

## THIRD DIVISION

[ G.R. No. 229010, November 23, 2020 ]

**IN THE MATTER OF THE PETITION TO APPROVE THE WILL OF  
LUZ GASPE LIPSON AND ISSUANCE OF LETTERS TESTAMENTARY,**

**ROEL P. GASPI, PETITIONER, VS. HONORABLE JUDGE MARIA  
CLARISSA L. PACIS-TRINIDAD, REGIONAL TRIAL COURT,  
BRANCH 36, IRIGA CITY, \* RESPONDENT.**

### DECISION

**LEONEN, J.:**

The nationality principle is not applied when determining the extrinsic validity of an alien's last will and testament. When it comes to the probate of an alien's will, whether executed here or abroad, the alien's national law may be pleaded and proved before the probate court. Otherwise, Philippine law will govern by default.

This Court resolves a Petition<sup>[1]</sup> for review on certiorari under Rule 45 of the Rules of Court, assailing the October 6, 2016<sup>[2]</sup> and November 16, 2016<sup>[3]</sup> Orders of the Regional Trial Court of Iriga City, Branch 36, which *motu proprio* dismissed a petition for probate and issuance of letters testamentary.

On February 23, 2011, Luz Gaspe Lipson (Lipson), an American citizen temporarily residing in Iriga City, executed her last will and testament and designated Roel R Gaspi (Gaspi) as executor.<sup>[4]</sup>

On October 17, 2015, at 70 years old, Lipson passed away due to lymphoma.<sup>[5]</sup>

On October 3, 2016, Gaspi filed a Petition<sup>[6]</sup> for the probate of Lipson's will and the issuance of letters testamentary without bond in his behalf.

On October 6, 2016, the Regional Trial Court<sup>[7]</sup> *motu proprio* dismissed the petition for probate for lack of jurisdiction.

The Regional Trial Court pointed out that Lipson was an American citizen. Thus, her national law must govern and her will must be probated in the United States of America, and not in the Philippines.<sup>[8]</sup>

The Regional Trial Court continued that it is only when Lipson's will is probated, according to her national law, that the Philippines may recognize and execute her will through a petition for recognition of foreign judgment.<sup>[9]</sup>

The dispositive portion of the Regional Trial Court Order read:

**WHEREFORE**, in view of the foregoing, the petition is *motu proprio* **DISMISSED**, without prejudice, for lack of jurisdiction over the subject matter of herein Court.

**SO ORDERED.**<sup>[10]</sup> (Emphasis in the original)

Gaspi moved for reconsideration<sup>[11]</sup> of the Regional Trial Court Order, but his motion was denied on November 16, 2016.<sup>[12]</sup>

In denying the motion for reconsideration, the Regional Trial Court stated that the ruling in *Palaganas v. Palaganas*<sup>[13]</sup> was not applicable to Gaspi's petition. It continued that the jurisprudence cited in *Palaganas* involved the probate in the Philippines of an alien's will, which was executed abroad, while Lipson's will was executed in the Philippines.<sup>[14]</sup>

The dispositive portion of the Regional Trial Court Order reads:

**WHEREFORE**, in view of the foregoing, the Motion for Reconsideration filed by the petitioner is **DENIED** for lack of merit.

**SO ORDERED.**<sup>[15]</sup>

In the Petition<sup>[16]</sup> for review on certiorari, petitioner Gaspi contends that there is no prohibition under Philippine law for the probate of wills executed by aliens. He adds that under the Civil Code, the will of an alien residing abroad is also recognized in the Philippines, if it is made in accordance with the laws of the alien's place of residence or country, or if done in conformity with Philippine laws.<sup>[17]</sup>

Citing the ruling in *Palaganas*, petitioner pointed out that this Court has allowed the probate of a will executed by an alien abroad, even though it has not yet undergone probate in the alien decedent's country of citizenship or residence. Thus, he stresses that with more reason should an alien's will executed in the Philippines, in conformity with our law, be allowed to undergo probate.<sup>[18]</sup>

This Court then directed<sup>[19]</sup> respondent to comment on the petition.

In her Comment,<sup>[20]</sup> respondent stresses that the petition for probate was properly dismissed due to lack of jurisdiction.<sup>[21]</sup> She points out petitioner's admission that the decedent was an American citizen, yet Lipson's will was executed in accordance with Philippine laws, contrary to the nationality principle.<sup>[22]</sup> Respondent states:

Logic and reason dictate that this Court *a quo* cannot establish the extrinsic validity of a will in a testamentary succession of a foreigner, which must be based on his national law **and** executed in accordance with the formalities of the law of the country of which he is a citizen or subject. In view thereof, clearly herein Court *a quo* cannot take cognizance of the petition.<sup>[23]</sup> (Emphasis in the original)

Respondent likewise posits that petitioner's reliance on the ruling in *Palaganas* was misplaced, as it involved the probate of a will executed by an alien abroad, while in this case, the will was executed in the Philippines by an alien <sup>[24]</sup> She opines that instead of Article 816 of the Civil Code, upon which *Palaganas* was based, the applicable provision was Article 817.<sup>[25]</sup>

In his Reply,<sup>[26]</sup> petitioner explains that the nationality principle adverted to by respondent in Article 16 of the Civil Code not only pertains to the decedent's internal law, but also to conflict of laws.<sup>[27]</sup>

Petitioner also states that there was no basis for respondent's statement that the probate of an alien's will in the Philippines was conditioned on its prior probate and acceptance in the alien's country of nationality or residence.<sup>[28]</sup>

The sole issue for this Court's resolution is whether or not the Regional Trial Court has the competence to take cognizance of an alien's will executed in the Philippines, even if it had not yet been probated before the alien decedent's national court.

## I

Generally, a person's death passes ownership over their properties to the heirs.<sup>[29]</sup> When there is no will, or when there is one—but does not pass probate, the law provides for the order of succession and the amount of successional rights for each heir.<sup>[30]</sup> When real properties are involved, law will also govern the formalities and consequences in the transfer of properties.

However, prior to death, a person retains control as to how their estate will be distributed. This is done by executing a written<sup>[31]</sup> document referred to as a will.<sup>[32]</sup>

Wills may be notarial<sup>[33]</sup> or holographic.<sup>[34]</sup> In either case, the formalities required for their execution is more elaborate than most deeds relating to other transfers of property.

Death makes it impossible for the decedent to testify as to the authenticity and due execution of the will, which contains their testamentary desires. The proof of the formalities substitutes as the legal guarantee to ensure that the document purporting to be a will is indeed authentic, and that it was duly executed by the decedent.

A will is then submitted to the Regional Trial Court for probate proceeding to determine its authenticity, as "no will shall pass either real or personal property unless it is proved and allowed in accordance with the Rules of Court."<sup>[35]</sup> *Heirs of Las am v. Umengan*<sup>[36]</sup> describes the probate proceeding:

To probate a will means to prove before some officer or tribunal, vested by law with authority for that purpose, that the instrument offered to be proved is the last will and testament of the deceased person whose testamentary act it is alleged to be, and that it has been executed, attested and published as required by law, and that the testator was of sound and disposing mind. It is a proceeding to establish the validity of the will." Moreover, the presentation of the will for probate is mandatory and is a matter of public policy.<sup>[37]</sup> (Citation omitted)

The probate court can then disallow a will under any of the following circumstances enumerated by the Civil Code:

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;
- (6) If the testator acted by mistake or did not intend that the instrument he signed should be his will at the time of affixing his signature thereto.

The disallowance list is likewise echoed in the Rule 76, Section 9 of the Rules of Special Proceedings:

SECTION 9. Grounds for disallowing will. — The will shall be disallowed in any of the following cases:

- (a) If not executed and attested as required by law;
- (b) If the testator was insane, or otherwise mentally incapable to make a will, at the time of its execution;
- (c) If it was executed under duress, or the influence of fear, or threats;
- (d) If it was procured by undue and improper pressure and influence, on the part of the beneficiary, or of some other person for his benefit;
- (e) If the signature of the testator was procured by fraud or trick, and he did not intend that the instrument should be his will at

the time of fixing his signature thereto.

Thus, the extrinsic validity of the will refers to a finding by a trial court that all the formalities of either a holographic or notarial will have been sufficiently complied with, leading to the legal conclusion that the will submitted to probate is authentic and duly executed. *Dorotheo v. Court of Appeals*<sup>[38]</sup> elaborates:

It should be noted that probate proceedings deals generally with the extrinsic validity of the will sought to be probated, particularly on three aspects:

- whether the will submitted is indeed, the decedent's last will and testament;
- compliance with the prescribed formalities for the execution of wills;
- the testamentary capacity of the testator;
- and the due execution of the last will and testament.<sup>[39]</sup> (Citations omitted)

The extrinsic validity of a will, that is, that the document purporting to be a will is determined to be authentic and duly executed by the decedent, is different from its intrinsic validity.

The intrinsic validity of the will "or the manner in which the properties were apportioned,"<sup>[40]</sup> refers to whether the order and allocation of successional rights are in accordance with law. It can also refer to whether an heir has not been disqualified from inheriting from the decedent.

Generally, the extrinsic validity of the will, which is the preliminary issue in probate of wills, is governed by the law of the country where the will was executed and presented for probate.<sup>[41]</sup> Understandably, the court where a will is presented for probate should, by default, apply only the law of the forum, as we do not take judicial notice of foreign laws.<sup>[42]</sup>

This is the situation here. A Filipina who was subsequently naturalized as an American executed a will in the Philippines to pass real property found in the country. The designated executor now files a petition for probate in the Philippines.

Respondent *motu proprio* dismissed the petition for probate, because it purportedly went against the nationality principle embodied in Article 16 of the Civil Code by not adhering to the required probate proceedings of Lipson's national law.<sup>[43]</sup>

Respondent is mistaken.

The nationality principle is embodied in Article 15 of the Civil Code: