

ADMINISTRATION OF THE ESTATE OF THE DECEASED GUILLERMO JORDAN, VICTORIA JAMORALIN, ET AL., HEIRS AND APPELLEES, VS. ALEJANDRO J. ESCALO, CLAIMANT AND APPELLANT.

G. R. No. 34051. December 05, 1931

Ponente: MALCOLM, J.

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MALCOLM, J.:

First turning to the dates in this case, it will be noticed that Alejandro J. Escalo was born on May 6, 1889, the natural son of Celerina Escalo and an unknown father. This was shortly before the Civil Code went into force on December 3, 1889. In accordance, however, with the Law of Toro, there was no acknowledgment, tacit or otherwise, by the alleged father between the dates above-mentioned. Thereafter, following the implantation of the Civil Code which laid down other conditions for acknowledgment of a natural child, the alleged father fulfilled none of those conditions, although apparently bringing the child into his family and educating him.

The alleged father, Guillermo Jordan, died in 1919. His estate was probated, and in 1926 an order of partition was approved by the trial Judge. It was not until three years later, in 1929, after the property had passed into the possession of the persons to which it was allotted by the court that Alejandro Escalo presented a motion of reconsideration. After hearing the evidence, Judge Flordeliza came to the conclusion that Alejandro Escalo was not the natural son of Guillermo Jordan, and accordingly reinstated his previous order of December 18, 1926. If necessary the trial Judge could have given as a further reason that, considering the age of Alejandro Escalo, he had lost his right to compel recognition, while also, as pointed out, he was guilty of gross laches in presenting his claim.

The sole error, assigned on appeal is, that the lower court erred in declaring that the claimant and appellant Alejandro Escalo @ Alejandro J. Jazmin, is not a recognized natural child of the deceased Guillermo Jordan. Sufficient has been said to demonstrate the utter untenability of this position. Alejandro Escalo was not recognized as a natural child by Guillermo Jordan in accordance with the Law of Toro before the Civil Code went into force, and was not thereafter recognized by Guillermo Jordan in accordance with the Civil Code.

Judgment affirmed, with the costs of this instance against the appellant.

Ten days from the publication of this decision, judgment will be entered, and five days thereafter, the record will be remanded to the court below.

Avanceña, C. J., Street, Romualdez, and Imperial, JJ., concur.

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