

IN RE ESTATE OF THE DECEASED LUCIANA BATALLONES. NICASIA BATALLONES, PETITIONER AND APPELLANT, VS. PUBLEO BATALLONES ET AL., OPPOSITORS AND APPELLEES.

G.R. No. 39078, December 22, 1933

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

This is an appeal taken by the petitioner Nicasia Batallones from the judgment rendered by the Court of First Instance of Laguna in the matter of the estate of the deceased Luciana Batallones, the dispositive part of which reads as follows:

"In view of the foregoing considerations, the will Exhibit B, alleged to have been executed by the deceased Luciana Batallones during her lifetime, is hereby held null and void. Let the case continue as an intestate proceeding of the said deceased. So ordered."

In support of her appeal the appellant assigns three alleged errors as committed by the court a quo in its decision, which we shall discuss in the course of this decision.

There is no question that Juan Salazar signed the name of the alleged testatrix at the foot of the document Exhibit B, which was written in Tagalog and which is claimed to be the last will and testament of the deceased Luciana Batallones, and later signed his own name thereto in the presence of each and every one of the three witnesses, each of whom likewise signed the document in question, as such, in the presence of one another.

The only question to decide herein is whether or not the document in question was executed by Luciana Batallones in her own house in the municipality of Cabuyao, Province of Laguna, requesting Juan Salazar to sign her name thereto, which he did in the presence of the testatrix and of each and every one of the witnesses who, in turn, signed it in the presence of the said testatrix and of one another.

All the witnesses for the petitioner corroborated one another and were unanimous in their testimony to the effect that while they were all gathered in the house of Luciana Batallones at about 10 o'clock on the morning of July 17, 1931, the latter requested Juan Salazar to sign her name to her alleged will, and Gabriel Balagtas, Cirilo Hemedes and Pedro E. Hemedes to sign it as instrumental witnesses thereof.

The oppositors impugn the authenticity and due execution thereof by means of oral evidence tending to prove that said document was prepared after the death of the alleged testatrix. They claim that it could not have been possible for Juan Salazar and Gabriel Balagtas to be present at the house of the deceased Luciana Batallones at the time of the signing of the alleged will, as claimed by the witnesses for the petitioner, on the alleged ground that Juan Salazar was living in the barrio of Banlik, which is five kilometers distant from the municipality of Cabuyao, and that Gabriel Balagtas had to go to the office of the Calamba Sugar Estate on the morning of July 17, 1931, for the purpose of collecting a loan granted him, to negotiate which one usually remains there until 10 o'clock in the morning in order to obtain the money. None among the witnesses, who testified having seen Gabriel Balagtas in

the offices of the Calamba Sugar Estate, claimed having had a watch by which he could tell the exact time that he had seen him there. Neither did the witnesses for the petitioner testify to the effect that there was any clock in the house of Luciana Batallones by which they could see the exact time of the execution of the alleged will. The witnesses for the oppositors, as well those for the petitioner more or less merely calculated the time and it is a well known fact from every day experience that it is difficult to tell the exact time of the day accurately without a watch at hand. Therefore, it is not improbable, much less impossible, that the witnesses for the petitioner, Juan Salazar and Gabriel Balagtas, were at the house of Luciana Batallones at the time at which they claim the latter had executed her alleged will.

The fact that Juan Salazar and Gabriel Balagtas went to the house of the deceased Luciana Batallones on the occasion that the latter was to execute her will, without having been previously notified thereof, and furthermore, the fact that the former's name appeared in the document as that of the one who had to sign the name of the testatrix at her request, is not improbable inasmuch as both of them knew Luciana Batallones and had gone to town on personal business. Still furthermore, inasmuch as the alleged will consisted in only one page, it was not impossible that it had been typewritten when Juan Salazar was already in the house of the alleged testatrix and his name written thereon as that of the one who had been requested to sign the name of the aforesaid testatrix Luciana Batallones. The fact that Juan Salazar did not see any typewriter in the room of the house where, according to the testimony of the witnesses for the petitioner, the will was signed, does not prove that there was none in the house.

Neither is it improbable that the testatrix, who had friends and relatives among the prominent residents of Cabuyao, did not use them as witnesses in her will, if we take into consideration the fact that she was 80 years old, illiterate and that she lived alone with her sister, the herein petitioner Nicasia Batallones. Like many other Filipino women of her age, who had succeeded in amassing considerable property by dint of sacrifice and privation, she would prefer to lead a simple life, in seclusion and even in apparent poverty, and she might not have wanted to bother her friends and relatives of high social standing, preferring humble and simple friends like herself.

Therefore, inasmuch as it has not been proven conclusively that it was impossible for the person, who signed the name of the testatrix, and the instrumental witnesses to the will to be present at the house of said testatrix Luciana Batallones on the day and at the hour afore-mentioned, nor for the will to have been written when Juan Salazar and the instrumental witnesses were already there, and inasmuch as the person, who signed the name of the testatrix, and the said instrumental witnesses have unanimously testified that they signed the alleged will on the morning of the aforesaid date in the house of the alleged testatrix and in the latter's and one another's presence, there is no reason of sufficient weight to justify a finding to the effect that the alleged will is not authentic.

Although they seem to be anomalous, the fact that Nicasia Batallones was not mentioned in the will, in spite of the fact that she lived with the testatrix in the latter's house and that she was the manager of her property; the fact that said Nicasia Batallones had custody of the will and became interested in the probate thereof, notwithstanding such unjustified preterition, and the fact that upon submitting an inventory of the estate of the said testatrix, she, as executrix thereof, stated therein that the said estate consisted only in an undivided half of the property left by her, are not in themselves sufficient to justify the conclusion that the alleged will is unauthentic, for the reason that, according to the testimony of Nicasia Batallones, her sister, the deceased Luciana Batallones, had left one-half of her property to her, during lifetime. Inasmuch as no attorney nor notary public intervened in the preparation of the will in question, it is not to be expected that the provisions thereof be perfect.

The propriety of the appeal is questioned on the alleged ground that the petitioner is not an interested party in the probate of the alleged will.

The petitioner-appellant Nicasia Batallones is the executrix under the alleged will and, as such, she is in duty bound to see to it that the will of the testatrix is complied with. If the latter wanted to have her estate delivered to her brother Sancho Batallones as her sole heir, the obligation of the executrix does not cease except when the will of the testatrix is annulled under a final judgment of the court annulling her testament and until she has delivered said property to the legitimate heirs of the aforesaid testatrix under the law. Of course, Sancho Batallones, as the sole universal heir instituted under the will, is the most concerned with the maintenance of the appeal. However, inasmuch as his sister Nicasia Batallones, in her capacity as executrix, is the one charged with the execution of the will and the delivery of the property to him, she therefore becomes his representative.

The validity of the said alleged will is likewise impugned on the alleged ground that the attestation clause thereof does not contain the necessary requisites provided by the law, inasmuch as it is not stated therein that Juan Salazar wrote the name of Luciana Batallones in the presence of the three witnesses. The attestation clause, as translated, reads as follows:

"We, the undersigned witnesses to the foregoing will, hereby ATTEST: That this will is written on this single page; that upon her request, Mr. Juan Salazar wrote the name of the testatrix thereto and later signed it in our and her presence, and that each and every one of us has signed at the foot of the will in the presence of the said testatrix and of one another in the municipality and on the date hereinbefore mentioned. In witness whereof, we have hereinbelow affixed our signature on this same date of July 17, 1931, at Cabuyao, Laguna, P. I.

"CIRILO HEMEDES

GABRIEL BALAGTAS

PEDRO E. HEMEDES

"Witness

Witness

Witness"

The statement "upon her request, Mr. Juan Salazar wrote the name of the testatrix thereto and later signed it in our and her presence, and that each and every one of us has signed at the foot of the will in the presence of the said testatrix and of one another" may be reconstructed as follows: "that upon her request, Mr. Juan Salazar wrote the name of the testatrix at the foot of the document and then signed it himself in the presence of the said testatrix and of the three witnesses, and that each and every one of us has signed at the foot of the will in the presence of the testatrix and of one another." Therefore, the objection made to the validity of the attestation clause is unfounded.

In view of the foregoing considerations, we are of the opinion and so hold: (1) That as representative of the heirs instituted therein, an executor under the will is an interested party and may appeal for the purpose of maintaining the validity of the will, the provisions of which he is in duty bound to execute; (2) that the fact that an unmarried

and illiterate Filipino woman, 80 years old, who had succeeded in amassing real property of considerable value and who lives alone with a sister in a municipality wherein old customs still prevail, has made her will with the intervention not of her friends and relatives who are prominent residents thereof, but of friends of humble economic and social standing, does not indicate falsification thereof, and (3) that the fact that in her will, which was executed without the intervention of any attorney or notary public, the testatrix has not mentioned a sister with whom she had been living, who had taken care of her, and to whom she had entrusted the management of her property, but to whom she, during her lifetime, had given one-half thereof verbally, does not in itself indicate that her alleged will is not authentic.

Wherefore, reversing the judgment appealed from, the document Exhibit B is hereby held to be the last will and testament of the deceased Luciana Batallones and is hereby allowed to probate, without special pronouncement as to costs. So ordered.

Avanceña, C. J., Malcolm, Hull, and Imperial, JJ., concur.

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