

IN RE: PETITION FOR THE ALLOWANCE OF WILL PROVED OUTSIDE OF THE PHILIPPINES AND ADMINISTRATION OF ESTATE UNDER RULE 77 OF THE RULES OF COURT,

G.R. No. 269883. May 13, 2024

Ponente: LOPEZ, J., J.

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LOPEZ, J., J.:

This Court resolves a Petition for Review on Certiorari[1] assailing the Orders[2] issued by the Regional Trial Court (RTC) that dismissed for lack of jurisdiction the Petition for Allowance of Will Proved Outside of the Philippines and Administration of Estate under Rule 77 of the Rules of Court filed by Allison Lynn Akana (Allison).

Facts

Lynetta Jatico Sekiya (Lynetta) was an American citizen residing in Honolulu, Hawaii, United States of America.[3] Lynetta died on February 13, 2017 in Honolulu and was survived by her husband, Stanley Tsugio Sekiya, and two daughters, Allison and Sheri-Ann Susana Chieko Matsuda.[4]

In Lynetta's last will and testament, she nominated Allison as her personal representative.[5] On September 17, 2019, Lynetta's last will and testament was informally admitted into probate by the Circuit Court of the First Circuit of State of Hawaii.[6] Letters Testamentary was issued in favor of Allison on September 18, 2019.[7] This was renewed on October 14, 2022.[8]

Among the properties included in Lynetta's estate is a parcel of land located in Pardo, Cebu City covered by Transfer Certificate of Title No. 110116[9] and Tax Declaration No. GRC6-12-079-00010.[10] In the tax declaration, it is indicated that the gross value of the property is PHP 896,000.00.[11]

Sometime in 2022, Allison filed a Petition for Allowance of Will Proved Outside the Philippines and Administration of Estate under Rule 77 of the Rules before the Municipal Trial Court in Cities (MTCC), Branch 11, Cebu City.[12] However, the MTCC dismissed the petition for lack of jurisdiction. The relevant portion of the MTCC Order states:

Considering that petitioner seeks for the recognition of the foreign court's judgment on probate, the court has no jurisdiction over the subject matter. Under Rule 77 of the Rules of Court: wills proved and allowed in a foreign country, according to the laws of such country, may be allowed, filed, and recorded by the proper Court of First Instance in the (RTC) [sic] Philippines.

Accordingly, the case is dismissed without prejudice as to its filing to the proper court.

...

SO ORDERED.[13] (Emphasis in the original)

Allison filed a similar petition before the RTC in Cebu City.[14] On July 12, 2023, the RTC issued an Order,[15]

the relevant portion of which reads:

After a careful examination of the present law and rules pertaining to jurisdiction on probate proceedings, the Court finds that it has no jurisdiction over the subject matter of this petition. B.P. 129 as amended by R.A. 11576 provides, among others, that the MTC has exclusive original jurisdiction over civil actions and probate proceedings, testate and intestate, including the grant of provisional remedies in proper cases, where the value of the personal property, estate, or the amount the demand does not exceed Two million pesos ([PHP]2,000,000.00), exclusive of interest, damage of whatever kind, attorney's fees, litigation expenses and costs, the amount of which must be specifically alleged.

This Court believes that there can hardly be any argument that reprobate of a foreign will is essentially a testate proceeding, in fact, Section 2, Rule 77 of the Rules of Court states that the procedure for the re-probate of a foreign will is the same "as in case of an original will presented for allowance." R.A. 11576 does not make any distinction as to whether the testate proceedings involves a probate of a domestic will or a foreign will or a re-probate of a foreign will which has been proved abroad like the case at bar. It is basic rule in statutory construction that where the law does not distinguish, the courts shall not distinguish. *Ubi lex non distinguit nec nos distinguere debemos*. No distinction should be made in the application the law when none has been indicated. Courts can only interpret the law, it cannot read into the law what is not written therein. (*Ambrose v. Suque-Ambrose*, G.R. No. 206761, June 23, 2021)

Here, the petition states that the gross value of the estate left by the late Lynetta Jatico Sekiya is [PHP] 896,000.00, which consists of a parcel of land located in Pardo, Cebu City. Hence[,] this Court has no jurisdiction over the subject matter of this petition.

Moreover, the petitioner submits that RTC has exclusive jurisdiction over the instant petition because Section 1, Rule 77 of the Rules of Court that a petition for re-probate of a will should be filed in the RTC.

The Court is not convinced. Section 6 of R.A. 11576 expressly states that "(a)ll laws, decrees, and orders inconsistent with the provisions of this Acts shall be considered amended or modified accordingly." Thus, Section 1, Rule 77 of the Rules of Court has been deemed amended accordingly by R.A. 11576. Apparently, Section 1, Rule 73 of the Rules of Court likewise provides that a petition for probate of will shall be filed in the "Courts of First Instance" or RTC. It does not mention that the MTC has jurisdiction over probate proceedings. But it is undisputed that since the passage of R.A. 7691, and now pursuant to R.A. 11576, jurisdiction over probate proceedings, either testate or intestate, is already shared between MTC and RTC depending on the gross value of the estate involved. This, Section 1, Rule 73 has been already amended by R.A. 11576.

....

It is settled that when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action or petition, as any act it performs without jurisdiction is null and void, and without any binding legal effect. (*Bilag v. Ay-ay*, G.R. No. 189950, April 24, 2017)

WHEREFORE, the above-captioned petition is hereby dismissed without prejudice for lack of jurisdiction over its subject matter.

Notify the petition through her counsel of this order.

SO ORDERED.[16] (Emphasis in the original)

Allison moved for reconsideration[17] of the Order but it was denied by the RTC in its August 24, 2023 Order.[18] The pertinent portion of the second RTC Order states:

The Court is inclined to deny the motion. It presents no compelling reasons to warrant the modification of reversal of the questioned Order. All the arguments raised in the motion have already been taken consideration

and ruled upon by the Court. It would be repetitious to discuss them again here.

WHEREFORE, the petitioner's motion for reconsideration is denied for lack of merit. The assailed Order dated July 12, 2023 stands.

Notify the petition through her counsel of this order.

SO ORDERED.[19] (Emphasis in the original)

Hence, Allison filed the instant Petition.

In her Petition, Allison argues that the RTC erred when it dismissed her petition for lack of jurisdiction.[20] She avers that Rule 77, Section 1 of the Rules of Court explicitly provides that jurisdiction over reprobate proceedings lies with the RTC[21] and that the amendment to the jurisdiction of the trial court with respect to probate proceedings in Batas Pambansa (B.P.) Blg. 129, as amended by Republic Act No. 11756, does not apply to the reprobate of a foreign will since the probate of a will and the reprobate of a foreign will are two different proceedings.[22] Finally, Allison argues that an action for reprobate is incapable of pecuniary estimation and, thus, within the jurisdiction of the RTC.[23]

Issue

Whether the RTC erred when it dismissed Allison Lynn Akana's Petition for reprobate for lack of jurisdiction.

This Court's Ruling

The Petition is meritorious.

Direct recourse to this Court is proper considering that the present Petition raised a pure question of law

Preliminarily, this Court notes that from the dismissal of her petition by the trial court, Allison resorted to a direct appeal to this Court and bypassed the Court of Appeals. Rule 41, Section 2 of the Rules of Court provides the different modes of appeal from a decision of the RTC:

Section 2. Modes of appeal. —

(a)

Ordinary appeal. — The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party. No record on appeal shall be required except in special proceedings and other cases of multiple or separate appeals where law on these Rules so require. In such cases, the record on appeal shall be filed and served in like manner.

(b)

Petition for review. — The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its appellate jurisdiction shall be by petition for review in accordance with Rule 42.

(c)

Appeal by certiorari. — In all cases where only questions of law are raised or involved, the appeal shall be to the Supreme Court by petition for review on certiorari in accordance with the Rule 45. (n)

We expounded on the foregoing in *Heirs of Cabigas v. Limbaco*: [24]

The first mode of appeal, the ordinary appeal under Rule 41 of the Rules of Court, is brought to the CA from the RTC, in the exercise of its original jurisdiction, and resolves questions of fact or mixed questions of fact and law. The second mode of appeal, the petition for review under Rule 42 of the Rules of Court, is brought to

the CA from the RTC, acting in the exercise of its appellate jurisdiction, and resolves questions of fact or mixed questions of fact and law. The third mode of appeal, the appeal by certiorari under Rule 45 of the Rules of Court, is brought to the Supreme Court and resolves only questions of law.

Where a litigant files an appeal that raises only questions of law with the CA, Section 2, Rule 50 of the Rules of Court expressly mandates that the CA should dismiss the appeal outright as the appeal is not reviewable by that court.

There is a question of law when the issue does not call for an examination of the probative value of the evidence presented, the truth or falsehood of facts being admitted, and the doubt concerns the correct application of law and jurisprudence on the matter. On the other hand, there is a question of fact when the doubt or controversy arises as to the truth or falsity of the alleged facts.[25] (Citations omitted, emphasis supplied)

In this case, considering the present Petition raised a pure question of law, i.e., which court has jurisdiction over reprobate proceedings, direct recourse to this Court is justified.

Jurisdiction over reprobate proceedings lies with the RTC

In the assailed Order, the RTC held that Section 1, Rule 77 of the Rules of Court has been superseded by B.P. Blg. 129, as amended by Republic Act No. 11756, such that jurisdiction over reprobate proceedings now depends on the value of the testator's estate in the Philippines.[26] Citing Section 33(1) of the mentioned law,[27] the RTC ruled that it had no jurisdiction to rule on Allison's petition for reprobate of Lynetta's last will and testament since Lynetta's estate in the Philippines only has a gross value of PHP 869,000.00[28] hence, it is the first-level courts which has jurisdiction over it.

We disagree.

The RTC conflated an action for the probate of a will with an action to reprobate or re-authenticate a foreign will already probated abroad. In *Heirs of Lasam v. Umengan*,[29] this Court characterized the probate of a will as follows:

As earlier stated, petitioners rely on the last will and testament of Isabel Cuntapay that they had allegedly newly discovered. On the basis of this instrument, the MTCC and RTC ruled that petitioners have a better right to the possession of the subject lot because, following the law on succession, it should be respected and should prevail over intestate succession.

However, contrary to the ruling of the MTCC and RTC, the purported last will and testament of Isabel Cuntapay could not properly be relied upon to establish petitioners' right to possess the subject lot because, without having been probated, the said last will and testament could not be the source of any right.

Article 838 of the Civil Code is instructive:

Art. 838. No will shall pass either real or personal property unless it is proved and allowed in accordance with the Rules of Court.

The testator himself may, during his lifetime, petition the court having jurisdiction for the allowance of his will. In such case, the pertinent provisions of the Rules of Court for the allowance of wills after the testator's death shall govern.

The Supreme Court shall formulate such additional Rules of Court as may be necessary for the allowance of wills on petition of the testator.

Subject to the right of appeal, the allowance of the will, either during the lifetime of the testator or after his death, shall be conclusive as to its due execution.

In *Cañiza v. Court of Appeals*, the Court ruled that: "[a] will is essentially ambulatory; at any time prior to the testator's death, it may be changed or revoked; and until admitted to probate, it has no effect whatever and no right can be claimed thereunder, the law being quite explicit: 'No will shall pass either real or personal property unless it is proved and allowed in accordance with the Rules of Court.'"

Dr. Tolentino, an eminent authority on civil law, also explained that "[b]efore any will can have force or validity it must be probated. To probate a will means to prove before some officer or tribunal, vested by law with authority for that purpose, that the instrument offered to be proved is the last will and testament of the deceased person whose testamentary act it is alleged to be, and that it has been executed, attested and published as required by law, and that the testator was of sound and disposing mind. It is a proceeding to establish the validity of the will." Moreover, the presentation of the will for probate is mandatory and is a matter of public policy.[30] (Citations omitted, emphasis supplied)

In *Dorotheo v. Court of Appeals*,[31] this Court explained that probate proceedings deal generally with the extrinsic validity of wills:

It should be noted that probate proceedings deals generally with the extrinsic validity of the will sought to be probated, particularly on three aspects:

- whether the will submitted is indeed, the decedent's last will and testament;
- compliance with the prescribed formalities for the execution of wills;
- the testamentary capacity of the testator,
- and the due execution of the last will and testament.

Under the Civil Code, due execution includes a determination of whether the testator was of sound and disposing mind at the time of its execution, that he had freely executed the will and was not acting under duress, fraud, menace or undue influence and that the will is genuine and not a forgery, that he was of the proper testamentary age and that he is a person not expressly prohibited by law from making a will.[32] (Citations omitted)

With respect to jurisdiction, Rule 73, Section 1 of the Rules of Court provides that the Court of First Instance (CFI) has jurisdiction over probate proceedings.[33] However, this Court in *Lim v. Court of Appeals*[34] held that with amendment of B.P. Blg. 129 by Republic Act No. 7691, jurisdiction over probate proceedings now depends on the value of the gross estate of the decedent.[35] Relevant provisions of B.P. Blg. 129, as amended, state:

Section 19. Jurisdiction of the Regional Trial Courts in Civil Cases. – Regional Trial Courts shall exercise exclusive original jurisdiction:

....

(4) In all matters of probate, both estate and intestate, where the gross value of the estate exceeds Two million pesos (P2,000,000.00)

....

Section 33. Jurisdiction of the Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts, and Municipal Circuit Trial Courts in Civil Cases. – Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise:

(1)

Exclusive original jurisdiction over civil actions and probate proceedings, testate and intestate, including the

grant of provisional remedies in proper cases, where the value of the personal property, estate, or amount of the demand does not exceed Two million pesos ([PHP]2,000,000.00), exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses, and costs, the amount of which must be specifically alleged: Provided, That interest, damages of whatever kind, attorney's fees, litigation expenses, and costs shall be included in the determination of the filing fees: Provided, further, That where there are several claims or causes of actions between the same or different parties, embodied in the same complaint, the amount of the demand shall be totality of the claims in all the causes of action, irrespective of whether the causes of action arose out of the same or different transaction[.] (Emphasis supplied)

On the other hand, reprobate is a special proceeding to establish the validity of a will proved in a foreign country and is specifically governed by Rule 77 of the Rules of Court. Section 1 provides that jurisdiction over a petition for reprobate lies with the CFI, i.e., the RTC:

Section 1. Will proved outside Philippines may be allowed here. — Wills proved and allowed in a foreign country, according to the laws of such country, may be allowed, filed, and recorded by the proper Court of First Instance in the Philippines.

In *Vda. de Perez v. Hon. Tolete*,^[36] this Court explained that the evidence required to be presented for the reprobate of wills are: (1) the due execution of the will in accordance with the foreign laws; (2) the testator has his domicile in the foreign country and not in the Philippines; (3) the will has been admitted to probate in such country; (4) the fact that the foreign tribunal is a probate court, and (5) the laws of a foreign country on procedure and allowance of wills.^[37] Glaringly absent in the foregoing enumeration is the probable value of the testator's estate in the Philippines which was characterized by this Court in *Palaganas v. Palaganas*^[38] as a matter that needs to be proven in probate proceedings.^[39]

In *Palaganas*, this Court has held that the probate and reprobate are two different proceedings governed by different set of rules:

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.^[40] (Citations omitted, emphasis in the original)

From the foregoing, it is beyond cavil that the RTC erred when it characterized the reprobate of a foreign will as essentially a testate proceeding^[41] considering that the latter generally is a process to determine whether a will is extrinsically valid,^[42] while the former fundamentally is a determination whether the court which probated the foreign will has the jurisdiction to do it.^[43]

Considering that probate and reprobate proceeding are distinct legal processes, the re-authentication of a foreign will cannot be subsumed under the term "in all matters of probate, testate, or intestate" as declared by the RTC. Hence, B.P. Blg. 129 and the subsequent amendments thereto did not modify Rule 77, Section 1 of the Rules of Court and jurisdiction over reprobate proceedings remain with the RTC.

ACCORDINGLY, the instant Petition is GRANTED. The Orders dated July 12, 2023 and August 14, 2023 issued by Branch 17, Regional Trial Court, Cebu City in SP. PROC. No. R-CEB-23-01374-SP are SET-ASIDE. The case is REMANDED to Branch 17, Regional Trial Court, Cebu City for further proceedings.

SO ORDERED.

Lazaro-Javier, M. Lopez, and Kho, Jr., JJ., concur.
Leonen,[*] SAJ. (Chairperson), on official business.

[*] On official business.

[**] Acting Chairperson.

[1] Rollo, pp. 4-20.

[2] Id. at 21-23. The July 12, 2023 and August 14, 2023 Orders in SP. PROC. No. R-CEB-23-01374-SP were penned by Presiding Judge Anacleto G. Debalucos, Branch 17, Regional Trial Court, Cebu City.

[3] Id. at 7.

[4] Id.

[5] Id.

[6] Id. at 51-53.

[7] Id. at 85-86.

[8] Id. at 88-89.

[9] Id. at 90-93.

[10] Id. at 94-95.

[11] Id. at 95.

[12] Id. at 5.

[13] Id. at 24.

[14] Id. at 22.

[15] Id. at 22-23.

[16] Id. at 22-23.

[17] Id. at 109-116.

[18] Id. at 21.

[19] Id.

[20] Id. at 9.

[21] Id. at 10.

[22] Id. at 10-14.

[23] Id. at 14-15.

[24] 670 Phil. 274 (2011) [Per J. Brion, Second Division].

[25] Id. at 285.

[26] Rollo, pp. 22-23.

[27] Id. at 22.

[28] Id. at 23.

[29] 539 Phil. 547 (2006) [Per J. Callejo, Sr., First Division].

[30] Id. at 559-560.

[31] 377 Phil. 851 (1999) [Per J. Ynares-Santiago, First Division].

[32] Id. at 858-859.

[33] Section 1. Where estate of deceased persons settled. — If the decedents is an inhabitant of the Philippines at the time of his death, whether a citizen or an alien, his will shall be proved, or letters of administration granted, and his estate settled, in the Court of First Instance in the province in which he resides at the time of his death, and if he is an inhabitant of a foreign country, the Court of First Instance of any province in which he had estate. The court first taking cognizance of the settlement of the estate of a decedent, shall exercise jurisdiction to the exclusion of all other courts. The jurisdiction assumed by a court, so far as it depends on the place of residence of the decedent, or of the location of his estate, shall not be contested in a suit or proceeding, except in an appeal from that court, in the original case, or when the want of jurisdiction appears on the record. (Emphasis supplied)

[34] 380 Phil. 60 (2000) [Per J. Buena, Second Division].

[35] Id. at 69-71.

[36] 302 Phil. 764 (1994) [Per J. Quiason, First Division].

[37] Id. at 776.

[38] 655 Phil. 535 (2011) [Per J. Abad, Second Division].

[39] Id at 539-540.

[40] Id. at 540.

[41] Rollo, p. 42.

[42] *Gaspi v. Honorable Pacis-Trinidad*, 890 Phil. 819, 833 (2020) [Per J. Leonen, Third Division].

[43] *Palaganas v. Palaganas*, 655 Phil. 535, 540 (2011) [Per J. Abad, Second Division].

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