

SECOND DIVISION

[G.R. No. 213994, April 18, 2018]

MARGIE SANTOS MITRA, PETITIONER, VS. PERPETUA L. SABLAN-GUEVARRA, REMEGIO L. SABLAN, ET AL., RESPONDENTS.

DECISION

REYES, JR., J:

This treats of a Petition for Review on Certiorari^[1] of the Decision^[2] dated May 22, 2013 and Resolution^[3] dated August 15, 2014 of the Court of Appeals (CA) in CA-G.R. CV No. 93671, which reversed the Decision^[4] dated February 23, 2009 of the Regional Trial Court (RTC), Branch 128 of Caloocan City in SP. Proc. Case No. C-3450.

ANTECEDENT FACTS

On June 26, 2006, Margie Santos Mitra (petitioner) filed a petition for the probate of the notarial will of Remedios Legaspi y Reyes (Legaspi) with prayer for issuance of letters testamentary before the RTC. It was alleged that the petitioner is the *de facto* adopted daughter of Legaspi; that Legaspi, single, died on December 22, 2004 in Caloocan City; that Legaspi left a notarial will, instituting the petitioner, Orlando Castro, Perpetua Sablan Guevarra, and Remigio Legaspi Sablan, as her heirs, legatees and devisees; that Legaspi left real and personal properties with the approximate total value of One Million Thirty-Two Thousand and Two Hundred Thirty Seven Pesos (P1,032,237.00); and that Legaspi named Mary Ann Castro as the executor of the will.^[5]

Perpetua L. Sablan-Guevarra and Remegio L. Sablan (respondents), who claim to be Legaspi's legal heirs, opposed the petition. They aver that the will was not executed in accordance with the formalities required by law; that since the last page of the will, which contained the Acknowledgement, was not signed by Legaspi and her instrumental witnesses, the will should be declared invalid; that the attestation clause failed to state the number of pages upon which the will was written; and that the will was executed under undue and improper pressure, thus, Legaspi could not have intended the document to be her last will and testament.^[6]

THE RULING OF THE RTC

On February 23, 2009, the RTC rendered a Decision^[7] admitting Legaspi's will to probate. The dispositive portion reads:

WHEREFORE, premises considered, this Court having been satisfied that the will was duly executed, and that the testator at the time of its

execution was of sound and disposing mind, and not acting under duress, menace and undue influence, or fraud, the petition for the probate of the *Huling Habilin at Pagpapatunay* of the testator Remedios Legaspi is hereby granted.

The *Huling Habilin at Pagpapatunay* of the testator Remedios Legaspi dated September 27, 2004 is hereby allowed.

In the meantime, the hearing on the issuance of [the] letters testamentary to the named executor Mary Ann Castro is hereby set on April 23, 2009.

SO ORDERED.^[8]

The probate court explained that the last page of the will is but a mere continuation of the Acknowledgement portion, which the testator and the witnesses are not required to sign.^[9] Also, it held that inasmuch as the number of pages upon which the will was written was stated in the Acknowledgement, the will must be admitted to probate.^[10] The respondents' allegation of undue influence or improper pressure exerted upon Legaspi was disregarded for failure on their part to adduce evidence proving the existence thereof.^[11]

Aggrieved, the respondents appealed to the CA.

THE RULING OF THE CA

In its assailed Decision^[12] dated May 22, 2013, the CA reversed the judgment of the RTC, as the CA adhered to the view of strictly complying with the requirement of stating the number of pages of the will in the attestation clause. Moreover, the CA detected another supposed fatal defect in the will: the photocopy of the will submitted by the respondents on appeal did not contain the signatures of the instrumental witnesses on each and every page thereof. Thus, the CA disposed of the appeal in this wise:

WHEREFORE, the appealed decision dated February 23, 2009 rendered by the Regional Trial Court, Branch 128 of Caloocan City in Special Proceeding Case No. C-3450 for probate of the last will and testament of the deceased Remedios Legaspi y Reyes is **REVERSED AND SET ASIDE**.

SO ORDERED.^[13]

The respondents filed their motion for reconsideration a day late. Thus, the CA denied the same in a Resolution^[14] dated August 15, 2014.

ISSUES

Whether the CA erred in finding that the instrumental witnesses to the will failed to sign on each and every page thereof on the left margin, except the last, as required under Article 805 of the Civil Code

Whether the CA erred in ruling that the failure to state the number of pages

comprising the will on the attestation clause renders such will defective

THE RULING OF THE COURT

To begin with, the importance of complying with procedural rules can not be over emphasized these are tools designed to facilitate the adjudication of cases.^[15] These are set in place to obviate arbitrariness, caprice, or whimsicality in the administration of justice.^[16] Nevertheless, if a stringent application of the rules would hinder rather than serve the demands of substantial justice, the former must yield to the latter.^[17] "Litigations should, as much as possible, be decided on the merits and not on technicalities."^[18]

In *Republic vs. Court of Appeals*,^[19] the Court allowed the perfection of the appeal of the Republic, despite the delay of six (6) days, since the Republic stands to lose hundreds of hectares of land already titled in its name. This was done in order to prevent a gross miscarriage of justice. Also, in *Barnes vs. Padilla*,^[20] the Court suspended the rule that a motion for extension of time to file a motion for reconsideration in the CA does not toll the fifteen-day period to appeal. The Court held that the procedural infirmity was not entirely attributable to the fault of the petitioner and there was lack of any showing that the review sought is merely frivolous and dilatory. Similarly, in *Philippine Bank of Communications vs. Yeung*,^[21] the Court permitted the delay of seven (7) days in the filing of the motion for reconsideration in view of the CA's erroneous application of legal principles to prevent the resulting inequity that might arise from the outright denial of the petition.

In the present case, the petitioner's motion for reconsideration of the CA decision was indeed filed a day late. However, taking into account the substantive merit of the case, and also, the conflicting rulings of the RTC and CA, a relaxation of the rules becomes imperative to prevent the commission of a grave injustice. Verily, a rigid application of the rules would inevitably lead to the automatic defeasance of Legaspi's last will and testament- an unjust result that is not commensurate with the petitioner's failure to comply with the required procedure.

One of the issues raised by the petitioner entails an examination of the records of the case, as it pertains to the factual findings of the CA. As a general rule, a petition for review on *certiorari* may only raise questions of law, as provided under Rule 45 of the 1997 Rules of Civil Procedure. Nevertheless, the Court will not hesitate to set aside the general rule when circumstances exist warranting the same, such as in the present case, where the findings of fact of the probate court and CA are conflicting. Additionally, it appears that the CA manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.^[22]

According to the CA, while Legaspi signed on the left margin of each and every page of her will, the instrumental witnesses failed to do the same, in blatant violation of Article 805 of the Civil Code which states:

Article 805. Every will, other than a holographic will, must be subscribed at the end thereof by the testator himself or by the testator's name

written by some other person in his presence, and by his express direction, and attested and subscribed by three or more credible witnesses in the presence of the testator and of one another.

The testator or the person requested by him to write his name and **the instrumental witnesses of the will, shall also sign, as aforesaid, each and every page thereof, except the last, on the left margin,** and all the pages shall be numbered correlatively in letters placed on the upper part of each page.

The attestation shall state the number of 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 the instrumental witnesses, and that the latter witnessed and signed the will and all the pages thereof in the presence of the testator and of one another.

If the attestation clause is in a language not known to the witnesses, it shall be interpreted to them. (Emphasis supplied)

The petitioner, in assailing the findings of the CA, argues that in the original copy^[23] of the will that was offered before the probate court as Exhibit "L," it is clear that the instrumental witnesses signed on the left margin of every page of the will except the last, as did Legaspi.^[24] The petitioner advances that the confusion arose when the *respondents*, in their record of appeal, submitted an altered photocopy^[25] of the will to the CA, in which the signatures of the instrumental witnesses were covered when photocopied, to make it appear that the witnesses did not sign on every page. This misled the CA to rule that the will was defective for the lack of signatures.^[26]

For their part, the respondents do not deny that the original copy of the will, as opposed to its photocopy, bore the signatures of the instrumental witnesses on every page thereof, except the last.^[27] However, they submit that they did not cause any alteration to the photocopied version. They explain that since the folder holding the records of the case was bound on the left margin and the pages may not be detached therefrom, the left portion of the will must have been unintentionally excluded or cut-off in the process of photocopying.^[28]

In any event, it is uncontested and can be readily gleaned that the instrumental witnesses signed on each and every page of the will, except the last page. Such being the case, the CA erred in concluding otherwise. There is no doubt that the requirement under the Article 805 of the Civil Code, which calls for the signature of the testator and of the instrumental witnesses on each and every page of the will on the left margin, except the last, was complied with.

It should also be mentioned that the respondents take a skewed stance in insisting that the testator Legaspi and the instrumental witnesses should have signed on the last page of the subject will. When Article 805 of the Civil Code requires the testator to subscribe at the end of the will, it necessarily refers to the logical end thereof, which is where the last testamentary disposition ends.^[29] As the probate court correctly appreciated, the last page of the will does not contain any testamentary