

**ESTATE OF TEODORO R. YANGCO, DECEASED. RAMON L. CORPUS,
PROPONENT-APPELLEE, VS. LUIS R. YANGCO,
OPPONENT-APPELLANT.**

G.R. No. 47568. December 20, 1941

Ponente: OZAETA, J.

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OZAETA, J.:

The above-entitled proceeding was commenced in the Court of First Instance of Manila for the probate of the document herein below set forth, which is said to be the last will and testament of Teodoro R. Yangco, deceased, to wit:

"Yo, Teodoro R. Yangco, de Manila, Islas Filipinas de setenta y dos años de edad, hallandome en el pleno uso de mis facultades intelectuales y obrando libre y espontaneamente otorgo esta mi ultima voluntad y testamo de la manera siguiente:

"Primero.—Quedan por el presente anulados y revocados cualesquiera testamentos que hubiere otorgado antes de esta fecha.

"Segundo.—Declaro no tener herederos forzosos ascendientes ni descendientes.

"Tercero.—Nombro por mis albaceas a mis sobrinos Rafael Corpus, Jose V. Corpus y Ramon Corpus, en el orden de designacion, en caso de muerte, incapacidad o renuncia.

"Cuarto.—Es mi voluntad que todos mis bienes, propiedades y demas negocios que tuviere al tiempo de mi fallecimiento, se conserven en la forma que mas abajo se expresa; para lo cual, los legatarios en este mi testamento, deberan intervenir en el manejo y administration de estos negocios, como si fueran socios o miembros de una corporation mercantil con capital y acciones pagadas, organizada bajo la ley de corporaciones; teniendo cada legatario una participacion igual al importe de su legado.

"Quinto.—Despues del balance anual y del total del beneficio neto que resultare de dichos negocios, se deducira un veinticinco por ciento para constituir un fondo de reserva que se destinara sola y exclusivamente para reponer lo que se destruyere o para aumentar y ampliar los negocios citados o para establecer otros nuevos de mejor y mas seguro rendimiento; los cuales negocios deberan llevarse con la mayor honradez e inspirarse en los mas sanos, razonables y justos principios.

"Sexto.—Tambien es mi voluntad que un veinte por ciento del benencio neto se destinara para pensionar jovenes para la profession de ser pastores en la religion protestante con la condition de que dichos jovenes tengan verdadera vocacion a la citada profesion. En el caso que ya no hubiera necesidad para pensionar jovenes para ser pastores, destinese dicha suma para la conservacion y f omento de la citada religion o establecer escuelas dominicales protestantes en varias partes.

"Septimo.—Tambien es mi voluntad que un diez por ciento del beneficio se destine a obras de caridad y beneficencia, en cuyo caso es mi deseo que dichas obras de caridad y beneficencia sean previamente y debidamente investigadas si realmente estan justificadas; sirviendo de guia en todo caso, a que produzcan estas

ayudas caritativas de mayor bien sobre el mayor numero de personas.

"Octavo.—Deseo tambien que cada año se destine la cantidad necesaria para conservar, cuidar y mantener el mausoleo de Dona Ramona Arguelles y la parte que me toca en el de Don Luis Rafael Yangco (Padre) en el cementerio del Norte en Manila.

"Noveno.—En la determinacion del beneficio neto, se seguiran los aceptados principios de contabilidad; pero en todo caso es mi voluntad que nunca se repartiran beneficios que tiendan a mermar o reducir el capital y los fondos de reserva.

"Decimo.—Hechas las deducciones arriba mencionadas en los parrafos 5.º, 6. º, 7.º, y 8.º, se repartira anualmente el remanente del beneficio neto de mis negocios en la forma siguiente. Dicho remanente del beneficio neto se dividira en cinco partes iguales, de las cuales las cuatro quintas partes se repartiran en partes iguales entre los siguientes legatarios: Rafael Corpus, Amalia Corpus, Jose V. Corpus, Ramon Corpus, Enrique Corpus, Soledad Asprer, Reverendo Samuel V. Stagg y Reverendo Cipriano Navarro.

"Y la otra quinta parte que queda se repartira tambien en partes iguales entre los siguientes legatarios: Elias Avante, herederos de Elias Aventurado, Fabian Mendoza, Agustin Ilagan, Esteban Salcedo, Carlos Gamo, Primitivo Ferrer, Eleuteria Castillo, Genaro Mesina, Eustaquio Orfila, Antonio Villamor, Segundo Guila, Sisenando Aclao, Tirso Gamo, herederos de Elias Aventurado, Fabian Mendoza, Agustin Ilagan, Esteban Salcedo, Carlos Gamo, Primitivo Ferrer, Eleuterio Castillo, Genaro Mesina, Eustaquio Orfila, Antonio Villamor, Segundo Guila, Sisenando Aclao, Tirso Gamo, herederos de Gregorio Loyola, Demetrio Ilagan, Victorino Ilagan, Arcadio Atienza y Arier Salvador.

"Undecimo.—Ningun legatario o heredero forzoso podra vender, enagenar, transferir, gravar o hipotecar o en cualquiera forma disponer de suderecho, interes o participacion especificada en este testamento excepto por herencia en favor de sus herederos forzosos, de acuerdo con las leyes que estuvieren vigentes.

"En el caso de no tener cualquiera de los legatarios, descendientes o ascendientes con caracter de herederos forzosos, es mi voluntad que la parte o legado que corresponde a dicho legatario se revierta a la masa comun de mis bienes. En el caso de que falleciere o fallecieren antes que yo, uno o mas legatarios y dejaren descendientes o ascendientes con caracter de herederos forzosos es mi voluntad que la parte o legado de dicho legatario o legatarios recaiga a sus descendientes o ascendientes citados. En todo caso, para evitar dudas, cuando hablo de legatarios, me refiero a los que menciono por sus nombres y apellidos en este testamento, y cuando hablo de herederos forzosos o descendientes de estos legatarios me refiero a cualesquiera descendientes de cualquiera generacion, que tuvieren dichos legatarios con caracter de herederos forzosos segun las leyes.

"Duo decimo.—Para la continuacio, ampliacion o mejora de mis negocios y si para ello, fuere necesario, podran los legatarios vender, gravar o hipotecar parte o todos los bienes que constituyen el negocio, siempre que el producto de la venta, el de la hipoteca o del gravamen se invierta totalmente en otros negocios seguros de menos especulacion, preferentemente bienes inmuebles, en la Ciudad de Manila, Islas Filipinas.

"Decimo tercero.—El presente testamento escrito de mi pufio y letra ocupa cinco paginas de papel y lleva mi firma en cada pagina.

"En testimonio de todo lo consignado, he firmado el presente testamento en veintinueve de Agosto de 1934.

(Fdo.) Teodoro R. Yangco

"Nosotros, los testigos que al otro lado firmamos con mencion de nuestras residencias al lado opuesto de nuestros nombres, por medio del presente, certificamos que el testador, cuyo nombre aparece firmado arriba, ha manifestado a nosotros que el testamento que preced y que consta de esta pagina y otras cuatro paginas, es su ultima voluntad y testamento y ha firmado el mismo en nuestra presencia, y en testimonio de lo cual, cada uno de nosotros ha firmado dicho testamento y en cada pagina del mismo, "en presencia de dicho testador y en

presencia de cada uno de nosotros.

"Fechado en Manila, Islas Filipinas, este dia veinte nueve de Agosto de 1934.

"(Fdo.) Ventura Loreto, 217 Danton, Tondo

"(Fdo.) L. Delgado, 335 P. Rada, Tondo

"(Fdo.) B. Espinosa, San Pablo, Laguna."

From the decision declaring the said document to be the last will and testament duly executed by the deceased Teodoro R. Yangco and admitting the same to probate, the opponent Luis R. Yangco has appealed directly to this Court, it appearing that because of the value of the estate involved (alleged to be P3,130,246.03) the case falls within the exclusive appellate jurisdiction of this Court.

It is an uncontroverted fact that the document in question was drawn up by Teodoro R. Yangco personally in his own handwriting. The authenticity of the signature of the testator and those of the three instrumental witnesses is not questioned. The only contention insisted upon by appellant in this instance with reference to the due execution of the will in question is, that the testator did not sign said will in the presence of the attesting witnesses, the affirmation in the attestation clause to the contrary notwithstanding.

Upon that issue, the three attesting witnesses—Ludovico Delgado, Bernardo Espinosa, and Ventura Loreto—were unanimous in the testimony they gave during the hearing in the court below: that on the morning of August 28, 1934, Teodoro R. Yangco sent for Ventura Loreto and told him that he and two other employees of the Yangco firm should come to the office of Mr. Yangco on the following morning to witness an important document; that Ventura Loreto transmitted Mr. Yangco's wish to his officemates Bernardo Espinosa and Ludovico Delgado; that between nine and ten o'clock in the morning of the following day, August 29, 1934, they went up the mezzanine floor where Mr. Yangco's office was and where they found him reading his will, already prepared; that upon seeing them, the deceased handed the document to one of them, saying, "There is my testament; see it and we will sign it"; that they glanced at the document and handed it back to the deceased, who then and there signed on the space reserved for the purpose above the attestation clause and then signed on the left-hand margin of each and every page thereof; that all of the said witnesses were present while the deceased was signing the document; that after signing, the deceased returned the document to them so that each of them might sign it; and that they, one after another, signed below the attestation clause and on the left-hand margin of each and every page of the document, in the presence of the testator and of each other.

On behalf of the opponent testified Eugenio M. Buhat, Enrique Andal, and Edwin D. Andrews. Buhat, who was a houseboy in the service of the testator, declared that four days after August 25, 1934, that is to say, on August 29, he cleaned the dressing room of Teodoro R. Yangco while the latter was attending the daily religious services in another part of the house; that he (witness) saw the will Exhibit D on a table in said room; that, taking advantage of his master's absence, he examined it and read its contents and that he found a signature of the testator on the left-hand margin of page A; that at that time all the pages of the document were loose and not yet tied with a green ribbon. Enrique Andal, a former employee of the Yangco firm, having worked there from 1900 until shortly before the date of his testimony, declared that on August 29, 1934, while he was having Ventura Loreto sign a purchase order, he saw Ramon Corpus make Ventura Loreto sign the will of Teodoro R. Yangco; that he also saw Espinosa sign the same document as a witness; that Teodoro R. Yangco was not present at that time and, as a matter of fact, did not come to the office on that day. Lieutenant Andrews, as a handwriting expert, gave the opinion that the signature "Teodoro R. Yangco" appearing at the foot of the will and immediately above the attestation clause was written on the same occasion immediately after the testator had written the lines "En testimonio de todo lo consignado, he firmado el presente testamento en veintinudve de Agosto de 1934."

The trial court did not consider the testimony of the said witnesses for the opponent of sufficient weight to overcome the evidence for the proponent. It did not believe the testimony of Eugenio M. Buhat, who was one of the proteges of the deceased and who was not remembered by the latter in his will. As to Enrique Andal, the trial court noted that he was one of the employees of the Yangco firm who had been dismissed shortly before the hearing of this proceeding commenced. And with reference to the expert testimony of Lieutenant Andrews, the trial court remarked that it was based on mere probabilities which could not overcome the positive testimony of the attesting witnesses to the contrary.

After a careful perusal of the record and of the lengthy briefs submitted by counsel for both parties, we are persuaded that the findings of the trial court are correct. The fact that Teodoro R. Yangco, who was then seventy-two years of age and who had all the legal and clerical help he might need at his command, took special care and pains to prepare the will in question in his own handwriting, strongly militates against the belief that he, either intentionally or through carelessness, would nullify the document he had so painstakingly written in longhand by signing it in the absence of the attesting witnesses. The way the will in question and the attestation clause were drawn up and signed by the testator and the attesting witnesses shows that its author was familiar with the requisites of the law regarding the execution of wills. The fact that he did not entrust the preparation of said will to one of his lawyers and that after its execution he carefully placed it in a strong envelope, sealed it with wax stamped with his personal seal, and placed it in a strong safe, is sufficient to cast a doubt on the veracity of the testimony of Eugenio M. Buhat, according to which Mr. Yangco left his will in loose sheets on a table in his room in such a manner that anyone of his domestic could pry into or tamper with it. According to the record, Mr. Yangco was a very careful and methodical man. He having taken so much care and pains in preparing his will, we cannot believe that he would leave its attestation by the three requisite witnesses in the hands of Ramon Corpus and in his absence, as testified to by Enrique Andal, when it cost him no extra effort to execute his will with the formalities prescribed by law.

Opponent places much reliance upon the testimony of Lieutenant Andrews as a handwriting expert. The burden of his testimony is, that the signature "Teodoro R. Yangco" in the lower center of page E of the will was placed there immediately after the preceding line and immediately before the succeeding line, in one continuous act of writing. If that opinion be accepted as conclusive, it would necessarily destroy the testimony of the three attesting witnesses to the effect that the testator signed each and every page of his will after, and not before, the attestation clause was written. Lieutenant Andrews bases his opinion on (1) the similarity between the slant or degree of inclination of the letters composing the signature and the slant of the other letters on page E; (2) the identity of the width of the strokes in the numeral "4" of the figure "1934" with the width of the strokes in the letter "T" of the word "Teodoro"; and (3) the equidistance of the spaces between the said signature and the preceding and succeeding lines. But these points, either singly or collectively, do not inevitably lead to the conclusion ventured by Lieutenant Andrews. The latter admitted on cross-examination that all the signatures of Teodoro R. Yangco on the will in question have the same general slant in comparison with each other, altho in writing his signatures on the margin of the several pages of the document the testator must have changed the position of the paper. He also admitted that the mere similarity of the width of the strokes of two succeeding letters, one written after the other, does not by itself show the continuity of the writing movement, for the width of the stroke depends upon the pressure exerted with the pen on the paper; and he further admitted that as a matter of fact, an examination of the will in question will show hundreds of instances where two succeeding letters do not have the same width of strokes. As to the third basis of the opinion, that is of even less consequence; indeed, appellee calls attention to the fact that while the average spacing between the lines of the body of the will is 1.60 centimeters, the spaces separating the signature from the preceding and succeeding lines are 2.05 centimeters and 2.30 centimeters, respectively, which, according to appellee, is significant and demonstrative of the fact that the signature of the

testator at the lower center of page E was not placed in one continuous writing from the last line of the will up to the first line of the attestation clause.

We are fully satisfied that the will in question was executed by the testator Teodoro R. Yangco with the formalities required by law, and that the trial court committed no error in admitting the same to probate. After all, the object of the solemnities surrounding the execution of wills is to close the door against bad faith and fraud, to avoid substitution of wills and testaments, and to guarantee their truth and authenticity, as this Court has stated in the case of *Abangan vs. Abangan*, 40 Phil., 476, 579, and in various subsequent cases. It is not contended by the opponent in this instance that there was fraud or bad faith; neither is substitution of the will in question even hinted; nor is the truth and authenticity of said document impugned. To reject the same under the circumstances, as opponent urges, would be absolutely unwarranted.

In a counter-petition filed by the appellant in the course of the hearing of the petition in the court below, he contended that even assuming that the instrument in question was executed and attested in accordance with law, the estate of the late Teodoro R. Yangco should be declared an intestacy under article 912, paragraph 2, of the Civil Code, for the reason that in the said instrument there is no institution of an heir to all or part of the property nor does it dispose of all or part of the property left by the deceased. The trial court refused to pass upon that question, holding that it should be raised when the project of distribution of the estate of the deceased is presented in accordance with the will of the testator. Appellant has devoted the greater part of his brief before this Court to the discussion of the legal question involved in his counter-petition, contending in substance that the provisions of the will are void and that he (opponent), as a natural brother of the deceased, is the one entitled to inherit the latter's estate by legal or intestate succession. Appellee, however, sustains the view of the trial court that the question raised by appellant in his counter-petition is improper and cannot be decided in this proceeding, although he took pains to answer all the arguments of appellant upon that question.

The writer of this opinion is in favor of deciding that question now in order to determine once and for all whether or not the opponent, as a natural brother of the deceased, has any interest whatever in the latter's estate or has any legal right to intervene further in this proceeding. But the majority of the Court is of the opinion and so holds that in a proceeding for the probate of a will like the present, the Court has no power to pass upon the validity of any provisions made in the will, which opinion has been consistently adhered to by this Court in numerous cases, beginning with *Castaneda vs. Alemany* (1904), 3 Phil., 426, 428, down to *Castro Revilla vs. Garduno* (1928), 53 Phil., 934, 937.

Wherefore, the judgment appealed from is affirmed, with costs. So ordered.

Abad Santos, Diaz, Moran, and Horrilleno, JJ., concur.

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