

ESTATE OF THE DECEASED ISIDRA ABQUILAN. ATANASIO ABQUILAN, PETITIONER AND APPELLANT, VS. FELICIANA ABQUILAN, OPPONENT AND APPELLEE.

G. R. No. 24665. October 13, 1926

Ponente: STREET, J.

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STREET, J.:

This appeal has been brought to reverse an order of the Court of First Instance of the Province of Occidental Negros, refusing to legalize an instrument (Exhibit A) purporting to be the last will and testament of Isidra Abquilan, deceased. It appears that the deceased left no forced heirs, and her only heirs, in case of intestacy, are her brother, Atanasio Abquilan, the proponent of the will, and Feliciano Abquilan, a sister, who is the opponent.

Upon hearing the cause the trial court found that the document propounded as the will of the deceased is apocryphal, that the purported signatures of the deceased to the supposed will are forgeries, and that the instrument in question was not executed by the deceased. He therefore denied probate, and the proponent appealed.

We have carefully examined the evidence, and upon repeated perusal of the appealed decision, we find that the conclusions of fact stated therein are so completely in harmony with our own view of the case, that no new exposition of the facts is necessary. A clear preponderance of the evidence shows that on November 6, 1924, the date when the will purports to have been executed, the supposed testatrix was not in a condition such as to enable her to have participated in the act, she being in fact at that time suffering from paralysis due to cerebral hemorrhage in such degree as completely to discapacitate her for intelligent participation in the act of making a will. A careful comparison of the name of the testatrix as signed in two places to the Exhibit A, with many of her authentic signatures leads to the conclusion that the signatures to the supposed will were made by some other person. Furthermore, the combined testimony of Juan Serato and Alejandro Genito completely demonstrate in our opinion that no will at all was made on November 6, the date attributed to the questioned document, and that, instead, an attempt was made on the night of that day to fabricate another will, which failed of completion because of the refusal of Alejandro Genito to be a party to the making of a will in which the testatrix took no part. The instrument before us was undoubtedly fabricated later, probably on November 7, at a time when the condition of the deceased was such as to make rational participation on her part in the act of making a will impossible.

The judgment appealed from will be affirmed, and it is so ordered, with costs against the appellant.

Avanceña, C.J., Johnson, Villamor, Ostrand, Johns, Romualdez, and Villa-Real, JJ., concur.

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