



Republic of the Philippines
Supreme Court
 Manila

THIRD DIVISION

FLORA L. TUBERA-BALINTEC,
 Petitioner,

G.R. No. 235701

Present:

- versus -

CAGUIOA, J., *Chairperson,*
 INTING,
 GAERLAN,
 DIMAAMPAO, and
 SINGH, JJ.

HEIRS OF CESAR L. TUBERA,
 Respondents.

Promulgated:

February 15, 2023

x-----*Mis-DCBant*-----x

RESOLUTION

CAGUIOA, J.:

Before the Court is the Petition¹ under Rule 45 of the Rules of Court filed by petitioner assailing the Decision² dated April 21, 2017 and Resolution³ dated October 18, 2017 of the Court of Appeals⁴ in CA-G.R. CV No. 102981. The CA Decision denied the appeal of petitioner, and affirmed the Decision⁵ dated October 17, 2013 and Order⁶ dated April 1, 2014 of the Regional Trial Court, Branch 19, Cauayan City, Isabela (RTC) in Special Proceedings No. Br. 19-547. The CA Resolution denied petitioner’s Motion for Reconsideration (MR).

The Facts and Antecedent Proceedings

The CA Decision narrates the material and relevant facts as follows:

Flora L. Tubera-Balintec, [petitioner], is one of the siblings of the deceased, Cesar L. Tubera, who died [on August 29, 2004] at Minante 2,

¹ *Rollo*, pp. 9-17, excluding Annexes.

² *Id.* at 19-31. Penned by Associate Justice Danton Q. Bueser, with Associate Justices Apolinario D. Bruselas, Jr. and Marie Christine Azcarraga-Jacob concurring.

³ *Id.* at 33-34.

⁴ Thirteenth Division and Former Thirteenth Division.

⁵ *Records*, pp. 200-212. Penned by Presiding Judge Raul V. Babaran.

⁶ *Id.* at 226-227.

Cauayan City, Isabela Province. [Petitioner] alleges that decedent executed a holographic will dated [November 23, 2003]. The contents of the said holographic [will] reads as follows:

“Cauayan City (Isabela)
November 23, 2002

I, CESAR L. TUBERA, of legal age, widower, of Minante 02, Cauayan City (Isabela), do hereby bestow my property and my P.N.B. Check No. 356-505565-7; L.B. Check No. 0061-0901-42 and L.B. Check No. 0061-2052-84 (E.A.S.Y.) to Pedro L. Tubera, Quintin L. Tubera, Flora L.T. Balintec, Arthur L. Tubera and Tessie L.T. Esg[ue]rra. All of which are my brothers and sisters, it should be equally.

I hereby signed this document in my behalf.

(Sgd.)
CESAR L. TUBERA”

[Petitioner] avers that the decedent left real and personal properties valued at Five Hundred Twenty Five Thousand One Hundred Sixty Seven Pesos and Twenty Eight Centavos (Php525,167.28), consisting of the following:

- a) Philippine National Bank Account with account number 356-505565 with a balance of Php32,611.33;
- b) Land Bank Account with account number 0061-0901-42 with a balance of Php10,305.60;
- c) Land Bank Account with account number 0061-2052-84 with a balance of Php303,780.35;
- d) A residential lot situated in Cauayan City, Isabela, containing an area of 634 square meters, more or less, covered by Tax Declaration No. 08-27226-R-02, with an assessed value of Php10,470.00; and
- e) A building situated in Minante 2, Cauayan City, Isabela, covered by Tax Declaration No. 08-27226-R02 with a market value of Php168,000.00.

The decedent was survived by his brothers and sisters, Pedro L. Tubera, Quintin L. Tubera, Flora L. Tubera[-Balintec], Arthur L. Tubera and Tessie L. Tubera-Esguerra x x x.

[Petitioner] further alleges that the original copy of the holographic will was in her custody as it was entrusted to her by the decedent prior to his death.

Upon the filing of the petition for the probate of the said holographic will, [respondents] filed their opposition, alleging that respondent Florenda Ballesteros [(Florenda)], was the wife of the decedent, and that respondent Mark Cesar Tubera (x x x Mark Cesar) was their child. Mark Cesar[,] being a minor, was represented by [his] mother [(Florenda)], as guardian *ad litem*.



Trial then ensued, where [petitioner] contests the alleged marriage of [Florenda] and the decedent, as well as the filiation of the decedent and Mark Cesar as father and son. [Petitioner] argues that the purported marriage contract and birth certificate were fictitious documents, considering that the former was registered late and that the signature appearing in the latter differs from the known signature of the decedent. Additionally, [petitioner] avers that her claim was bolstered by the substantial lapse of time from the purported celebration of the marriage, date of birth of Mark Cesar and the alleged registration.

[Respondents counter] that [Florenda] and the decedent were married on [December 31, 2003] as shown by the Marriage Certificate and that said marriage became fruitful when [Florenda] bore a son, Mark Cesar, who was born on [January 10, 2004] as indicated in the Birth Certificate. [Florenda] admits having seen a holographic will of the decedent, however, she claims that it was executed in 2002 or even prior thereto.

[Respondents] further posit that during the time of death of the decedent, [Florenda] was not living with the latter as they had a quarrel. Nevertheless, upon learning of the said death, [Florenda] immediately went back to the conjugal residence in Cauayan City and discovered that the attache case where the marriage certificate and Mark Cesar's birth certificate, including their belongings, were taken by [petitioner] and her siblings.

After completing the pre-trial proceedings, the [RTC] issued [an] Order dated [July 4, 2007], where both parties agreed that the main issue was whether or not the holographic will is extrinsically valid. Likewise, they both agreed to thresh out the following as secondary issues:

- a) Whether or not Cesar Tubera was married to oppositor Florenda Ballesteros;
- b) Whether or not Mark Cesar Tubera is the child of deceased Cesar Tubera to Florenda Ballesteros; and
- c) Damages and attorney's fees.

After trial on the merits, the [RTC] issued the assailed Decision dated [October 17, 2013], the *fallo* of which reads:

“WHEREFORE, in view of the foregoing considerations, judgment is hereby rendered:

1. Dismissing the petition.
2. Declaring oppositor-minor Mark Cesar Ballesteros Tubera as the sole and only heir of the decedent entitled to succeed to his estate;
3. Ordering petitioner and her brothers and sisters (*sic*) to turn over to the [RTC] under *custodia legis* all the properties of the decedent which are in their possession within thirty (30) days upon receipt hereof; and
4. No pronouncement as to cost.

SO ORDERED.”



[On the issue of whether Cesar Tubera was married to Florenda, the RTC ruled that their marriage was void. The RTC noted that there was no dispute that the marriage between Florenda and Cesar Tubera was celebrated on December 31, 2003, during the effectivity of the Family Code, without any marriage license. In lieu thereof, they executed an affidavit stating that: “they have been sweethearts since January 1999 and then cohabited together as husband and wife from that said month up to the time of their marriage; that there are no legal impediments for them to marry pursuant to the provision of Article 34 of the Family Code of the Philippines; and that they are now executing the affidavit in order for them to formally enter the Contract of Marriage pursuant to the Family Code x x x.”⁷ The RTC pointed out that from the time Cesar Tubera’s first marriage was dissolved upon the death of Luz Eliana-Tubera⁸ (Luz) on September 20, 2001 to the time of his marriage with Florenda on December 31, 2003, only three years, 11 months and two days to be exact had elapsed.⁹ The RTC added that even assuming that Cesar Tubera and his first wife had separated in fact, and thereafter he and Florenda had started living with each other for a period which lasted for five years, the fact remained that their five-year cohabitation was not the cohabitation contemplated by law because there existed a legal impediment on the part of Cesar Tubera.¹⁰ Thus, the RTC concluded that the second marriage between Cesar Tubera and Florenda was not covered by the exception to the requirement of a marriage license under Article 34 of the Family Code, and was void *ab initio* because of the absence of such element.¹¹]

Aggrieved, [petitioner] filed [an MR] dated [November 12, 2013]. Thereafter, the [RTC] issued the Order dated [April 1, 2014, denying the MR for lack of merit.]

Undaunted, [petitioner appealed the said Decision and Order of the RTC to the CA.]¹²

The Ruling of the CA

Petitioner’s appeal before the CA raised three errors: (1) the RTC erred in declaring Mark Cesar as the illegitimate child of deceased Cesar Tubera; (2) the RTC erred in dismissing the case; and (3) the RTC erred in not probating the holographic will of deceased Cesar Tubera.¹³

The CA agreed with the RTC’s finding that the marriage of Florenda and decedent Cesar Tubera was void *ab initio* given the fact that the latter was married to Luz, who died sometime in September 2001, rendering as false Florenda’s claim in the Affidavit of Cohabitation of the absence of any legal impediment for her and the decedent to marry.¹⁴ Given Luz’s death in 2001, the CA stated that the requisite five-year cohabitation period as provided in Article 34 of the Family Code did not obtain.¹⁵

⁷ Id. at 204-205.

⁸ Also, Maria Luz Yllana Tubera in some parts of the *rollo*.

⁹ Records, p. 206.

¹⁰ Id.

¹¹ Id.

¹² *Rollo*, pp. 20-24.

¹³ Id. at 24-25.

¹⁴ Id. at 26.

¹⁵ Id. at 26-27.



The CA also affirmed the RTC's finding that Mark Cesar, while he is indeed the child of the decedent, cannot be considered a legitimate (marital) child of the decedent and Florenda as he is a product of a marriage that is void from the beginning.¹⁶ The CA noted that the Certificate of Live Birth of Mark Cesar shows that: the decedent was declared as his father; it was the decedent who appeared to be the informant, or the one who supplied the information indicated in the certificate, and signed above his name; and on page 2 of the certificate, the decedent even filled out the affidavit for delayed registration of birth and likewise signed therein.¹⁷ The CA concluded that having proved his illegitimacy or being a non-marital child through the signature and acknowledgment of decedent Cesar Tubera in Mark Cesar's record of birth, the latter can be conclusively considered as an illegitimate (non-marital) child, who is a compulsory heir.¹⁸

After recognizing Mark Cesar as the decedent's compulsory heir, the CA found that he was preterited in the holographic will of Cesar Tubera pursuant to Article 854 of the Civil Code.¹⁹ The CA stated that while it is the general rule that in probate proceedings, the scope of the court's inquiry is limited to questions on the extrinsic validity of the will, the probate court should meet the issue on its intrinsic validity when practical considerations demand such determination, as in this case.²⁰

The CA further stated that the decedent's holographic will instituted his brothers and sisters as universal heirs, having no particular property designated for each of them, while Mark Cesar had been left out.²¹ The omission of Mark Cesar, according to the CA, resulted in his preterition that resulted in the annulment of the institution of the heirs; and with the total abrogation of the will, total intestacy resulted.²² The CA ended: "The effect of the lone compulsory heir's preterition was to nullify the holographic will and resort to intestacy succession. Verily, [petitioner's] action to ask the court *a quo* for the allowance of the said will fails."²³

The CA in its Decision²⁴ dated April 21, 2017 denied petitioner's appeal, the dispositive portion of which states:

WHEREFORE, in view of the foregoing, the instant appeal under Rule 44 is hereby **DENIED** and the Decision dated [October 17, 2013] and the Order dated [April 1, 2014], both issued by the Regional Trial Court, Branch 19, Cauayan City, Isabela, for Special Proceeding Case No. Br. 19-547 [are] hereby **AFFIRMED** in **TOTO**.

IT IS SO ORDERED.²⁵

¹⁶ Id. at 27-28.

¹⁷ Id. at 27.

¹⁸ Id. at 28.

¹⁹ Id. at 28-29.

²⁰ Id. at 25. Citations omitted.

²¹ Id. at 29.

²² Id.

²³ Id. at 30.

²⁴ Supra note 2.

²⁵ Id. at 30.



Petitioner filed an MR which the CA denied in its Resolution²⁶ dated October 18, 2017. Hence, the present Rule 45 Petition. Respondents filed a Comment²⁷ dated September 24, 2021.

The Issues

The Petition states these two issues:

1. Whether the CA erred in dismissing the instant case; and
2. Whether the CA erred in declaring that Mark Cesar Tubera is the illegitimate (or non-marital) child of deceased Cesar L. Tubera.²⁸

The Court's Ruling

The Petition lacks merit.

While two issues are raised in the Petition, petitioner's sole argument is that the voluntary recognition of Mark Cesar by the decedent Cesar Tubera in the Certificate of Live Birth of Mark Cesar is not valid because "the signature of Cesar L. Tubera [therein] is not [his] signature."²⁹ According to petitioner, she "has presented several documents such as the Senior Citizen [I]dentification Card of [her] brother including the Holographic Will [and a] clear comparison of the signatures of the late Cesar Tubera appearing in the above-s[t]ated documents [*vis-à-vis*] the signature appearing in the Certificate of Live Birth of minor Mark Cesar will evince the clear [and] irreconcilable discrepancy between the specimen signatures appearing in the said documents."³⁰ Petitioner urges that a revisitation of the findings of both the RTC and the CA on this matter should be made by the Court.

The very nature of a Rule 45 petition for review prevents the Court from revisiting the factual determination of the lower courts, especially in this case where there is a uniform finding by both the RTC and the CA. The authenticity of decedent Cesar Tubera's signatures in the Certificate of Live Birth of Mark Cesar is a factual issue which is not allowed in a Rule 45 petition for review. As well, the issue of the validity of the recognition or acknowledgment of Mark Cesar by the decedent Cesar Tubera has been resolved by both courts, contrary to petitioner's position.

The Court quotes with approval the CA Decision:

Anent the issue on whether Mark Cesar was the child of the decedent, again, We agree with the findings of the court *a quo*. x x x

The Certificate of Live Birth shows that the decedent, Cesar Tubera was declared as the father of Mark Cesar. This is further strengthened by

²⁶ Supra note 3.

²⁷ Id. at 130-145.

²⁸ Id. at 12.

²⁹ Id. 13.

³⁰ Id.

the fact that it was the former who appears to be the informant, or the one who supplied the information indicated in the certificate, and signed above his name. On page 2 of the certificate, the decedent Cesar even filled out the affidavit for delayed registration of birth and likewise signed therein.

At this juncture, there is no doubt that Mark Cesar is indeed the child of the decedent Cesar. This notwithstanding, Mark Cesar cannot be considered as a legitimate child of [Florenda] Ballesteros and decedent Cesar as he was a product of a marriage that is void from the beginning as aforementioned.³¹

Article 175 in relation to Article 172 of the Family Code sets forth how an illegitimate (non-marital) child can prove his or her filiation, to wit:

ART. 175. Illegitimate children may establish their illegitimate filiation in the same way and on the same evidence as legitimate children.

The action must be brought within the same period specified in Article 173, except when the action is based on the second paragraph of Article 172, in which case the action may be brought during the lifetime of the alleged parent.

ART. 172. The filiation of legitimate children is established by any of the following:

(1) The record of birth appearing in the civil register or a final judgment; or

(2) An admission of legitimate filiation in a public document or a private handwritten instrument and signed by the parent concerned.

In the absence of the foregoing evidence, the legitimate filiation shall be proved by:

(1) The open and continuous possession of the status of a legitimate child; or

(2) Any other means allowed by the Rules of Court and special laws.

Clearly, the filiation of Mark Cesar has been established by the record of birth appearing in the civil register. Mark Cesar, thus, stands to succeed from his father Cesar Tubera as an illegitimate (non-marital) child. Being the sole compulsory heir, he excludes the collateral relatives of decedent Cesar Tubera, including petitioner.

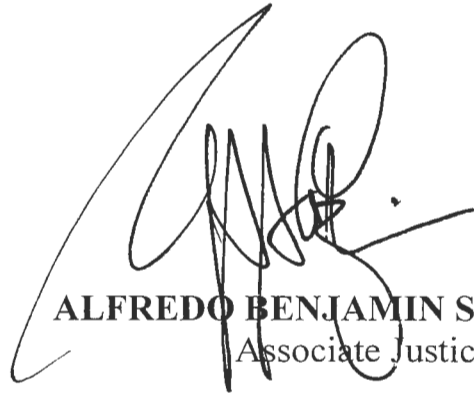
Since the issues on preterition and nullity of the marriage between decedent Cesar Tubera and Florenda Ballesteros have not been raised in the Petition, the rulings of the CA thereon stand.

WHEREFORE, the Petition is **DENIED**. Accordingly, the Decision dated April 21, 2017 and Resolution dated October 18, 2017 of the Court of Appeals in CA-G.R. CV No. 102981 are **AFFIRMED**.

³¹ Id. at 27-28.



SO ORDERED.




ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


WE CONCUR:



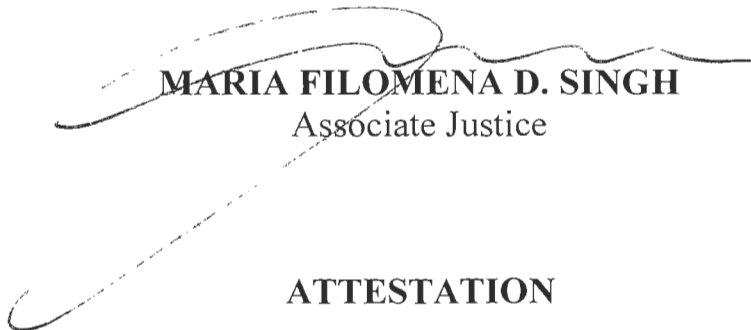
HENRI JEAN PAUL B. INTING
Associate Justice



SAMUEL H. GAERLAN
Associate Justice



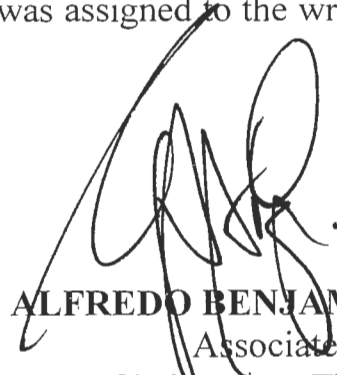
JAPAR B. DIMAAMPAO
Associate Justice



MARIA FILOMENA D. SINGH
Associate Justice

ATTESTATION


I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALEXANDER G. GESMUNDO
Chief Justice

