

TWELFTH DIVISION

[CA-G.R. CV. No. 99176, March 11, 2014]

**IN THE MATTER OF THE PETITION TO APPROVE THE WILL OF
THE LATE GLORIA JOSON TIBURCIO AND FOR THE ISSUANCE OF
LETTERS OF ADMINISTRATION MARILOU TIBURCIO-
HERNANDEZ, PETITIONER-APPELLEE, VS. ERLINDA T.
ALEJANDRO AND ELLEN T. GO, OPPOSITORS-APPELLANTS.**

DECISION

DICDICAN, J.:

The law favors the probate of a Will^[1]. Upon those who oppose it rests the burden of showing why it should not be allowed^[2].

Before us is an appeal filed by the oppositors-appellants Erlinda T. Alejandro and Ellen T. Go ("oppositors-appellants") seeking a review of the Decision^[3] dated October 10, 2011 rendered by Branch 77 of the Regional Trial Court ("RTC") in Quezon City, National Capital Judicial Region in Special Proceeding Case No. 07-061094.

The material and relevant facts of the case, as culled from the record, are as follows:

The late Gloria Joson Tiburcio ("Gloria") died on January 7, 2007 and was survived by her three (3) daughters, herein petitioner-appellee Marilou Tiburcio-Hernandez ("petitioner-appellee") and oppositors-appellants Erlinda T. Alejandro and Ellen T. Go.

Gloria also had two sons who predeceased her. Renato Tiburcio, who died in 1993 with three (3) children namely: Rowena, Roxanne Marie and Ryan Joseph, and Romulo Tiburcio, who died in 1997, with only one child, Harri Tiburcio.

Gloria, was a Filipino citizen and a resident of Quezon City at the time of her death, with real properties located in San Miguel, Bulacan and Quezon City.

Upon the death of Gloria, herein oppositors-appellants initiated intestate proceedings through a Petition for the Issuance of Letters of Administration of the Estate of the Late Gloria Tiburcio which was filed before the Regional Trial Court in Quezon City and was docketed as Special Proceedings No. Q-07-60331.

However, on August 27, 2007, while the petitioner-appellee was sorting the decedent's articles in the latter's room, she accidentally discovered a holographic will which was dated December 4, 2002. The will, entirely written by hand, read as follows:

"Last Will and Testament

December 4, 2002

Sa Mga Minamahal Kong Maiwan sa buhay,

Ito ang aking 'Last Will and Testament'. Ang pinirmahan kong Last Will and Testament noon kay Linda ay binabale wala ko na. Ang masusunod ay ang Testamentong ito, na may petsang December 4, 2002.

Dahilan sa nadiskubre kong panloloko sa akin ni Ellen at Linda, sa halos lahat ng naipon ko ay nakuha na nila, ay iyon na ang parti nila sa mga ari-arian na maiwan ko dahil hindi ko na sila sisingilin dito.

At lahat ng maiiwanan ko na ay ibinibigay ko sa minamahal kong anak na si Marilou na siyang gumagabay sa akin at kundi dahil sa kaniya ay hindi ko matutuklasan ang mga panloloko sa akin nila Ellen at Linda.

Gumagalang,
Gloria Joson Tiburcio

Witnesses

Ernesto A. Nidoy (sgd.)

Loreta B. Nidoy (sgd.)^[4]

On the lower portion of the Will, there appeared a signature and a stamp of a notary public named Atty. Humberto B. Basco which bore the date September 24, 2004.

On account of such development, on September 6, 2007, the petitioner-appellee filed a Petition to Approve the Will of the Late Gloria Joson Tiburcio and for the Issuance of Letters of Administration^[5] with the Regional Trial Court in Quezon City.

Consequently, Special Proceedings No. Q-07-60331 was archived by the trial court.

On October 8, 2007, an Opposition to the Petition^[6] was filed by the oppositors-appellants on the ground that the purported signature on the supposed Will was not the customary signature of the named testatrix therein. Moreover, since the Will was entirely handwritten by the testatrix, the presence of the signatures of two witnesses and the stamp of the notary public cast doubt on its compliance with the formalities required by the law on testamentary succession.

In the same manner, the oppositors-appellants contended that there was preterition as there was only one heir instituted therein, to the exclusion of the other compulsory heirs. The oppositors-appellants likewise questioned the alleged disinheritance as the same was baseless and unsupported in fact and in law.

Finding the petition to be sufficient in form and in substance, the case was set for initial hearing on May 22, 2008 in an Order dated December 10, 2007. Said Order was published in a weekly newspaper of general circulation in Metro Manila on April 12, 19 and 26, 2008.

The case then proceeded to trial on the merit. Aside from the petitioner-appellee, the signatories in the Last Will and Testament of the late Gloria, namely, Loreta Bernabe Nidoy and Ernesto Nidoy, testified in open court. On the part of the oppositors-appellants, Harri Muñiz Tiburcio testified together with his aunts, herein oppositors-appellants Erlinda and Ellen.

After a trial on the merits, the RTC admitted the Will to probate in a Decision dated October 10, 2011, the dispositive portion of which is cited herein as follows:

"WHEREFORE, the foregoing premises considered, the holographic Last Will and Testament of the late Gloria Joson Tiburcio, executed pursuant to Article 838 of the Civil Code, and proved in accordance with Rule 76 of the Revised Rules of Court, is hereby ALLOWED. Let a certificate for the allowance of the Last Will and Testament of the late Gloria Joson Tiburcio be issued under the seal of this Court, and attached to the said Will, and recorded by the Register of Deeds of Quezon City. The petition for the issuance of Letters Testamentary to Marilou Tiburcio-Hernandez is GRANTED.

"SO ORDERED."

The court a quo favorably took into account the testimonies of the witnesses who were physically present at the time when the holographic will was executed and signed by the late Gloria. The RTC likewise ruled that the witnesses' signatures on the Will were a mere superfluity on the ground that the disputed Will had complied with the requirements of the law for a holographic will as to form and substance.

The RTC also opined that there was no preterition regardless of the fact that the Will was silent as to the other heirs, specifically, Gloria's grandchildren from her predeceased sons, Renato and Romulo.

Undaunted, the oppositors-appellants filed this instant appeal raising the following errors purportedly committed by the trial court:

I.

THE TRIAL COURT COMMITTED A REVERSIBLE ERROR IN RENDERING THE ASSAILED DECISION WHEN IT HELD THAT THE OPPOSITORS-APPELLANTS DID NOT CONTEST THE FACT THAT THE SIGNATURE ON THE SUBJECT WILL BELONGED TO THE TESTATRIX.

II.

THE TRIAL COURT COMMITTED A REVERSIBLE ERROR IN RENDERING THE ASSAILED DECISION WHEN IT HELD THAT THE WITNESSES AND THE NOTARIZATION OF THE SUBJECT WILL ARE MERE SUPERFLUITIES THAT DO NOT AFFECT ITS HOLOGRAPHIC CHARACTER.

III.

THE TRIAL COURT COMMITTED A REVERSIBLE ERROR IN RENDERING THE ASSAILED DECISION WHEN IT HELD THAT THERE WAS NO PRETERITION NOR DISINHERITANCE IN THE WILL OF THE SUPPOSED TESTATRIX.

A fortiori, the primordial issue brought before us for resolution is whether the holographic will of the late Gloria complied with the formal and substantial requirements of the law on testamentary succession.

After a careful and judicious scrutiny of the whole matter, together with the applicable laws and jurisprudence in the premises, we find the instant appeal to be

devoid of merit.

According to the oppositor-appellant, it was an error for the RTC to rule that the witnesses' signatures on the Will and the notarization thereof were superfluities as the same would affect the voluntary nature and freedom of the testatrix from undue influence in the preparation of the Will.

Under Article 810 of the New Civil Code, a holographic will must be entirely written, dated and signed by the hand of the testator/testatrix himself/herself. It is subject to no other form and may be made in or out of the Philippines. It also need not be witnessed.

In the case at hand, the Last Will and Testament of the late Gloria was dated, signed and entirely written by her in her own handwriting. As it is, the presence of the signatures of the witnesses as well as the notarization of the Will did not in any way invalidate the same. Indeed, the Last Will and Testament executed by the late Gloria conformed to the formalities of a holographic will as prescribed by law.

It is a fundamental principle that the intent or the will of the testator/testatrix, 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/testatrix is contrary to law, morals or public policy that it cannot be given effect^[7].

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/testatrix^[8].

To support their objection to the probate of the contested Will, the oppositors-appellants asseverated that the presence of the witnesses could indicate that there was undue influence exerted upon the testatrix during the execution of the Will.

Article 839 of the New Civil Code states the instances when a Will may be disallowed, as follows:

“Article 839. The will shall be disallowed in any of the following cases:

- (1) If the formalities required by law have not been complied with;
- (2) If the testator was insane, or otherwise mentally incapable of making a will, at the time of its execution;
- (3) If it was executed through force or under duress, or the influence of fear, or threats;
- (4) If it was procured by undue and improper pressure and influence, on the part of the beneficiary or of some other person;
- (5) If the signature of the testator was procured by fraud;