

95 Phil. 775

[ G.R. No. L-5585. September 15, 1954 ]

**TESTATE ESTATE OF CARLOS PALANCA TANGUINLAY. ROMAN OZAETA, PETITIONER AND APPELLANT, PHILIPPINE TRUST COMPANY (SPECIAL ADMINISTRATOR), MOVANT AND APPELLEE, MARCIANA PALANCA, ANGEL PALANCA, AND SEBASTIAN PALANCA, CO-MOVANTS AND APPELLANTS, MARIA CUARTERO VDA. DE PALANCA, ET AL., CO-MOVANTS AND APPELLANTS, VS. ROSA GONZALES VDA. DE PALANCA, ET AL., OPPOSITORS AND APPELLANTS.**

## **D E C I S I O N**

### **MONTEMAYOR, J.:**

The present case here on appeal has its origin in Special Proceedings No. 12126 in the Court of First Instance of Manila, initiated by Roman Ozaeta, for the probate of the will said to have been left by Carlos Palanca Tanguinlay who died on September 2, 1950, in the City of Manila. The due execution and probate of said will was decided by the trial court which decision is now on appeal. The present case does not involve the validity of the will above-mentioned but poses the question of who, if any of the two women (Maria Cuartero and Rosa Gonzales), was validly married to Carlos Palanca and therefore is now his widow with her corresponding right to a part of the estate of the deceased. Said question was provoked and this case was initiated because of an innocent motion filed with the probate court by the Philippine Trust Company, appointed as special administrator of the estate, asking that a Buick sedan car presumably a part of the estate of Palanca, and being kept by Rosa Gonzales, be delivered to said special administrator for purposes of administration. Rosa declined to give the car up saying that having been married to Palanca in 1945, as his widow, she had a right to keep the sedan. Maria Cuartero entered the scene and claimed that Rosa could not have validly been married to Palanca in 1945 for the reason that she (Maria Cuartero) had married

him in 1929, and therefore, any marriage entered into by Rosa with Palanca thereafter must be bigamous and void; consequently, she (Maria) was the true widow and as such had a better claim to the car, but since she had no immediate use for it she wanted to have it kept by the special administrator. As if to complicate matters, the children of Palanca by his marriage in 1894 joined the fray and claimed that their father died a widower, having married none of the two women. Thus, this questions—whether or not Palanca died a widower, and if not, who of the two women is his legal widow, was put in issue, tried and after voluminous evidence, oral and documentary, decided by the trial court separately and independently of the probate of the will. That important question was found to come up eventually anyway, in connection with the distribution of the estate and so it was just as well that it was raised and decided as it was, instead of later.

For a better understanding of the present appeal, the following facts which are not disputed, at least not seriously, may be briefly stated. Carlos Palanca Tanguinlay, born in China of Chinese parents, came to the Philippines in 1884 and continuously resided here up to his death in 1950. In 1894 he married Cesarea Cano who died in 1907, leaving three children by him, named Marciana, Angel, and Sebastian. Palanca met Rosa Gonzales sometime in 1908 and thereafter cohabited with and had eight children by her. In 1923 Palanca met Maria Cuartera, a Spanish woman who had just arrived in the Philippines with her widowed mother. Not long after their meeting, they had and maintained illicit relations from which were born six children. On the basis of the evidence it was duly established to the satisfaction of the trial court and to our own that on April 12, 1945, Palanca and Rosa Gonzales were married in Manila before Judge Mamerto Roxas, with Mr. Ozaeta and Segundo L. Gonzales as sponsors. On this point, not only Judge Roxas who solemnized their marriage but also the two sponsors testified as to the due performance of the ceremony of marriage and a copy of the marriage contract was presented. It is therefore clear that if there was no valid, subsisting marriage before April 12, 1945, or specifically, if the alleged marriage between Maria and Palanca in 1929 is not duly proven, then the marriage of Rosa Gonzales to Palanca is

valid and she may now be considered his widow.

The theory of Maria about her marriage to Palanca is that since 1923 she maintained amorous relations with Palanca and had three children by him up to 1928; that the reason why they were not married up to then was because Palanca wanted to see his three children by his first wife married first; that in the morning of December 26, 1929, she and Palanca together with Rafael Gotauco and Ventura de del Rio, in an automobile went to the town of Bigaa, Bulacan, where they were married in the municipal building by Justice of the Peace Romualdo Aranda in the presence of Rafael Gotauco (now deceased) and Ventura Goitia; that three copies of the marriage contract were made, one given to her, another to Pancrasio Atienza of the office of the Local Civil Register, and one copy kept by the Justice of the Peace; that the copy kept by Maria was lost together with her jewelry on the occasion of a robbery in her house in 1940 and the two other copies in the files of the Civil Registrar and Justice of the Peace were lost or destroyed during the war; and that Exhibit "1-motion" presented in her behalf in a certificate of the entry in Book 2 of the Register of Marriage kept in the office of the local Civil Registrar of Bigaa showing the marriage between Maria and Palanca on December 26, 1929.

During the hearing counsel for Rosa Gonzales and petitioner Ozaeta introduced evidence to the effect that according to the result of the investigation conducted by the National Bureau of Investigation (NBI) the marriage registry in the office of the Local Civil Registrar of Bigaa had been tampered with and falsified and that the certificate (Exhibit 1-Motion) presented by Maria was based on said falsification or tampering and consequently, cannot have any probative value. Thereafter, the trial court in an order dated November 28, 1952, found and held that although Palanca and Maria may have gone to Bigaa on December 26, 1929, and even if they had gone through the process and steps for marriage, the same was simulated and so declared said marriage null and void; at the same time it declared legal and valid the marriage of Rosa Gonzales to Palanca, and incidentally allowed Rosa to keep the Buick sedan car upon her filing a bond.

Maria appealed from that order; so did the three children of the first marriage because they claim that none of the two marriage claimed by Maria and Rosa was valid. Rosa and petitioner Ozaeta also appealed from the holding of the trial court that there was a simulated marriage, insisting that there had been no marriage at all, simulated or otherwise.

At first blush, one might be perplexed by the intervention of petitioner-appellant Ozaeta in this case, and the interest by him taken, to the extent of his appealing from the order of November 28, 1951. In justice to him and to explain said intervention and interest, we are reproducing his manifestation made in court:

“MR. ROMAN OZAETA: The reason why my attorneys have participated in these proceedings regarding this incident as to the validity of the marriage of the deceased with the witness is this, Your Honor. I am named executor in the will and I have the right to assume that in due time the will will be admitted to probate and that in the event I be confirmed as executor it would be my duty as such to defend the integrity of that will, and since in that will the deceased has named Rosa Gonzales as his lawful wife, any attempt to dispute that should be opposed by me as executor named. That is the reason why my attorneys appeared here and because after this incident I would have no more opportunity to defend that portion of the will naming Rosa Gonzales as the lawful wife of the deceased. (pp. 177-178, t.s.n., session of November 13, 1950).

We agree with the trial court that the alleged marriage of Maria to Palanca in Bigaa, Bulacan, has not been duly established. The trial court held that at most it was a simulated marriage. We might go further and say that there was no marriage at all, simulated or otherwise. There are a number of reasons for our holding. We shall mention a few. It is a fact that for this supposed or intended marriage in Bigaa the parties thereto, Maria and Palanca, did not secure the corresponding marriage license. Without such marriage license it was

not likely that the Justice of the Peace, a judicial officer who knew or was supposed to know the law, would perform the marriage ceremony and marry the two, knowing and realizing the penal provisions of the marriage law then applicable to any official authorized to perform marriage, doing so without the corresponding marriage license, a penalty of imprisonment for not less than three months nor more than two years, or by a fine of not less than three hundred pesos nor more than two thousand pesos or both; this, not excluding the possibility and danger of dismissal from office. Moreover, in his monthly report for that month of December 1929, the Justice of the peace did not enter or make appear such alleged marriage said to have been performed by him on the 26th of the same month. To us, this is significant. Furthermore, if there had been such marriage there would have also been the payment to him by the parties of the corresponding marriage fee and he failed to render account for said amount, which might have meant liability for misappropriation.

Pancrasio Atienza then of the Local Registrar's Office claims that the copy of the marriage contract given to him, he in turn gave to a clerk, one Melecio Geronimo, in his office for entry in the marriage register. But according to the evidence the name of this clerk does not appear in the payroll of the municipality corresponding to that year. The certificate (Exhibit 1-motion) was taken from Book 2 of the Register of Marriages of Bigaa and yet, it is the theory of Maria that the marriage was originally entered in Book 3 but that the contents of said Book 3 including the entry of her marriage on December 26, 1929, were copied in Book 2. It is now impossible to verify this claim because Book 3 has mysteriously disappeared from the office of the Local Civil Registrar. It is difficult to explain and understand Maria's theory. Book 3 of the marriage registry should come and actually came after Book 2, and yet its contents supposedly all now appear in Book 2. The not convincing explanation is that Book 3 being old and its pages partly torn and over-used, its contents were transcribed on the unused pages of Book 2. This was done without the authority of the Local Civil Registrar. Add to this the fact of the mysterious disappearance of Book 3, and the whole thing becomes highly

suspicious. That is why the NBI intervened, made its investigation, found evidence of tampering and falsification, filed the corresponding charge against three persons for falsification, and another against one of the three for infidelity in the custody of public documents for the loss of Book 3, and according to the petition for new trial filed on behalf of Rosa Gonzales, all three were convicted in both cases, in the Court of First Instance of Bulacan.

Let us now look into the acts and conduct of Maria Cuartero herself as regards her alleged marriage to Palanca in 1929. Although according to her, in 1940 she lost her copy of the marriage contract she never took the trouble to secure another copy of that important document, although meanwhile she filed several suits against Palanca for the support of her children, court actions where that document would have been very important, if not decisive. Although according to her she was abandoned by Palanca since 1942 she never made any attempt to invoke and take advantage of her alleged rights as his wife, for support, or still, to prosecute him for concubinage for cohabiting with Rosa and after April 12, 1945, for bigamy for having married Rosa. Again, in 1941, Maria Cuartero and Palanca according to her being both aliens, went to the Bureau of Immigration in connection with their Alien Certificate Registration. The Certificate of Registration issued to both of them stated that Palanca was a widower and Maria was single, and according to the explanation of Amador Buenaseda, formerly of said Bureau of Immigration, the data appearing in both certificates of Alien Registration were based on information furnished by them under oath.

In 1943 Maria in her capacity as legal guardian of her children had by Palanca brought an action against him in Manila for support and in that case she declared under oath that she was single. In that case the trial court issued an order finding that said children of Maria by Palanca were acknowledged natural children of Palanca. Maria did not object to said finding of the trial court, neither did she appeal from said order. In the contract executed by Maria with her lawyers, Sotto & Sotto, covering attorney's fees she made it appear therein that she was single.

As late as 1945, with her knowledge her son-in-law Benigno del Rio brought an action against Palanca for the recovery of a sum of money said to have been advanced by Benigno to Maria for the support of the acknowledged natural children of Palanca. Paragraph 2 of said complaint specifically alleged that said children were the acknowledged natural children of Palanca. Maria evidently acquiesced in, admitted, and agreed to said statement. Testifying in said case, Maria declared under oath that she was single. During the years 1942-46, Maria wrote several letters to Palanca. In none of said letters did she make mention of her alleged marriage to Palanca; on the contrary, in one of said letters, Exhibit Q-motion dated November 8, 1944, she bitterly complained against his conduct thus—

“Comprendo el que no me contestaras a mi, a quien has abandonado como un trasto inutil despues de haberme robado la juventud con promesas que no has cumplido”.

And, in her letter of March 4, 1946, Exhibit O-Motion, that is, after Palanca had married Rosa Gonzales, Maria said the following:

“Ahora que me vas caida, en vez de tener buen corazon y levantarme para que viva como antes en paz siquiera con mis hijos, aunque sin marido, porque tu te casaste y ya no ten go derecho hacia ti.”

What about Palanca’s acts and behaviour after his alleged marriage to Maria in 1929? After that year and before he married Rosa Gonzales in 1945, Palanca in various public documents referring to titles and evidences of ownership of various properties described himself as a widower. In his Income Tax Return signed by him under oath, he also described himself as a widower; but after his marriage to Rosa in 1945, Palanca described himself as married. When Palanca applied for naturalization in 1941, and in his testimony in support of said petition, he said he was a widower. The court proceedings on his

naturalization case were resumed after the war and after his marriage to Rosa, evidence of said marriage was submitted in court, with the result that on appeal this fact of marriage to Rosa was included in the findings of the Supreme Court in its decision on the citizenship case of Palanca.

Finally on May 19, 1945, when Palanca executed his will he made the solemn declaration in said document that since 1923 and for some years thereafter he maintained amorous relations with Maria Cuartero and had by her six natural children whom, according to him, he had liberally fed and supported. He said nothing about having married Maria; on the contrary, he declared that for grave reasons he regarded her unworthy of being the guardian of the persons and property of his children by her and so appointed Felisa Joson de Fernandez and the Philippine National Bank as guardians of their persona, and property respectively. On the other hand, in the same will he spoke of his marriage to Rosa Gonzales and the eight children he had by her, which children according to him were legitimated by reason of their subsequent marriage. Said declaration in the will may not be taken lightly, as a statement of little significance. When he made said statement he was about 76 years old and must have felt that he had not many years left to live. Concerning the value and weight of statements made in a will, this court held in the case of Cui vs. Guepangco, 22 Phil. 216:

“In this instrument, as is seen, the deceased Tan Tungco states what he evidently believed to be his true relationship with all of the parties to this action. It was a deliberate statement; it was made after due consideration of all the facts in the case and after due deliberation as to the effect which such statements would have upon the rights of the parties in reference to whom it was made, and with the view that it would probably be the last word of his life upon that subject. He knew that if that document contained a lie he would go to his grave with his last act a falsehood and its fruit injustice.”

All in all, we are convinced and so find and hold that Palanca and Maria Cuartero were never married, and that there was not even a simulated marriage; that on April 12, 1945, Palanca was a widower and so was in a position to marry as in fact he validly married Rosa Gonzales. With this slight modification, the order appealed from is affirmed with costs.

*Paras, C.J., Pablo, Bengzon, Padilla, Reyes, A., Bautista Angelo, Concepcion, and Reyes, J.B.L., JJ., concur.*

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