

DY YIENG SEANGIO, BARBARA D. SEANGIO AND VIRGINIA D. SEANGIO, PETITIONERS, VS. HON. AMOR A. REYES, IN HER CAPACITY AS PRESIDING JUDGE, REGIONAL TRIAL COURT, NATIONAL CAPITAL JUDI...

G.R. NOS. 140371-72. November 27, 2006

Ponente: AZCUNA, J.

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AZCUNA, J.:

This is a petition for certiorari[1] with application for the issuance of a writ of preliminary injunction and/or temporary restraining order seeking the nullification of the orders, dated August 10, 1999 and October 14, 1999, of the Regional Trial Court of Manila, Branch 21 (the RTC), dismissing the petition for probate on the ground of preterition, in the consolidated cases, docketed as SP. Proc. No. 98-90870 and SP. Proc. No. 99-93396, and entitled, "In the Matter of the Intestate Estate of Segundo C. Seangio v. Alfredo D. Seangio, et al." and "In the Matter of the Probate of the Will of Segundo C. Seangio v. Dy Yieng Seangio, Barbara D. Seangio and Virginia Seangio."

The facts of the cases are as follows:

On September 21, 1988, private respondents filed a petition for the settlement of the intestate estate of the late Segundo Seangio, docketed as Sp. Proc. No. 98-90870 of the RTC, and praying for the appointment of private respondent Elisa D. Seangio-Santos as special administrator and guardian ad litem of petitioner Dy Yieng Seangio.

Petitioners Dy Yieng, Barbara and Virginia, all surnamed Seangio, opposed the petition. They contended that: 1) Dy Yieng is still very healthy and in full command of her faculties; 2) the deceased Segundo executed a general power of attorney in favor of Virginia giving her the power to manage and exercise control and supervision over his business in the Philippines; 3) Virginia is the most competent and qualified to serve as the administrator of the estate of Segundo because she is a certified public accountant; and, 4) Segundo left a holographic will, dated September 20, 1995, disinheriting one of the private respondents, Alfredo Seangio, for cause. In view of the purported holographic will, petitioners averred that in the event the decedent is found to have left a will, the intestate proceedings are to be automatically suspended and replaced by the proceedings for the probate of the will.

On April 7, 1999, a petition for the probate of the holographic will of Segundo, docketed as SP. Proc. No. 99-93396, was filed by petitioners before the RTC. They likewise reiterated that the probate proceedings should take precedence over SP. Proc. No. 98-90870 because testate proceedings take precedence and enjoy priority over intestate proceedings.[2]

The document that petitioners refer to as Segundo's holographic will is quoted, as follows:

Kasulatan sa pag-aalis ng mana

Tantunin ng sinuman

Ako si Segundo Seangio Filipino may asawa naninirahan sa 465-A Flores St., Ermita, Manila at nagtatalay ng maiwanag na pag-iisip at disposisyon ay tahasan at hayagang inaalisan ko ng lahat at anumang mana ang paganay kong anak na si Alfredo Seangio dahil siya ay naging lapastangan sa akin at isan beses siya ng sasalita ng masama harapan ko at mga kapatid niya na si Virginia Seangio labis kong kinasama ng loob ko at sasabe rin ni Alfredo sa akin na ako nasa ibabaw gayon gunit daratin ang araw na ako nasa ilalim siya at siya nasa ibabaw.

Labis kong ikinasama ng loob ko ang gamit ni Alfredo ng akin pagalan para makapagutang na kuarta siya at kanya asawa na si Merna de los Reyes sa China Banking Corporation na milyon pesos at hindi ng babayad at hindi ng babayad ito ay nagdulot sa aking ng malaking kahihiya sa mga may-ari at stockholders ng China Banking.

At ikinagalit ko pa rin ang pagkuha ni Alfredo at ng kanyang asawa na mga custome[r] ng Travel Center of the Philippines na pinagasiwaan ko at ng anak ko si Virginia.

Dito ako nagalit din kaya gayon ayoko na bilanin si Alfredo ng anak ko at hayanan kong inaalisan ng lahat at anoman mana na si Alfredo at si Alfredo Seangio ay hindi ko siya anak at hindi siya makoha mana.

Nila[g]daan ko ngayon ika 20 ng Setyembre 1995 sa longsod ng Manila sa harap ng tatlong saksi. [3]

(signed)

Segundo Seangio

Nilagdaan sa harap namin

(signed)

Dy Yieng Seangio (signed)

Unang Saksi ikalawang saksi

(signed)

ikatlong saksi

On May 29, 1999, upon petitioners' motion, SP. Proc. No. 98-90870 and SP. Proc. No. 99-93396 were consolidated.[4]

On July 1, 1999, private respondents moved for the dismissal of the probate proceedings[5] primarily on the ground that the document purporting to be the holographic will of Segundo does not contain any disposition of the estate of the deceased and thus does not meet the definition of a will under Article 783 of the Civil Code. According to private respondents, the will only shows an alleged act of disinheritance by the decedent of his eldest son, Alfredo, and nothing else; that all other compulsory heirs were not named nor instituted as heir, devisee or legatee, hence, there is preterition which would result to intestacy. Such being the case, private respondents maintained that while procedurally the court is called upon to rule only on the extrinsic validity of the will, it is not barred from delving into the intrinsic validity of the same, and ordering the dismissal of the petition for probate when on the face of the will it is clear that it contains no testamentary disposition of the property of the decedent.

Petitioners filed their opposition to the motion to dismiss contending that: 1) generally, the authority of the probate court is limited only to a determination of the extrinsic validity of the will; 2) private respondents question the intrinsic and not the extrinsic validity of the will; 3) disinheritance constitutes a disposition of the estate of a decedent; and, 4) the rule on preterition does not apply because Segundo's will does not constitute a universal heir

or heirs to the exclusion of one or more compulsory heirs.[6]

On August 10, 1999, the RTC issued its assailed order, dismissing the petition for probate proceedings:

A perusal of the document termed as "will" by oppositors/petitioners Dy Yieng Seangio, et al., clearly shows that there is preterition, as the only heirs mentioned thereat are Alfredo and Virginia. [T]he other heirs being omitted, Article 854 of the New Civil Code thus applies. However, insofar as the widow Dy Yieng Seangio is concerned, Article 854 does not apply, she not being a compulsory heir in the direct line.

As such, this Court is bound to dismiss this petition, for to do otherwise would amount to an abuse of discretion. The Supreme Court in the case of *Acain v. Intermediate Appellate Court* [155 SCRA 100 (1987)] has made its position clear: "for ... respondents to have tolerated the probate of the will and allowed the case to progress when, on its face, the will appears to be intrinsically void ... would have been an exercise in futility. It would have meant a waste of time, effort, expense, plus added futility. The trial court could have denied its probate outright or could have passed upon the intrinsic validity of the testamentary provisions before the extrinsic validity of the will was resolved (underscoring supplied).

WHEREFORE, premises considered, the Motion to Suspend Proceedings is hereby DENIED for lack of merit. Special Proceedings No. 99-93396 is hereby DISMISSED without pronouncement as to costs.

SO ORDERED.[7]

Petitioners' motion for reconsideration was denied by the RTC in its order dated October 14, 1999.

Petitioners contend that:

THE RESPONDENT JUDGE ACTED IN EXCESS OF HER JURISDICTION OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION AND DECIDED A QUESTION OF LAW NOT IN ACCORD WITH LAW AND JURISPRUDENCE IN ISSUING THE QUESTIONED ORDERS, DATED 10 AUGUST 1999 AND 14 OCTOBER 1999 (ATTACHMENTS "A" AND "B" HEREOF) CONSIDERING THAT:

I

THE RESPONDENT JUDGE, WITHOUT EVEN COMPLYING WITH SECTIONS 3 AND 4 OF RULE 76 OF THE RULES OF COURT ON THE PROPER PROCEDURE FOR SETTING THE CASE FOR INITIAL HEARING FOR THE ESTABLISHMENT OF THE JURISDICTIONAL FACTS, DISMISSED THE TESTATE CASE ON THE ALLEGED GROUND THAT THE TESTATOR'S WILL IS VOID ALLEGEDLY BECAUSE OF THE EXISTENCE OF PRETERITION, WHICH GOES INTO THE INTRINSIC VALIDITY OF THE WILL, DESPITE THE FACT THAT IT IS A SETTLED RULE THAT THE AUTHORITY OF PROBATE COURTS IS LIMITED ONLY TO A DETERMINATION OF THE EXTRINSIC VALIDITY OF THE WILL, I.E., THE DUE EXECUTION THEREOF, THE TESTATOR'S TESTAMENTARY CAPACITY AND THE COMPLIANCE WITH THE REQUISITES OR SOLEMNITIES PRESCRIBED BY LAW;

II

EVEN ASSUMING ARGUENDO THAT THE RESPONDENT JUDGE HAS THE AUTHORITY TO RULE UPON THE INTRINSIC VALIDITY OF THE WILL OF THE TESTATOR, IT IS INDUBITABLE FROM THE FACE OF THE TESTATOR'S WILL THAT NO PRETERITION EXISTS AND THAT THE WILL IS BOTH INTRINSICALLY AND EXTRINSICALLY VALID; AND,

III

RESPONDENT JUDGE WAS DUTY BOUND TO SUSPEND THE PROCEEDINGS IN THE INTESTATE CASE CONSIDERING THAT IT IS A SETTLED RULE THAT TESTATE PROCEEDINGS TAKE

PRECEDENCE OVER INTESTATE PROCEEDINGS.

Petitioners argue, as follows:

First, respondent judge did not comply with Sections 3 and 4 of Rule 76 of the Rules of Court which respectively mandate the court to: a) fix the time and place for proving the will when all concerned may appear to contest the allowance thereof, and cause notice of such time and place to be published three weeks successively previous to the appointed time in a newspaper of general circulation; and, b) cause the mailing of said notice to the heirs, legatees and devisees of the testator Segundo;

Second, the holographic will does not contain any institution of an heir, but rather, as its title clearly states, *Kasulatan ng Pag-Aalis ng Mana*, simply contains a disinheritance of a compulsory heir. Thus, there is no preterition in the decedent's will and the holographic will on its face is not intrinsically void;

Third, the testator intended all his compulsory heirs, petitioners and private respondents alike, with the sole exception of Alfredo, to inherit his estate. None of the compulsory heirs in the direct line of Segundo were preterited in the holographic will since there was no institution of an heir;

Fourth, inasmuch as it clearly appears from the face of the holographic will that it is both intrinsically and extrinsically valid, respondent judge was mandated to proceed with the hearing of the testate case; and,

Lastly, the continuation of the proceedings in the intestate case will work injustice to petitioners, and will render nugatory the disinheritance of Alfredo.

The purported holographic will of Segundo that was presented by petitioners was dated, signed and written by him in his own handwriting. Except on the ground of preterition, private respondents did not raise any issue as regards the authenticity of the document.

The document, entitled *Kasulatan ng Pag-Aalis ng Mana*, unmistakably showed Segundo's intention of excluding his eldest son, Alfredo, as an heir to his estate for the reasons that he cited therein. In effect, Alfredo was disinherited by Segundo.

For disinheritance to be valid, Article 916 of the Civil Code requires that the same must be effected through a will wherein the legal cause therefor shall be specified. With regard to the reasons for the disinheritance that were stated by Segundo in his document, the Court believes that the incidents, taken as a whole, can be considered a form of maltreatment of Segundo by his son, Alfredo, and that the matter presents a sufficient cause for the disinheritance of a child or descendant under Article 919 of the Civil Code:

Article 919. The following shall be sufficient causes for the disinheritance of children and descendants, legitimate as well as illegitimate:

- (1) When a child or descendant has been found guilty of an attempt against the life of the testator, his or her spouse, descendants, or ascendants;
- (2) When a child or descendant has accused the testator of a crime for which the law prescribes imprisonment for six years or more, if the accusation has been found groundless;
- (3) When a child or descendant has been convicted of adultery or concubinage with the spouse of the testator;
- (4) When a child or descendant by fraud, violence, intimidation, or undue influence causes the testator to make a will or to change one already made;
- (5) A refusal without justifiable cause to support the parents or ascendant who disinherit such child or descendant;

- (6) Maltreatment of the testator by word or deed, by the child or descendant;^[8]
- (7) When a child or descendant leads a dishonorable or disgraceful life;
- (8) Conviction of a crime which carries with it the penalty of civil interdiction.

Now, the critical issue to be determined is whether the document executed by Segundo can be considered as a holographic will.

A holographic will, as provided under Article 810 of the Civil Code, must be entirely written, dated, and signed by the hand of the testator himself. It is subject to no other form, and may be made in or out of the Philippines, and need not be witnessed.

Segundo's document, although it may initially come across as a mere disinheritance instrument, conforms to the formalities of a holographic will prescribed by law. It is written, dated and signed by the hand of Segundo himself. An intent to dispose mortis causa^[9] can be clearly deduced from the terms of the instrument, and while it does not make an affirmative disposition of the latter's property, the disinheritance of Alfredo, nonetheless, is an act of disposition in itself. In other words, the disinheritance results in the disposition of the property of the testator Segundo in favor of those who would succeed in the absence of Alfredo.^[10]

Moreover, it is a fundamental principle that the intent or the will of the testator, expressed in the form and within the limits prescribed by law, must be recognized as the supreme law in succession. All rules of construction are designed to ascertain and give effect to that intention. It is only when the intention of the testator is contrary to law, morals, or public policy that it cannot be given effect.^[11]

Holographic wills, therefore, being usually prepared by one who is not learned in the law, as illustrated in the present case, should be construed more liberally than the ones drawn by an expert, taking into account the circumstances surrounding the execution of the instrument and the intention of the testator.^[12] In this regard, the Court is convinced that the document, even if captioned as *Kasulatan ng Pag-Aalis ng Mana*, was intended by Segundo to be his last testamentary act and was executed by him in accordance with law in the form of a holographic will. Unless the will is probated,^[13] the disinheritance cannot be given effect.^[14]

With regard to the issue on preterition,^[15] the Court believes that the compulsory heirs in the direct line were not preterited in the will. It was, in the Court's opinion, Segundo's last expression to bequeath his estate to all his compulsory heirs, with the sole exception of Alfredo. Also, Segundo did not institute an heir^[16] to the exclusion of his other compulsory heirs. The mere mention of the name of one of the petitioners, Virginia, in the document did not operate to institute her as the universal heir. Her name was included plainly as a witness to the altercation between Segundo and his son, Alfredo.

Considering that the questioned document is Segundo's holographic will, and that the law favors testacy over intestacy, the probate of the will cannot be dispensed with. Article 838 of the Civil Code provides that no will shall pass either real or personal property unless it is proved and allowed in accordance with the Rules of Court. Thus, unless the will is probated, the right of a person to dispose of his property may be rendered nugatory.^[17]

In view of the foregoing, the trial court, therefore, should have allowed the holographic will to be probated. It is settled that testate proceedings for the settlement of the estate of the decedent take precedence over intestate proceedings for the same purpose.^[18]

WHEREFORE, the petition is GRANTED. The Orders of the Regional Trial Court of Manila, Branch 21, dated August 10, 1999 and October 14, 1999, are set aside. Respondent judge is directed to reinstate and hear SP Proc. No. 99-93396 for the allowance of the holographic will of Segundo Seangio. The intestate case or SP. Proc. No. 98-90870 is hereby suspended until the termination of the aforesaid testate proceedings.

No costs.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, Corona, and Garcia, JJ., concur.

[1] Under Rule 65 of the Rules of Court.

[2] Records, p. 20.

[3] Id. at 17.

[4] Id. at 63.

[5] Id. at 65.

[6] Id. at 82.

[7] Id. at 96.

[8] Emphasis supplied.

[9] Article 783 of the Civil Code states: "A will is an act whereby a person is permitted, with the formalities prescribed by law, to control to a certain degree the disposition of his estate, to take effect after his death."

[10] Tolentino, Arturo M., "Commentaries and Jurisprudence on the Civil Code of the Philippines," Volume III, p. 30.

[11] Id. at 38.

[12] Id. at 37-39.

[13] In a petition to admit a holographic will to probate, the only issues to be resolved are: 1) whether the instrument submitted is, indeed, the decedent's last will and testament; 2) whether said will was executed in accordance with the formalities prescribed by law; 3) whether the decedent had the necessary testamentary capacity at the time the will was executed; and, 4) whether the execution of the will and its signing were the voluntary acts of the decedents. As a general rule, courts in probate proceedings are limited to pass only upon the extrinsic validity of the will sought to be probated. However, in exceptional circumstances, courts are not powerless to do what the situation constrains them to do, and pass upon certain provisions of the will (*Ajero v. Court of Appeals*, G.R. No. 106720, September 15, 1994, 236 SCRA 488).

[14] *Supra* note 10.

[15] Article 854 of the Civil Code states: "The preterition or omission of one, some, or all of the compulsory heirs in the direct line, whether living at the time of the execution of the will or born after the death of the testator, shall annul the institution of heir; but the devisees and legacies shall be valid insofar as they are not inofficious.

If the omitted compulsory heirs should die before the testator, the institution shall be effectual, without prejudice to the right of representation."

[16] Article 841 of the Civil Code states: "A will is valid even though it should not contain an institution of an heir, or such institution should not comprise the entire estate, and even though the person so instituted should not accept the inheritance or should be incapacitated to succeed.

In such cases the testamentary dispositions made in accordance with law shall be complied with and the remainder of the estate shall pass to the legal heirs."

[17] *Maninang v. Court of Appeals*, No. L-57848, June 19, 1982, 114 SCRA 478.

[18] *Cuenco v. Court of Appeals*, No. L-24742, October 26, 1973, 53 SCRA 360.

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