

SECOND DIVISION

[G.R. No. 204793, June 08, 2020]

IN THE MATTER OF THE PETITION FOR THE PROBATE OF THE WILL OF CONSUELO SANTIAGO GARCIA

**CATALINO TANCHANCO AND RONALDO TANCHANCO,
PETITIONERS, VS. NATIVIDAD GARCIA SANTOS, RESPONDENT.**

D E C I S I O N

HERNANDO, J.:

This Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court assails the June 25, 2012 Decision^[2] and December 4, 2012 Resolution^[3] of the Court of Appeals (CA) in CA-G.R. CV No. 89593 which reversed the May 31, 2004 Decision^[4] of Branch 115 of the Regional Trial Court (RTC) of Pasay City in Spec. Proc. Nos. 97-4243 and 97-4244 denying the probate of the last will and testament of the decedent, Consuelo Santiago Garcia (Consuelo).

The Antecedents

Consuelo was married to Anastacio Garcia (Anastacio) who passed away on August 14, 1985. They had two daughters, Remedios Garcia Tanchanco (Remedios) and Natividad Garcia Santos (Natividad). Remedios predeceased Consuelo in 1985 and left behind her children, which included Catalino Tanchanco (Catalino) and Ronaldo Tanchanco (Ronaldo, collectively Tanchancos).^[5]

On April 4, 1997, Consuelo, at 91 years old, passed away^[6] leaving behind an estate consisting of several personal and real properties.^[7]

On August 11, 1997, Catalino filed a petition^[8] before the RTC of Pasay City to settle the intestate estate of Consuelo which was docketed as Spec. Proc. Case No. 97-4244 and raffled to Branch 113. Catalino alleged that the legal heirs of Consuelo are: Catalino, Ricardo, Ronaldo and Carmela, all surnamed Tanchanco (children of Remedios), and Melissa and Gerard Tanchanco (issues of Rodolfo Tanchanco, Remedios' son who predeceased her and Consuelo), and Natividad, the remaining living daughter of Consuelo. Catalino additionally alleged that Consuelo's properties are in the possession of Natividad and her son, Alberto G. Santos (Alberto), who have been dissipating and misappropriating the said properties. Withal, Catalino prayed (1) for his appointment as the special administrator of Consuelo's intestate estate and the issuance of letters of administration in his favor; (2) for a conduct of an inventory of the estate; (3) for Natividad and all other heirs who are in possession of the estate's properties to surrender the same and to account for the proceeds of all the sales of Consuelo's assets made during the last years of her life; (4) for all heirs and persons having control of Consuelo's properties be prohibited

from disposing the same without the court's prior approval; (5) for Natividad to produce Consuelo's alleged will to determine its validity; (6) for Natividad to desist from disposing the properties of Consuelo's estate; and (7) for other reliefs and remedies.^[9]

Natividad filed a Motion to Dismiss^[10] stating that she already filed a petition^[11] for the probate of the Last Will and Testament of Consuelo before Branch 115 of the RTC of Pasay City which was docketed as Spec. Proc. Case No. 97-4243. Natividad asked that Consuelo's Last Will and Testament, entitled *Huling Habilin at Pagpapasiya ni Consuelo Santiago Garcia*,^[12] be allowed and approved. Moreover, as the named executrix in the will, Natividad prayed that letters testamentary be issued in her favor.

The Tanchancos filed an Opposition^[13] to Natividad's petition for probate alleging that the will's attestation clause did not state the number of pages and that the will was written in *Tagalog*, and not the English language usually used by Consuelo in most of her legal documents. They also pointed out that Consuelo could not have gone to Makati where the purported will was notarized considering her failing health and the distance of her residence in Pasay City. Moreover, they alleged that Consuelo's signature was forged. Thus, they prayed for the disallowance of probate and for the proceedings to be converted into an intestate one.

However, Natividad contended that there was substantial compliance with Article 805 of the Civil Code. Although the attestation clause did not state the number of pages comprising the will, the same was clearly indicated in the acknowledgment portion. Furthermore, the Tanchancos' allegations were not supported by proof.^[14] Conversely, the Tanchancos rebutted that the number of pages should be found in the body of the will and not just in the acknowledgment portion.^[15]

Eventually, the two cases (Spec. Proc. Case Nos. 97-4243 and 97-4244) were consolidated before Branch 115 of the RTC of Pasay City.^[16] Hearings commenced.

The subject will was witnessed by Atty. Kenny H. Tantuico (Atty. Tantuico), Atty. Ma. Isabel C. Lallana (Atty. Lallana), and Atty. Aberico T. Paras (Atty. Paras) and notarized by Atty. Nunilo O. Marapao, Jr. (Atty. Marapao).

Atty. Marapao testified that he specifically remembered the will in question because it was his first time to notarize a will written in Tagalog. He was familiar with the other witnesses and their signatures because they were his colleagues at Quasha Ancheta Peña and Nolasco (Quasha Law Office) and because he was present during the signing of the will. He also identified Consuelo's signature as he was present when she signed the will.^[17]

Atty. Marapao averred that he assisted Atty. Lallana in drafting the will. He described Consuelo as very alert and sane, and not suffering from any ailment at the time. The will was written in *Tagalog* at the request of Consuelo although she was conversant in English. Their usual practice during the execution of a will is to ask the testator some questions to determine whether he or she is of sound mind. If they find everything in order, they would sign the will and then let the testator sign the same. Subsequently, the will would be notarized.^[18]

Atty. Paras identified the signatures of Atty. Lallana and Atty. Tantuico^[19] as well as that of Atty. Marapao.^[20] Likewise, he affirmed Consuelo's signature in the will as he saw her sign the will.^[21] He additionally confirmed that the attesting witnesses asked Consuelo probing questions to determine her state of mind and whether she was executing the will voluntarily.^[22] To prove her identity, Consuelo showed her residence certificate and passport.^[23] Atty. Paras recalled that Consuelo was not accompanied by anyone in the conference room.^[24]

Similarly, Atty. Tantuico affirmed his signature in the will as well as that of Atty. Paras' and Atty. Lallana's as attesting witnesses, together with the signatures of Consuelo^[25] and Atty. Marapao.^[26] He confirmed that they propounded questions to Consuelo to determine the soundness of her mind.^[27] Consuelo produced her residence certificate and passport to prove her identity.^[28] Consuelo's will was the first will that he encountered written in *Tagalog* and he ascertained if Consuelo was comfortable with the said dialect.^[29]

Atty. Tantuico stated that Consuelo looked younger than her actual age at the time of the execution of the will and that she could speak English. Consuelo was alone in the conference room and understood the will that she signed. Likewise, none of Consuelo's relatives was made a witness to the will.^[30]

In her Deposition Upon Written Interrogatories,^[31] Atty. Lallana asserted that she was a friend of Consuelo's family. She confirmed that she drafted the will and was one of the witnesses to its execution. The will was signed and executed in the conference room of Quasha Law Office with all the witnesses present to observe each other sign the will. She likewise identified Consuelo's signature in the will as well as those of the other witnesses who were her co-workers at Quasha Law Office. She had seen Consuelo's signatures in other occasions prior to the execution of the will.

Atty. Lallana narrated that she met Consuelo at the lobby of Quasha Law Office and accompanied her to the conference room. She asked Consuelo if the contents of the will reflected the latter's wishes, to which the latter replied in the affirmative. Afterwards, Atty. Lallana asked the other witnesses to join them in the conference room for the execution of the will. The witnesses then asked Consuelo about her state of mind and Atty. Marapao even joked with her regarding her personal circumstances. Atty. Lallana emphasized that the witnesses conversed with Consuelo in order to determine her mental capacity. Atty. Tantuico asked general questions regarding the will and after they were satisfied that Consuelo understood the import of the will, they signed the documents in each other's presence. After signing all the pages of the will, Atty. Marapao asked Consuelo to swear to the truth of the proceeding then notarized the document.

Atty. Lallana averred that Consuelo possessed full mental faculties during the drafting and execution of the will as shown by her responses to the questions propounded to her. She was in good physical condition appropriate for her age. Consuelo arrived at Quasha Law Office unaided and had the physical and mental stamina to sit through the review and execution of the will.

Atty. Lallana affirmed that the will is in *Tagalog*, the dialect which Consuelo used to communicate with her. They purposely used *Tagalog* to obviate any potential issues or questions regarding Consuelo's ability to understand the nature and the contents of the will. Atty. Lallana clarified that Consuelo informed her that she (Consuelo) had already distributed the bulk of her estate between her two daughters and that the properties subject of the will were the ones left in her control and possession.

In her cross-interrogatories,^[32] Atty. Lallana clarified that she drafted the will upon the request of Consuelo whom she met several times at her (Consuelo's) residence in Pasay City. She always met with Consuelo in private for the purpose of drafting the will even if there were other relatives present in the same house. Although Consuelo was accompanied by her maid/companion (*alalay*) at the lobby of the Quasha Law Office, she was alone with the attesting witnesses and the notary public during the signing of the will. Consuelo wanted third parties to act as witnesses because she anticipated some of her grandchildren to oppose the will.

Atty. Lallana stated that Remedios already received her share in the inheritance prior to the execution of the will and before her demise in 1990. Thus, Atty. Lallana found no reason to collate Consuelo's properties. She emphasized that she discussed the rules of legitime to Consuelo and that preterition did not occur.

Atty. Lallana asked for the legal opinion of more senior lawyers in drafting the will. She concluded that Consuelo was very sharp and perceptive.

On the other hand, Ronaldo asserted that he had a close relationship with Consuelo before she was hospitalized^[33] and insisted that Consuelo passed away without a will.^[34] He contended that it was unusual for Consuelo to execute a will in *Tagalog* as she had always used the English language in her documents^[35] although she spoke both English and *Tagalog*.^[36] He alleged that Consuelo told him that there was no need to draft a will since the properties would just be divided between her two daughters.^[37] He also mentioned other lawyers, such as Atty. Cornelio Hizon (Atty. Hizon), whom Consuelo previously transacted with but who were not affiliated with Quasha Law Office.^[38]

During the second year of Consuelo's coma, Ronaldo met with Natividad, Alberto, Catalino, Atty. Hizon, and Lumen Santiago to ascertain if Consuelo executed a will. During the meeting, Natividad informed them that there was no will.^[39] Moreover, he alleged that Consuelo cannot walk unaided as early as 10 years before the alleged execution of the will due to a previous accident.^[40] Ronaldo stated that Consuelo was forgetful^[41] and bad with directions and that she needed her security guard or driver and *alalay* to move around.^[42] Consuelo was unhappy before her coma because Natividad sold her properties as well as questioned and restricted her actions.^[43] Natividad, by a Special Power of Attorney, transferred properties before and during Consuelo's coma.^[44] Consuelo's actions were very dependent on Natividad's approval as the latter supposedly intimidated the former.^[45] Natividad only gave Consuelo an allowance and she (Natividad) controlled Consuelo's properties.^[46]

Ronaldo asserted that the will was one-sided as most of the properties would be given to Natividad^[47] and contrary to Consuelo's intention to equally distribute the properties between her two daughters. In drafting contracts, Consuelo is usually assisted by family lawyers or a close member of the family for guidance, and with the knowledge of the *alalay* or companions.^[48]

Ronaldo conceded that Consuelo's signatures in the will were similar with those in the Deed of Absolute Sale^[49] (which Ronaldo claimed is authentic).^[50] Consuelo was well-versed in *Tagalog* than English since she was from Bulacan and only finished Grade 6.^[51] Ronaldo knew that Consuelo travelled abroad on April 15, 1986, July 27, 1988, April 9, 1989 and March 9, 1991, or near the time the will was executed.^[52] The signatures on Consuelo's passport and on the will were similar although the signature in the will was "signed brokenly" while in the passport, "straight."^[53] Also, Ronaldo acknowledged that in a particular photo dated March 29, 1991, Consuelo was standing alone and without assistance.^[54]

Ronaldo affirmed that a grandson of Consuelo, Jumby or Celso (one of Natividad's sons), was a friend of Atty. Lallana in college.^[55] Also, he agreed that he could not have monitored every movement or transaction entered into by Consuelo and that it was possible that Consuelo did not mention the existence of the will to him.^[56]

Ronaldo maintained that Consuelo would always procure her residence certificate from Pasay City.^[57] He averred that Consuelo would constantly ask for an explanation for legal terms which she could not understand. He then admitted that the *Tagalog* translation for legal terms were provided in the will.^[58]

Emilio Layug, Jr. (Layug), then security aide of Consuelo,^[59] denied accompanying Consuelo to Quasha Law Office in Makati City.^[60] He averred that he would only accompany her on special occasions and whenever she decided to bring him along with her.^[61] Consuelo could not leave the house without her companions, Nonita Legazpi and Anita Lozada,^[62] and she could no longer walk alone and needed to use a wheelchair as she was weak.^[63] He agreed that Natividad was Consuelo's favorite daughter. In 1987, Layug always accompanied Consuelo and her *alalay*.^[64]

During the hearing for the appointment of a special administrator, Catalino alleged that he was Consuelo's favorite and that they had a close relationship.^[65] He maintained that Consuelo told him that she did not execute a will since the inheritance will be divided between her two children.^[66] He stated that the will was one-sided even when Consuelo had always been very fair.^[67] Catalino questioned the signature of Consuelo in the will as it appeared to be "perfect" when it should be crooked since she was already 80 at the time.^[68] He added that Consuelo's documents were all in English^[69] and that she never engaged the services of Quasha Law Office before.^[70] Consuelo did not leave the house on her own as she cannot walk alone^[71] and was already very sickly in 1997 and needed an *alalay*.^[72]

Catalino alleged that Natividad, after the burial of Consuelo, looted the things of Consuelo and declared "war" against the Tanchancos.^[73] During a family meeting