THY WILL BE DONE by Atty. Angelo M. Cabrera

WIDOWS AND WIDOWERS AS HEIRS

Are widows or widowers entitled to inherit from the parents of their deceased spouse in the absence of a will instituting them as heir? In other words, are they compulsory heirs of their parents-in-law in intestate succession?

This and more are answered in the following case:

Petra Valencia died intestate and was survived by her husband Fortunato Valencia and their two children Rosario and Antonio. Another child, Carlos, predeceased her, leaving behind a child, Carlito, and his widow Irene Valencia (not their real names).

One of the two surviving children, Rosario, instituted the proceedings for the settlement of the estate of her deceased mother. In the course of the intestate proceedings, the trial court issued an order declaring the following individuals the legal heirs of the deceased and prescribing their respective share of the estate —

Fortunato Valencia (husband), 1/4; Rosario (daughter), 1/4; Antonio (son), 1/4, and Carlito, (grandson), 1/4.

This order notwithstanding, Irene, the mother of Carlito, insisted in getting a share of the estate in her capacity as the surviving spouse of her late husband, Carlos Valencia, claiming that she is a compulsory heir of her mother-in-law together with her son, Carlito. Is she correct?

No.

The Supreme Court said that there is no provision in the Civil Code which states that a widow is an intestate heir of her mother-in-law. The entire Code is devoid of any provision which entitles Irene to inherit from her mother-in-law either by her own right or by the right of representation.

Intestate or legal heirs are classified into two (2) groups, namely, those who inherit by their own right, and those who inherit by the right of representation. Restated, an intestate heir can only inherit either by his own right or by the right of representation provided for in Article 981 of the Civil Code:

Article 981. Should children of the deceased and descendants of other children who are dead, survive, the former shall inherit in their own right, and the latter by right of representation.

The right of representation is defined in Article 970 as that which is created by fiction of law, by virtue of which the representative is raised to the place and degree of the person represented, and acquires the rights which the latter would have had.
if he were living or it he could have inherited.

On the other hand, Art. 999 states that when the widow or widower survives with legitimate children or their descendants . . ., such widow or widower shall be entitled to the same share as that of a legitimate child.

Irene argues that she is also a compulsory heir in accordance with Article 887 of the Civil Code which counts, among others, a widow or widower in the enumeration of compulsory heirs.

But the Supreme Court said that the aforesaid provision of law refers to the estate of the deceased spouse in which case the surviving spouse (widow or widower) is a compulsory heir. It does not apply to the estate of a parent-in-law.

Even the provision of Article 999 does not support Irene’s claim. A careful examination of the said Article confirms that the estate contemplated therein is the estate of the deceased spouse. The estate in this case is that of the deceased Petra Valencia, the mother-in-law of Irene. It is from the estate of Petra that Carlito, Irene’s son, draws a share of the inheritance by the right of representation. He is called to succession by law because of his blood relationship with his grandmother, Petra.

Irene cannot assert the same right of representation as she has no filiation by blood with her mother-in-law. Indeed, the surviving spouse is considered a third person as regards the estate of the parent-in-law.

Irene however contends that at the time of the death of her husband Carlos Valencia, he had an inchoate or contingent right to the properties of Petra Valencia as compulsory heir. Be that as it may, said right of her husband was extinguished by his death that is why it is their son Carlito who succeeded from Petra Valencia by right of representation.

Accordingly, the Supreme Court held that a surviving spouse is not an intestate heir of his or her parent-in-law. (Based on G.R. No. L-40789 February 27, 1987).

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