

**ESTATE OF THE DECEASED PAULA RIVERA. MARCELINA REYES,
PETITIONER AND APPELLEE, VS. PEDRO RIVERA, OPPONENT AND
APPELLANT.***G.R. No. 32578. October 11, 1930*

Ponente: STREET, J.

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This proceeding was initiated in the Court of First Instance of the Province of Rizal by Marcelina Reyes, for the purpose of obtaining probate of a paper writing (Exhibit 1), dated May 11, 1927, purporting to be the last will and testament of Paula Rivera, a former octogenarian resident of Malabon, Rizal, who died, without forced heirs, on September 10, 1927. One Pedro Rivera appeared as opponent, alleging that another document (Exhibit B), bearing date of August 23, 1927, was the true last will and testament of the same decedent, and asking in turn that this instrument should be probated instead of that presented by Marcelina Reyes. Upon hearing the cause the trial court declared Exhibit 1 to be the last will and testament of Paula Rivera and accordingly ordered that it be admitted to probate. From this order the opponent, Pedro Rivera, appealed.

The appellant does not dispute that the Exhibit 1, presented by Marcelina Reyes, was duly executed as the will of Paula Rivera on the day that it bears date; but the contention is that this will was superseded by the purported will of later date (Exhibit B). The trial court reached the conclusion that the last-named document is a forgery; and a careful review of the proof, both oral and documentary, indicates the correctness of this conclusion.

Several converging lines of proof point in this direction, in the first place, the genuine will (Exhibit 1) recognizes as chief beneficiary the proponent Marcelina Reyes, a grandniece of the deceased, who had been brought up by the latter and had lived with her for a large part of their common life; while the Exhibit B divides the property of the decedent among relatives in whom she had long ceased to take particular interest. In the second place, the testatrix was suffering in her last years from tuberculosis and had developed symptoms of edema, with the resulting swelling of her hands, which made it difficult in her last months for her to write at all. The signatures of the testatrix, admittedly genuine, to the document Exhibit 1 are scarcely legible; while the questioned signatures to the Exhibit B, though purporting to be made about three months later, are much more legible and better executed, notwithstanding the fact that the progress of disease and an attendant infection of the fingers of her pen hand were such that, in the opinion of competent witnesses, she could not have written those signatures on the date they purport to have been written. In the third place, a clear preponderance of the evidence shows that when the testatrix was approaching death, she still had in her possession the genuine will (Exhibit 1) which she took from under her pillow and delivered, first to her cousin Eduardo Rivera, and then to the chief beneficiary, Marcelina Reyes, for safekeeping. Finally, an inspection of the questioned signatures of the testatrix on Exhibit B indicates, to our mind, that the fingers which traced the genuine signatures to Exhibit 1 were different from those which wrote the questioned signatures on Exhibit B.

In examining the evidence we are led to the conclusion that the witnesses Eduardo Rivera, Dr. Lucio Santos, and

Arsenio Paez, attesting witnesses to the genuine will, have testified with undeniable disinterestedness and truthfulness. Moreover, these witnesses are of a type such as the testatrix, with regard to her station in life, would have naturally called upon to witness her will; while the purported witnesses to the questioned document, namely, Eugenio Wawangco, Sotero Ignacio, and Valentin Sioson, are persons of insignificant character with whom the deceased was not well acquainted, if she knew them at all; and they are not such individuals as she would have used as witnesses to her last will and testament. In addition to the points mentioned, numerous other facts serve as indicia of the false and surreptitious character of the questioned document Exhibit B. In our opinion the trial judge committed no error in admitting the Exhibit 1 to probate.

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

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

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