On November 8, 2001 Ruperta C. Palaganas (Ruperta), a Filipino who became a naturalized United States (U.S.) citizen, died single and childless. In the last will and testament she executed in California, she designated her brother, Sergio C. Palaganas (Sergio), as the executor of her will for she had left properties in the Philippines and in the U.S.

On May 19, 2003 respondent Ernesto C. Palaganas (Ernesto), another brother of Ruperta, filed with the Regional Trial Court (RTC) of Malolos, Bulacan, a petition for the probate of Ruperta's will and for his appointment as special administrator of her estate.[1] On October 15, 2003, however, petitioners Manuel Miguel Palaganas (Manuel) and Benjamin Gregorio Palaganas (Benjamin), nephews of Ruperta, opposed the petition on the ground that Ruperta's will should not be probated in the Philippines but in the U.S. where she executed it. Manuel and Benjamin added that, assuming Ruperta's will could be probated in the Philippines, it is invalid nonetheless for having been executed under duress and without the testator's full understanding of the consequences of such act. Ernesto, they claimed, is also not qualified to act as administrator of the estate.

Meantime, since Ruperta's foreign-based siblings, Gloria Villaluz and Sergio, were on separate occasions in the Philippines for a short visit, respondent Ernesto filed a motion with the RTC for leave to take their deposition, which it granted. On April, 13, 2004 the RTC directed the parties to submit their memorandum on the issue of whether or not Ruperta's U.S. will may be probated in and allowed by a court in the Philippines.

On June 17, 2004 the RTC issued an order:[2] (a) admitting to probate Ruperta's last will; (b) appointing respondent Ernesto as special administrator at the request of Sergio, the U.S.-based executor designated in the will; and (c) issuing the Letters of Special Administration to Ernesto.

Aggrieved by the RTC's order, petitioner nephews Manuel and Benjamin appealed to the Court of Appeals (CA),[3] arguing that an unprobated will executed by an American citizen in the U.S. cannot be probated for the first time in the Philippines.

On July 29, 2005 the CA rendered a decision,[4] affirming the assailed order of the RTC,[5] holding that the RTC

properly allowed the probate of the will, subject to respondent Ernesto's submission of the authenticated copies of the documents specified in the order and his posting of required bond. The CA pointed out that Section 2, Rule 76 of the Rules of Court does not require prior probate and allowance of the will in the country of its execution, before it can be probated in the Philippines. The present case, said the CA, is different from reprobate, which refers to a will already probated and allowed abroad. Reprobate is governed by different rules or procedures. Unsatisfied with the decision, Manuel and Benjamin came to this Court.

The Issue Presented

The key issue presented in this case is whether or not a will executed by a foreigner abroad may be probated in the Philippines although it has not been previously probated and allowed in the country where it was executed.

The Court's Ruling

Petitioners Manuel and Benjamin maintain that wills executed by foreigners abroad must first be probated and allowed in the country of its execution before it can be probated here. This, they claim, ensures prior compliance with the legal formalities of the country of its execution. They insist that local courts can only allow probate of such wills if the proponent proves that: (a) the testator has been admitted for probate in such foreign country, (b) the will has been admitted to probate there under its laws, (c) the probate court has jurisdiction over the proceedings, (d) the law on probate procedure in that foreign country and proof of compliance with the same, and (e) the legal requirements for the valid execution of a will.

But our laws do not prohibit the probate of wills executed by foreigners abroad although the same have not as yet been probated and allowed in the countries of their execution. A foreign will can be given legal effects in our jurisdiction. Article 816 of the Civil Code states that the will of an alien who is abroad produces effect in the Philippines if made in accordance with the formalities prescribed by the law of the place where he resides, or according to the formalities observed in his country.[6]

In this connection, Section 1, Rule 73 of the 1997 Rules of Civil Procedure provides that if the decedent is an inhabitant of a foreign country, the RTC of the province where he has an estate may take cognizance of the settlement of such estate. Sections 1 and 2 of Rule 76 further state that the executor, devisee, or legatee named in the will, or any other person interested in the estate, may, at any time after the death of the testator, petition the court having jurisdiction to have the will allowed, whether the same be in his possession or not, or is lost or destroyed.

Our rules require merely that the petition for the allowance of a will must show, so far as known to the petitioner: (a) the jurisdictional facts; (b) the names, ages, and residences of the heirs, legatees, and devisees of the testator or decedent; (c) the probable value and character of the property of the estate; (d) the name of the person for whom letters are prayed; and (e) if the will has not been delivered to the court, the name of the person having custody of it. Jurisdictional facts refer to the fact of death of the decedent, his residence at the time of his death in the province where the probate court is sitting, or if he is an inhabitant of a foreign country, the estate he left in such province.[7] The rules do not require proof that the foreign will has already been allowed and probated in the country of its execution.

In insisting that Ruperta's will should have been first probated and allowed by the court of California, petitioners Manuel and Benjamin obviously have in mind the procedure for the reprobate of will before admitting it here. But, reprobate or re-authentication of a will already probated and allowed in a foreign country is different from that probate where the will is presented for the first time before a competent court. Reprobate is specifically governed by Rule 77 of the Rules of Court. Contrary to petitioners' stance, since this latter rule applies only to

reprobate of a will, it cannot be made to apply to the present case. In reprobate, the local court acknowledges as binding the findings of the foreign probate court provided its jurisdiction over the matter can be established.

Besides, petitioners' stand is fraught with impracticability. If the instituted heirs do not have the means to go abroad for the probate of the will, it is as good as depriving them outright of their inheritance, since our law requires that no will shall pass either real or personal property unless the will has been proved and allowed by the proper court.[8]

Notably, the assailed RTC order of June 17, 2004 is nothing more than an initial ruling that the court can take cognizance of the petition for probate of Ruperta's will and that, in the meantime, it was designating Ernesto as special administrator of the estate. The parties have yet to present evidence of the due execution of the will, i.e. the testator's state of mind at the time of the execution and compliance with the formalities required of wills by the laws of California. This explains the trial court's directive for Ernesto to submit the duly authenticated copy of Ruperta's will and the certified copies of the Laws of Succession and Probate of Will of California.

WHEREFORE, the Court DENIES the petition and AFFIRMS the Court of Appeals decision in CA-G.R. CV 83564 dated July 29, 2005.

SO ORDERED.

Carpio, (Chairperson), Nachura, Mendoza, and Sereno,[*] JJ., concur.

[*] Designated as additional member in lieu of Associate Justice Diosdado M. Peralta, per raffle dated January 24, 2011.

[1] Docketed as Special Proceedings 112-M-2003, Branch 10, RTC of Malolos, Bulacan.

[2] Rollo, pp. 73-77.

[3] CA-G.R. CV 83564.

[4] Penned by Associate Justice Ruben T. Reyes and concurred in by Associate Justices Rebecca De Guia Salvador and Fernanda Lampas Peralta.

[5] Rollo, pp. 26-39.

[6] CIVIL CODE OF THE PHILIPPINES, ART. 816.

[7] Cuenco v. Court of Appeals, 153 Phil. 115, 133 (1973); Herrera, Remedial Law, Vol. III-A, Rex Bookstore, 1996 ed., p. 46.

[8] CIVIL CODE OF THE PHILIPPINES, ART. 838; RULES OF COURT, RULE 75, Sec. 1.

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