

1 Phil. 177

[G.R. No. 482. March 21, 1902]

FRUTO FELICIANO ET AL., PLAINTIFFS AND APPELLANTS, VS. ESCOLASTICO FERNANDEZ ET AL., DEFENDANTS AND APPELLEES.

D E C I S I O N

COOPER, J.:

The defendants allege in their complaint that after having solicited the probate of the intestate estate of Doffa Fernanda Trinidad, Don Escolastico Fernandez appeared in the proceeding as the surviving spouse and asked the dismissal of the proceedings, filing as grounds therefor a certified copy of a will dated August 30, 1899, and executed by the deceased Doiia Fernanda Trinidad before the notary public of Pasig, Don Matias Salamante y Villanueva, and constituted her husband, Don Escolastico Fernandez, her sole and universal heir.

During the pendency of the litigation the defendant died, and the proceedings were continued against his heirs, Dofia Petrona and Dofia Dionisia Fernandez y Limasin.

The trial of the present action having been terminated, the defendants were discharged from the prayer of the complaint and the claims of the plaintiffs were perpetually quieted with costs of suit taxed against said plaintiffs. From this judgment appeal has been taken to this court.

The plaintiffs, as grounds for a decree annulling and canceling the will referred to, allege that the notarial authority of Senor Salamante, before whom the will was executed, was created by royal decree, with the town of Pasig as the place of his residence; that the will was executed before Senor Salamante in the city of Manila and was null and of no force or effect, since the act was performed outside of the jurisdiction of the notary.

By royal decree of February 15, 1889, the notarial law of May 28, 1862, prevailing in the

Peninsula (Spain) was put in force in the Philippines with certain modifications and was to go into effect on July 1, 1889. Article 3 of this notarial law provides that the office of notary shall include the territorial limits of the judicial districts in which the same were established.

Tondo was in the judicial district of which the town of Pasig formed a part and Senor Salamante had authority to authenticate the execution of the will in the city of Manila. Therefore the contest of the will of Dona Fernanda Trinidad can not be sustained.

The other grounds of nullity alleged by the plaintiffs, with respect to the execution of the will, refer to formalities of little importance which do not affect its validity; and furthermore, the greater part of them are not in conformity with the facts as they appear in the record.

The judgment of the Court of First Instance is affirmed, with costs of this appeal taxed against the appellants.

Arellano, C. J., Torres, Willard, and Mapa, JJ., concur.

Ladd, J., did not sit in this case.