

**IN RE WILL OF VICTORIA QUINTANA, DECEASED. EMILIANO S. SAÑO,
PETITIONER AND APPELLEE, VS. MAMERTO QUINTANA ET AL.,
OPPONENTS AND APPELLANTS.**

G.R. No. 24556. December 18, 1925

Ponente: AVANCEÑA, C.J.

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AVANCEÑA, C.J.:

The judgment appealed from allowed the probate of the will of the deceased Victoria Quintana executed on March 22, 1924. Without going into a discussion of the points raised by the parties as to the formalities of this will we find a sufficient reason for reversing the judgment appealed from and denying the probate thereof.

In the attestation clause there is no statement that the witnesses to the will have signed on the left margin of each page of the will in the presence of the testatrix. Section 618 of Act No. 190, as amended by Act No. 2645, provides that the attestation clause shall state the fact that the testator signed the will and all the pages thereof, or caused another person to place his name thereon at his expressed direction in the presence of the three witnesses to the will, and that the latter signed the will and all its pages in the presence of the testator and of each other. In the case of *Vy Coque vs. Navas L. Sioca* (43 Phil., 405), this court has held that the requirement that the attestation clause must contain the statement that the witnesses signed in the presence of each other is imperative and non-compliance with it annuls the will. The same argument set forth in said case in support of this doctrine may be adduced for holding that the will is also null and void when in the attestation clause it does not appear that the witnesses to the will signed it and every page thereof on the left margin and in the presence of the testatrix. In order to insure the authenticity of a will, which is the object of the law, it is just as important, if not the most important, that the witnesses should sign in the presence of the testator and of each other.

The judgment appealed from is reversed, and the probate of the will of Victoria Quintana is denied, without special pronouncement as to costs. So ordered.

Johnson, Street, Malcolm, Ostrand, Romualdez, and Villa-Real, JJ., concur.

Johns, J., dissents.

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