

INTESTATE ESTATE OF THE DECEASED MARCOS VILLALON. MARIA VILLALON, PETITIONER AND APPELLANT, VS. MANUEL VILLALON, ADMINISTRATOR AND APPELLEE.

G.R. No. 47116. December 17, 1940

Ponente: LAUREL, J.

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LAUREL, J.:

On February 18, 1938, Manuel Villalon, on his own petition in the Court of First Instance of Iloilo, was appointed judicial administrator of the intestate estate of his father Marcos Villalon.

On June 3, 1938, during the pendency of the administration proceedings, Maria Villalon filed a petition alleging, among other things, that she is the natural child of Marcos Villalon and that she has been in continuous possession of the status of a natural child of the said Marcos Villalon, and prayed that as such acknowledged child, she be declared a forced heir of the deceased and entitled to inherit to the extent recognized by law. Counsel for the judicial administrator on July 29, 1933, filed an opposition on the ground that Marcos Villalon had never acknowledged the petitioner as his natural child and that the rights of Maria Villalon to compel recognition, if any, was extinguished by the death of said Marcos Villalon and had already prescribed.

On September 26, 1939, the lower court held "that inasmuch as the action of Maria Villalon to compel recognition as a natural child of the late Marcos Villalon had not been brought within the lifetime of the supposed father and the case not coming within either of the two exceptions provided by article 137 of the Civil Code, such action has already prescribed."

The principal question raised in the appeal is whether or not the lower court erred in dismissing the petition of the appellant Maria Villalon.

Article 137 of the Civil Code provides:

"Actions for the acknowledgment of natural children may only be instituted during the lifetime of the presumed parents, except in the following cases:

"1. If the father or mother died during the minority of the child, in which case the latter may commence the action before the expiration of the first four years of its age of majority.

"2. If after the death of the father or mother, some document, previously unknown, should be discovered in which they expressly acknowledge the child.

"In that last case, the action shall be commenced within six months following the discovery of the document."

Counsel for the petitioner-appellant advances the proposition that Maria Villalon has ten years, after the death of Marcos Villalon, within which to bring the action to compel recognition for the reason that article 137 of the Civil Code has been amended by our Code of Civil Procedure.

There are only two cases in which the alleged natural child may institute acknowledgment proceedings, after failure to bring the action during the lifetime of the putative parents, to wit: (1) when the father or the mother died during the minority of the child; and (2) if some document previously unknown should be discovered in which the parent expressly acknowledges the child. The rationale of the general rule is to give the alleged parents an opportunity to be heard. The reason for the two exceptions is to protect the heirs. (*Serrano vs. Aragon*, 22 Phil., 10.)

Maria Villalon was born, according to her own petition, in 1903 in the then municipality of La Paz, Province of Iloilo. Marcos Villalon died on January 14, 1938, when petitioner was already thirty-five years old. The petitioner being of age at the time of the death of the supposed father, neither paragraph 1 of article 137 of the Civil Code nor the doctrine in *Suarez vs. Suarez* (43 Phil., 903), which is relied upon by the petitioner, is applicable. The action having been brought after the death of the alleged natural father and the case not falling under any of the exceptions, the lower court did not err in dismissing the petition.

Judgment appealed from is affirmed, with costs against the appellant. So ordered.

Avanceña, C.J., Imperial, Diaz, and Horrilleno, JJ. concur.

Judgment affirmed.

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