

**IN THE MATTER OF THE INTESTATE ESTATE OF THE DECEASED
EMETERIO LOPEZ. CONCEPCION LOPEZ, PETITIONER AND
APPELLEE, VS. ADELA LOPEZ ET AL., OPPOSITORS AND
APPELLANTS.**

G.R. No. 45736. May 26, 1939

Ponente: MORAN, J.

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MORAN, J.:

The primary issue raised in this appeal is whether or not Concepcion Lopez is an acknowledged natural daughter of Emeterio Lopez who died intestate, leaving no legitimate descendants, ascendants or widow.

Concepcion Lopez filed a petition in the intestate proceedings of the deceased Emeterio Lopez, claiming to be an acknowledged natural daughter of the deceased and praying that she be declared his universal heiress entitled to a summary award of his estate, same being valued at less than six thousand pesos (P6,000). The oppositors-appellants, thru Attorney Simplicio B. Pena, filed an opposition, denying petitioner's claim and praying that, as they are nephews and nieces of the deceased, they be adjudged entitled to the property left by him. Concepcion Lopez filed later an amended petition, alleging that, according to a new assessment, the estate was worth nine thousand pesos (P9,000) and "that, therefore, its distribution could not be made summarily but thru regular administration proceedings. Accordingly, an administrator was appointed who, thru Attorney Simplicio B. Bena, filed later a motion for a declaration of heirs and prayed that the oppositors-appellants be so adjudged. After hearing, the court issued an order declaring the petitioner an acknowledged natural daughter of the deceased entitled to the rights accorded her by law. The oppositors appealed.

Contrary to appellants' contention it is a well-settled rule that a person claiming to be an acknowledged natural child of a deceased need not maintain a separate action for recognition but may simply intervene in the intestate proceedings, by alleging and proving therein his or her status as such, and claiming accordingly the right to share in the inheritance. (Conde vs. Abaya, 13 Phil., 249; Severino vs. Severino, 44 Phil., 343, 348; Gaas vs. Fortich, 54 Phil, 196.)

The petition filed by Concepcion Lopez in the intestate proceedings is alleged to be insufficient. It is said that there is no prayer therein that she be declared an acknowledged natural child, but only that she be adjudged universal heiress, of the deceased. In the body of the petition there is an allegation that she is a natural child of the deceased and has been in an uninterrupted possession of such status. And inasmuch as the recognition of her status is a prerequisite to her right to heirship, her prayer that she be declared universal heiress implies a like prayer that she be recognized as an acknowledged natural child. Furthermore, it is a well-settled rule of pleadings, applicable to motions or petitions, that the prayer for relief, though part of the pleading, is no part of the cause of action or defense alleged therein, and the pleader is entitled to as much relief as the facts duly pleaded may warrant. (Rosales vs. Reyes and Ordoveza, 25 Phil., 495; Aguilar vs. Rubiato and Gonzalez Vila, 40 Phil., 570; Yañez de Barnuevo vs. Fuster, 29 Phil., 606; Allarde vs. Abaya, 57 Phil., 909; Cf. Cohen and Cohen vs. Benguet

Commercial Co., 34 Phil., 526, 533.)

The facts found by the lower court as basis for the declaration that the petitioner had been in an uninterrupted possession of the status of natural child of the deceased, are as follows:

"De las pruebas practicadas por la representacion de dicha Concepcion Lopez se han establecido los siguientes hechos: Que Concepcion Lopez es hija natural del finado Emeterio Lopez habida con Juana Cuison, quienes desde el nacimiento de aquella han estado conviviendo como marido y mujer, siendo ambos solteros, hasta que fallecio dicha Juana Cuison; que Concepcion Lopez nacio el ano 1890 en Lagonoy, Camarines Sur, habiendo sido desde entonces mantenida por su padre, quien durante su vida ha costado todas las necesidades de Concepcion Lopez, tratandola como su verdadera hija, pues cada vez que aquel le llamaba a esta lo hacia llamandola con el apodo de 'Siong' y Concepcion, a su vez, le contestaba a su padre 'papa;' que dicha Concepcion Lopez ha estado siempre viviendo con su difunto padre Emeterio Lopez hasta que este fallecio el 24 de junio de 1931."

In previous cases, similar facts were held to be sufficient to entitle a natural child to recognition, (Cf. *Dizon vs. Ullmann*, 13 Phil, 88; *Allarde vs. Abaya*, supra; *Dalistan vs. Armas*, 32 Phil., 648; see also decision of the Supreme Court of Spain of Nov. 7, 1896.)

Appellants claim that they had no notice either of the petition for the declaration of heirs or of the date set for the hearing thereof. We find in the record no evidence affirmatively showing that they had no such notice; therefore, the presumption of regularity of proceedings should stand. In the motion for reconsideration filed by them, the lack of notice is alleged; but the motion is not even verified. Besides, according to the record Attorney Simplicio B. Pena was the counsel for both the administrator and the oppositors-appellants. The petition for declaration of heirs, although signed by Attorney Simplicio B. Pena as "abogado del administrador", was, in fact, a petition filed in behalf of the oppositors-appellants as their right to succession is therein asserted and prayed for. Under these circumstances, there exists sufficient ground for holding, as we do hold, that the oppositors-appellants had notice of the petition as well as of the hearing where the said attorney was present.

Order is affirmed, with costs against appellants.

Avanceña, C. J., Villa-Real, Imperial, Diaz, Laurel, and Concepcion, JJ., concur.

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