

44 Phil. 921

[G. R. No. 18140. September 01, 1922]

**MARIA BABAO, APPLICANT AND APPELLEE, VS. ANTONIA G. VILLAVICENCIO,
ADMINISTRATIX AND APPELLANT.**

D E C I S I O N

ROMUALDEZ, J.:

In the proceeding for the settlement of the intestate estate of Ignacio Trillanes, Maria Babao, the herein appellee, petitioned the court below that an additional inventory be made of certain properties of the deceased and an allowance be made to her minor children for their support, pending the distribution of the estate. These minors are children of Jose Trillanes, son of the deceased Ignacio Trillanes.

This petition was opposed by the administratix of the estate on the ground that said minors are not entitled to the support applied for, because section 684 of the Code of Civil Procedure provides only for the support of the children of the deceased and not of his grandchildren. The lower court, however, held otherwise and allowed P15 monthly pension to each of the minors, to be charged against the estate.

The administratix of the estate appealed from this ruling, and the fundamental question to be decided is whether or not the right to the provisional support granted by section 684 of the Code of Civil Procedure extends to the grandchildren of the deceased.

In this section the law uses the phrase "minor children of a deceased."

Child, in its common acceptation, is the "persona o animal, respeto de su padre o de su madre." (Dictionary of the Spanish Royal Academy.)

And "child" is "a male or female descendant in the first degree." (The Century Dictionary and Cyclopedia.)

The ordinary acceptation, therefore, of the word "hijo" or child does not include "nieto" or

“grandchild.”

The reference made in the aforesaid section to “allowances as are provided by the law in force in the Philippine Islands on and immediately prior to the thirteenth day of August, eighteen hundred and ninety-eight,” does not, in the opinion of the court, have the effect of extending the right to this provisional support to persons other than the children of the deceased. Such reference is made only with regard to the extent of the allowances to be made during the pendency of the proceeding for the settlement of the estate, but cannot have the effect of extending the allowances to persons who are entitled to support under the Civil Code, but who are not the surviving spouse or the children of the deceased. The section does not mention but the surviving spouse and minor children. To hold that all persons entitled to support under the Civil Code come under this section would justify the inclusion in this phrase “widow and minor children of a deceased” even of the brothers of the deceased, who are also entitled to support under article 143 of the Civil Code.

This court sees no reason for giving any other interpretation to the word “children” used by the Legislature in section 684 of the Code of Civil Procedure, than the common and ordinary acceptance of said word, which is the one that must prevail in this case.

“ ‘It is beyond question the duty of courts in construing statutes to give effect to the intent of the law-making power, and seek for that intent in every legitimate way. But * * * first of all in the words and language employed; and if the words and language employed; and if the words are free from ambiguity and doubt, and express plainly, clearly, and distinctly the sense of the framers of the instrument, there is no occasion to resort to other means of interpretation. It is not allowable to interpret what has no need of interpretation.’ The statute itself furnishes the best means of its own exposition; and if the sense in which words were intended to be used can be clearly ascertained from its parts and provisions, the intention thus indicated will prevail without resorting to other means of aiding in the construction. Very strong expressions have been by the courts to emphasize the principle that they are to derive their knowledge of the legislative intention from the words or language of the statute itself which the legislature has used to express it, if a knowledge of it can be so derived.” (Lewis’ Sutherland, Statutory Construction, vol. II, 2ed., pp. 698, 699.)

In applying in this proceeding for the aforesaid provisional allowances, the appellee does

not, and cannot, invoke but section 684 of the Code of Civil Procedure in support of her petition, whose provisions on this point do not, in the opinion of this court, extend to the grandchildren of the deceased. She cannot invoke the Civil Code because the grandfather against whose estate the allowance claimed is to be charged is now dead, and therefore the obligation of such a grandfather to give support was already extinguished. (Art. 150, Civ. Code.)

It is unnecessary, for the purposes of this decision, to discuss the other assignments of error. The order appealed from is reversed in so far as it gives an allowance to the children of the appellee Maria Babao, without special pronouncement as to costs. So ordered.

Araullo, C. J., Johnson, Malcolm. Avaceña, Villamor, Ostrand, and Johns, JJ., concur.