

43 Phil. 378

[G. R. No. 17304. May 22, 1922]

IN RE WILL OF MARIA ROQUE Y PARAISO, DECEASED. CEFERINO ALDABA, PETITIONER AND APPELLEE, VS. LUDOVICO ROQUE, OPPONENT AND APPELLANT.

D E C I S I O N

VILLAMOR, J.:

It appears from the record of the case that on July 9, 1918, Maria Roque y Paraiso, the widow of Bruno Valenzuela, resident of the barrio of Mambog, municipality of Malolos, Province of Bulacan, executed her last will and testament in the Tagalog dialect with the help of Vicente Platon and in the presence of three witnesses who signed the attestation clause and each of the four pages of the testament. Maria Roque died on December 3, 1919, and when her will was filed in court for probate, it was contested by Ludovico Roque on the ground that it had not been prepared nor executed in conformity with the requirements and solemnities prescribed by law.

After due proceedings had been had, the Court of First Instance of Bulacan by its decision rendered on February 27th of the following year, pronounced the testament in question valid, and ordered its probate, appointing Ceferino Aldaba as the administrator of the estate.

The errors assigned by the appellant are two, to wit: "That each and every folio of the said testament is not paged correlatively in letters," and "that the said will lacks the attestation clause required by law."

We have examined document Exhibit 4 which is the will in question and we find at the end thereof the following in Tagalog which translated into English reads:

"This document expresses my last and spontaneous will, and is my last will and testament, which was drawn by the lawyer, Don Vicente Platon, at my direction,

and everything contained in this testament has been ordained and directed by me to said Vicente Platon in order that it might be embodied in this testament, and after this testament has been drawn up, I directed him to read it so that I might hear all its contents, and I have heard and understood all the contents of this document which is my last will, wherefore, and not knowing how to write, I have requested Don Vicente Platon to write and sign my name in my stead hereon; I declare that this testament is composed of four sheets, actually used, that the sheets are paged with the letters A, B, C, and D, and above my name I have placed the thumb mark of my right hand in the presence of the subscribing witnesses, and that all the witnesses have signed in my presence and of each other here at Malolos, Bulacan, this 9th day of the month of July, 1918; and I also declare that at my request Don Vicente Platon has written my name on the left margin of all the pages of this testament, in the presence of the witnesses, and all the witnesses have also signed all the pages of this testament on the left margin in my presence and that of each other.

"X (Her thumb mark)
"MARIA ROQUE Y PARAISO,
"PER VICENTE PLATON.
(Sgd.) "REGINO E.
MENDOZA,
"Witness.

(Sgd.) "IGNACIO ANIAG,
"Witness.

(Sgd.) "CEFERINO ALDABA,
"Witness."

In reality, it appears that it is the testatrix who makes the declaration about the points contained in the above described paragraph; however, as the witnesses, together with the testatrix, have signed the said declaration, we are of the opinion and so hold that the words above quoted of the testament constitute a sufficient compliance with the requirements of section 1 of Act No. 2645 which provides that:

"The attestation shall state the number of sheets or pages used, upon which the will is written, and the fact that the testator signed the will and every page thereof, or caused some other person to write his name, under his express direction, in the presence of three witnesses, and the latter witnessed and signed

the will and all the pages thereof in the presence of the testator and of each other.”

In regard to the other assignment of error, to wit, that each of the folios of the said testament is not paged correlatively in letters “one,” “two,” “three,” etc., but only with the letters A, B, C, etc., we are of the opinion that this method of indicating the paging of the testament is a compliance with the spirit of the law, since either one of the two ways above-mentioned indicates the correlation of the pages and serves to prevent the loss of any of them. It might be said that the object of the law in requiring that the paging be made in letters is to make falsification more difficult, but it should be noted that since all the pages of the testament are signed at the margin by the testatrix and the witnesses, the difficulty of forging the signatures in either case remains the same. In other words the more or less degree of facility to imitate the writing of the letters A, B, C, etc., does not make for the easiness to forge the signature. And as in the present case there exists the guaranty of the authenticity of the testament, consisting in the signatures on the left margins of the testament and the paging thereof as declared in the attestation clause, the holding of this court in *Abangan vs. Abangan* (40 Phil., 476), might as well be repeated:

“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. Therefore the laws on this subject should be interpreted in such a way as to attain these primordial ends. But, on the other hand, also one must not lose sight of the fact that it is not the object of the law to restrain and curtail the exercise of the right to make a will. So when an interpretation already given assures such ends, any other interpretation whatsoever, that adds nothing but demands more requisites entirely unnecessary, useless, and frustrative of the testator’s last will, must be disregarded.”

In that case the testament was written on one page, and the attestation clause on another. Neither one of these pages was numbered in any way; and it was held:

“In a will consisting of two sheets the first of which contains all the testamentary dispositions and is signed at the bottom by the testator and three witnesses and

the second contains only the attestation clause and is signed also at the bottom by the three witnesses, it is not necessary that both sheets be further signed on their margins by the testator and the witnesses, or be paged.”

This means that, according to the particular case, the omission of paging does not necessarily render the testament invalid.

The law provides that the numbering of the pages should be in letters placed on the upper part of the sheet, but if the paging should be placed in the lower part, would the testament be void for this sole reason? We believe not. The law also provides that the testator and the witnesses must sign the left margin of each of the sheets of the testament; but if they should sign on the right margin, would this fact also annul the testament? Evidently not. This court has already held in *Avera vs. Garcia and Rodriguez* (42 Phil., 145) :

“It is true that the statute says that the testator and the instrumental witnesses shall sign their names on the left margin of each and every page; and it is undeniable that the general doctrine is to the effect that all statutory requirements as to the execution of wills must be fully complied with. The same doctrine is also deducible from cases heretofore decided by this court.

“Still some details at times creep into legislative enactments which are so trivial that it would be absurd to suppose that the Legislature could have attached any decisive importance to them. The provision to the effect that the signatures of the testator and witnesses shall be written on the left margin of each page—rather than on the right margin—seems to be of this character. So far as concerns the authentication of the will, and of every part thereof, it can make no possible difference whether the names appear on the left or on the right margin, provided they are on one or the other. In *Caraig vs. Tatlonghari* (R. G. No. 12558, decided March 23, 1918, not reported), this court declared a will void which was totally lacking in the signatures required to be written on its several pages; and in the case of *Re Estate of Saguinsin* (41 Phil., 875), a will was likewise declared void which contained the necessary signatures on the margin of each leaf (folio), but not on the margin of each page containing written matter.”

We do not desire to intimate that the numbering in letters is a requisite of no importance.

But since its principal object is to give the correlation of the pages, we hold that this object may be attained by writing "one," "two," "three," etc., as well as by writing A, B, C, etc. Following, therefore, the view maintained by this court in the case of *Abangan vs. Abangan*, *supra*, as regards the appreciation of the solemnities of a testament, we decide that the judgment appealed from must be, as is hereby, affirmed with costs against the appellant. So ordered.

Araullo, C. J., Malcolm, Avanceña, Ostrand, and Romualdez, JJ., concur.