

**IN THE MATTER OF THE SETTLEMENT OF THE INTESTATE ESTATE
OF AMBROSIO RABALO, DECEASED. PETRONA REQUEJO,
PETITIONER AND APPELLEE, VS. GABINA RABALO, RESPONDENT
AND APPELLANT.**

G.R. No. 9665. February 29, 1916

Ponente: CARSON, J.

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CARSON, J.:

The petition in this case, alleging that Ambrosio Rabalo died intestate, leaving as his only heirs his widow, Petrona Requejo, and their three children, Emilio Rabalo, Eufrasia Rabalo and Gabina Rabalo, and that Emilio died subsequently, without descendants, prays for the distribution of the estate in accordance with these allegations of facts.

The petition was opposed by Gabina Rabalo, who claims that her father had no surviving children at the time of his death other than herself; and alleges that Emilio Rabalo and Eufrasia Rabalo were born before the marriage of Ambrosio Rabalo and Petrona Requejo, and that though Petrona Requejo is their mother, Ambrosio Rabalo was not their father.

To our mind the evidence satisfactorily discloses that Emilio and Eufrasia Rabalo were the children of Ambrosio Rabalo and Petrona Requejo born out of lawful wedlock; that Eufrasia was born in the year 1871 and that Emilio was born in the year 1873; that, thereafter, on the 28th of November, 1874, Ambrosio Rabalo and Petrona Requejo were lawfully married, and that in the year 1876 there was born to the couple another child, Gabina, the appellant herein; that these three children were all living at the time of the death of their father, and that Emilio died later, leaving neither wife nor descendant surviving him; and that Eufrasia and Emilio, from the date of the marriage in 1874 down to the date of the death of Ambrosio Rabalo were given by him the status of acknowledged and legitimated children, and were openly recognized by him as such.

The court below held that Eufrasia and Emilio were the acknowledged natural children of Ambrosio Rabalo, legitimated by his subsequent marriage with their mother, Petrona Requejo, and decreed the distribution of the estate accordingly.

Counsel for the appellant relies upon the provisions of articles 119, 121, and 131 of the Civil Code, claiming that the evidence fails to disclose that Ambrosio Rabalo acknowledged Eufrasia and Emilio as his children, by will or by any other public instrument, as required by these provisions of the law.

It is clear, however, that since it is admitted that these children were born and Ambrosio Rabalo and Petrona Requejo were married more than thirteen years before the Civil Code was promulgated in the Philippine Islands, we must look to the law in force prior to its promulgation in determining their status as alleged legitimated natural children, at least as far as it is alleged that they acquired such status prior to the promulgation of the Code. The laws applicable to the facts under consideration are therefore Law 11 of Toro, and Law 1, Title 5, Book 10 of the

Novisima Recopilacion. (Buenaventura vs. Urbano, 5 Phil. Rep., 1; Capistrano vs. Gabino, 8 Phil., Rep., 135; Serrano vs. Aragon, 22 Phil. Rep., 10.)

Under these laws no special form of acknowledgment of natural children was prescribed, and the question for determination therefore is whether the evidence sustains a finding of facts from which the court may conclude that before the enactment of the code Ambrosio Rabalo clearly signified his intention to recognize these children as his own and to give them the status of legitimated natural children.

The evidence of record conclusively establishes that Ambrosio Rabalo always recognized these children as his own, and that during his lifetime, and for at least 13 years before the Civil Code went into effect in these Islands, they lived with him and their mother, and were given the status of legitimated children, enjoying all the rights and privileges which were accorded to their sister, Gabina, born after the marriage took place.

Two witnesses were introduced on behalf of the opponent, but both of them were compelled to admit on cross-examination that Eufrasia and Emilio Rabalo always lived with Ambrosio Rabalo and his wife, and were treated by Ambrosio as though they were his own children.

Such conclusive proof of long continued status as recognized children was, under the laws in existence prior to the promulgation of the Civil Code, a sufficient recognition to give the children the status of recognized natural children, and this together with the proof of the marriage of their parents leaves no doubt as to the soundness of the ruling of the court below declaring them to be entitled to the heritable rights of legitimated children of Ambrosio Rabalo, deceased.

It is to be observed that this is not an action brought to compel the recognition of these children. It was brought for the purpose merely of securing the distribution of the estate of their alleged father, and to that end, a declaration of their rights of inheritance as the legitimated children of the deceased, upon proof of their allegations that he had in fact recognized them as such during his lifetime.

It is not necessary to discuss or decide the questions raised as to the admissibility of the evidence offered with regard to the entries in the baptismal registries of the parish where these children were born, because, as we have indicated above, even if we wholly disregard this evidence, the decree entered in the trial court must be affirmed. So ordered.

Arellano, C. J., Torres, Johnson, and Trent, JJ., concur.

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