



For Publication

**IN THE SUPERIOR COURT
OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

**IN THE MATTER OF THE ESTATE OF) CIVIL CASE NO: 04-0091
JOAQUINA PANGELINAN REYES,)**

Deceased.)

ORDER ADMITTING WILL

THIS MATTER came on for an evidentiary hearing to admit the proposed last will and testament of Joaquina Pangelinan Reyes on May, 13, 2008. Counsel for the administratrix proposed in said will, Diana Reyes Domingo was Perry Inos. Counsel for an heir and sole opponent to the admittance of the will, Brian P. Reyes, was Edward Arriola. Both attorneys were present and heard. After carefully considering the evidence presented at the hearing, the Court hereby grants the admittance of the will due to the overwhelming evidence supporting the validity of its creation.

BACKGROUND

Joaquina P. Reyes (“testator”) died on October 14, 2003. Her alleged last will and testament was executed on October 1, 2003. At the time of execution of the will, the testator devised her property and belongings amongst her children. There was a piece of personal property called Lot No. 1970 NEW R-1 that she included amongst her belongings. However, at the time the will was executed this property had already been given to Brian P. Reyes.

Diana R. Domingo seeks to admit the will executed on October 1, 2003 into probate, and also seeks to be named administratrix as the will commands. Domingo presented three witnesses to testify to the validity of the creation of the will. Brian Reyes seeks the Court to not allow the admittance of the will based on three flaws: the inclusion of Lot No. 1970 NEW R-1 allegedly shows the testator didn’t know the objects of her bounty and therefore didn’t have capacity to make a will; the continued illness of the testator; and an allegation of later alteration of the original will.

1 ANALYSIS

2 In order to admit a will for probate in the Commonwealth a proponent must show the
3 following: the testator was 18 and of sound mind to make a will¹; and the will must be duly
4 executed². This Court finds there was sufficient evidence presented to prove the valid execution of
5 this will. If the execution was valid, and no duress or coercion is present, then the will should be
6 admitted. Obviously the main point of contention between the parties in this case is whether this will
7 is a true and correct copy of the last will and testament of the decedent. In order for the Mrs.
8 Domingo to prevail there must be convincing evidence that the will being offered is the same will
9 the decedent executed. The Court finds that there is convincing evidence that the will being admitted
10 (Exhibit C) is the last will and testament of the testator.

11 From the evidence provided by Fujihira and Davis the Court concludes that clear and
12 convincing evidence of the will was shown. The testator came to the parking lot of Mr. Borja (the
13 attorney who drafted the will) with her daughter, Mrs. Domingo. However there is no evidence that
14 Mrs. Domingo coerced or made her mother sign the will. In fact, there was evidence presented that
15 the testator had been to the Mr. Borja's office on more than one occasion, had spoken at length with
16 the attorney on the phone regarding the will, and spoke for at least five minutes with the attorney
17 about the will on the day it was signed. Therefore this Court finds there was certainly conclusive
18 evidence that she was of sound mind and knew that she was signing her last will and testament.
19 Claimants presented no evidence to support their allegations of undue influence, tampering with the
20 will, or unsound mind of the testator and so the Court must find against them.

21 The Court admits this will into probate because there was sufficient evidence presented of
22 the validity of the execution of the will. If the will did have an erroneous inclusion of the property
23 that belonged to Mr. Reyes then the Court may handle that issue later as that has no bearing on the
24 admissibility of a will. The Court also is not troubled by the handwritten alteration of the

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26 ¹ 8 CMC §2301

27 ² Execution requires a will in writing, signed by the testator or by someone at the testator's direction in the
28 testator's presence, and signed by at least two witnesses who witnessed the testator signing the will or witnessed the
testator's acknowledgment of the signature of the will. *See* 8 CMC §2303.

1 administratrix's name on a piece of evidence as this will wasn't the one that is being offered into
2 probate. Additionally the Court can find no evidence, either extrinsically or intrinsically, to show
3 that the will was tampered with. There is continuity between the language and pages of the will and
4 so the Court finds that it has not been tampered with. The sequential order of the will is consistent
5 with the development and drafting of a will. Even if the witnesses did not read through the will does
6 not affect the admissibility of the will.

7 Therefore, for the reasons stated above, the Court grants the admission of this will into
8 probate as the true last will and testament of decedent.

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10 SO ORDERED this ____ day of May, 2008.

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_____/s/_____

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JUAN T. LIZAMA, Associate Judge

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