

IN RE WILL OF THE LATE MATEA ABELLA. MONS. SANTIAGO SANCHE, APPLICANT AND APPELLEE, VS. MARCIANA ABELLA, OPPONENT AND APPELLANT.

G.R. No. 39033. November 13, 1933

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

This is an appeal taken by the opponent Marciana Abella from the judgment rendered by the Court of First Instance of Ilocos Sur, the dispositive part of which reads as follows :

"Wherefore, this court is of the opinion, and so holds, that the opposition filed by Marciana Abella is without merit and, therefore, it is hereby denied. The application filed herein is granted and the document, Exhibit A, is hereby ordered and decreed probated as the last will and testament of the late Matea Abella. So ordered."

In support of her appeal, the appellant assigns the following alleged errors in the decision of the court a quo, to wit:

"1. The lower court erred in holding that Matea Abella was in the full enjoyment of her mental faculties and executed the document, Exhibit A, as a true expression of her last will.

"2. The lower court erred in holding that the requirements of the law have been complied with in the execution of the will, Exhibit A.

"3. The lower court erred in holding that when the late Matea Abella affixed her alleged signatures to the will, Exhibit A, she did not act under the illegal and undue influence of certain legatees.

"4. The lower court erred in decreeing the probate of the will, Exhibit A."

The following facts have been proven by a preponderance of evidence presented during the trial, to wit:

The testatrix, Matea Abella, resident of the municipality of Sinait, Ilocos Sur, had been informed that Dr. Antonio Querol of San Fernando, La Union, was a good physician. On April 13, 1932, she left her home situated in the said municipality of Sinait, accompanied by her niece, Filomena Inay, to consult the said physician in his clinic in San Fernando, La Union, stopping at the convent of the parish church of the said municipality, in charge of Father Cordero with whom she was acquainted he having been the parish priest of Sinait. During her stay in the said convent, she went to Dr. Antonio Querol's clinic twice within the period of one week accompanied by her aforesaid niece, Filomena Inay, to consult the said physician who, after submitting her to a general medical examination, found that she was suffering from dyspepsia and cancer of the stomach.

On or about April 26, 1932, Matea Abella ordered a sexton of the convent to call Attorney Teodoro R. Reinoso to whom she expressed her desire to make a will, in the presence of Father Cordero's sister, Father Zoilo Aguda, Macario Calug and the fiscal of the convent. Inasmuch as the aforesaid attorney had to attend to other business, he could not finish his interview with the testatrix on the first day and had to continue it the following day, also in the

presence of Father Cordero, his sister, Filomena Inay and some children who were then at the convent. Inasmuch as he did not finish the interview on the second day, the said attorney returned again on the afternoon of the 28th and continued it in the presence of the same persons who entered and left the sala. At the end of the interview, Matea Abella ordered her niece, Filomena Inay, to bring her some papers which were in her trunk, which she delivered to the said attorney. After the will had been drafted in Ilocano, the dialect of the testatrix, Macario Calug read it to her and she approved it. When the will had been copied clean, it was again read to the testatrix and she expressed her approval thereof, but inasmuch as it was rather late at night, she did not care to sign the same suggesting that it be postponed to the following day, April 29, 1932, which was done. At about 7:30 o'clock on the morning of April 29, 1932, the signing of the will took place in the corridor of the convent. The testatrix Matea Abella was the first to sign it on a table in the presence of each and every one of the instrumental witnesses thereto and of other persons, including Father Cordero. After the testatrix, each of the instrumental witnesses signed in the presence of the testatrix and of each and every one of the other witnesses. After the will had been signed, Attorney Teodoro R. Reinoso delivered the original and the copies thereof to the testatrix, retaining one for his file. On July 3, 1932, Matea Abella died of senile debility in the municipality of Sinait at the age of 88 years.

The opponent herein attempted to prove that the testatrix was deaf and that her eyesight was defective; that when one moved away from her and again approached her she was unable to recognize him; that it was necessary to shout into her ear to call her for meals; that she used to urinate on her clothes without being aware of it; that she had a very poor memory inasmuch as she used to try to collect from her debtors in spite of the fact that they had already paid their debts; that once, although she had sold a parcel of land for P60 she said she had sold it for P160; that she was unable to go downstairs without assistance; that when she was called at mealtime she used to answer: "Why, I have already eaten"; that she could not remember her properties nor the names of her tenants; that she could no longer read; that she often repeated to her tenants the same questions regarding their crops; that she had been suffering from these disabilities for more than two months previous to her death; that the deceased complained of headache and of stomachache; that she already began to be dotty five years before, and particularly a few days previous to her death; that in her will she bequeathed properties which she had already donated to other persons.

We are face to face with two divergent theories regarding the mental state of the testatrix Matea Abella at the time of the execution of her will, Exhibit A. The opponent claims that, inasmuch as the testatrix was 88 years of age when she made her will, she was already suffering from senile debility and therefore her mental faculties were not functioning normally anymore and that she was not fully aware of her acts. As an indication of her senile debility, she attempted to prove that the testatrix had very poor eyesight and sense of hearing; that she urinated without being aware of it; that she had a very poor memory in connection with her properties and interests; that she could not go downstairs without assistance, and that she could not recall her recent acts.

On the other hand, as to the mental sanity of the testatrix at the time of the execution of her will, we have the undisputed fact of her having left her home in Sinait, Ilocos Sur, on April 13, 1932, in order to go to San Fernando, La Union, to consult Dr. Antonio Querol-of whose ability she had heard so much—regarding her headaches and stomach trouble, stopping at the convent of the parish church; the fact of her having walked twice to the aforesaid doctor's clinic, accompanied by her niece, Filomena Inay; the fact that she had personally furnished the aforesaid doctor with all the necessary data regarding the history of her illness; the fact of her having brought with her in her trunk the deeds to her properties; the fact of her having called for Attorney Teodoro R. Reinoso; the fact of her having personally furnished said attorney with all the data she wished to embody in her will relative to her properties and the persons in whose favor she wished to bequeath them; the fact of her not wishing to sign her will on the night of April 28, 1932, but the following day, in order to be able to see it

better, and the fact of her having affixed her signature, in her own handwriting, to the original as well as to the copies of her will which consisted of nine pages. All these data show that the testatrix was not so physically weak, nor so blind, nor so deaf, nor so lacking in intelligence that she could not, with full understanding thereof, dispose of her properties and make a will. Neither senile debility, nor blindness, nor deafness, nor poor memory, is by itself sufficient to incapacitate a person for making his will (*Avelino vs. De la Cruz*, 21 Phil., 521; *Bagtas vs. Paguio*, 22 Phil., 227; *Jocson vs. Jocson*, 46 Phil., 701; *Amata and Almojuela vs. Tablizo*, 48 Phil., 485; *Torres and Lopez de Bueno vs. Lopez*, 48 Phil., 772; 28 R. C. L., p. 94, par. 44). The mere fact that in her will Matea Abella disposed of properties, which she had already donated to other persons at a prior date, is not an indication of mental insanity. At most it constitutes forgetfulness or a change of mind, due to ignorance of the irrevocability of certain donations.

It is insinuated that the testatrix has been unduly influenced in the execution of her will. There is nothing in the records establishing such claim either directly or indirectly. The fact of her having stopped at the convent of the parish church of San Fernando, La Union, is not unusual in the Philippines where, due to lack of hotels, the town convents are usually given preference by strangers because they are given better accommodations and allowed more freedom. In the present case, the testatrix Matea Abella was a stranger in San Fernando, La Union. Inasmuch as Father Cordero, the parish priest of the said town, was well known to her having served in the church of Sinait, Ilocos Sur, in the same capacity, she did not have any difficulty in obtaining accommodations in his convent. The fact that Matea Abella stopped at a convent and enjoyed the hospitality of a priest who gave her accommodations therein, nor the fact that the will was executed in the convent in question in the presence of the parish priest and witnessed by another priest, could certainly not be considered as an influence which placed her under the obligation to bequeath part of her property to the bishop of said diocese.

In view of the foregoing considerations, we are of the opinion and so hold: (1) That neither senile debility, nor deafness, nor blindness, nor poor memory, is by itself sufficient to establish the presumption that the person suffering therefrom is not in the full enjoyment of his mental faculties, when there is sufficient evidence of his mental sanity at the time of the execution of the will; and (2) that neither the fact of her being given accommodations in a convent, nor the presence of the parish priest, nor a priest acting as a witness, constitutes undue influence sufficient to justify the annulment of a legacy in favor of the bishop of a diocese made in her will by a testatrix 88 years of age, suffering from defective eyesight and hearing, while she is stopping at a convent within the aforestated diocese.

Wherefore, not finding any error in the judgment appealed from, it is hereby affirmed in toto, with the costs against the appellant. So ordered.

Malcolm, Abad Santos, Hull, and Imperial, JJ., concur.

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