

[G.R. No. 2518. April 30, 1906]

HERMENEGILDO ALFONSO, PLAINTIFF AND APPELLANT, VS, PEDRO NATIVIDAD ET AL., DEFENDANTS AND APPELLEES.

D E C I S I O N

WILLARD, J.:

The plaintiff, as the administrator of the estate of Pedro Angeles, deceased, brought this action against Pedro Natividad and Silvestre Flores for the recovery of two separate parcels of land in the Province of La Laguna, alleging that Silvestre Flores was wrongfully in possession of the tract of land situated in the barrio of Santisima Cruz, in the pueblo of Santa Cruz, and that Pedro Natividad was in the unlawful possession of the other tract of land situated in the barrio of Bunuhan, in the pueblo of Pila. The controversy between the plaintiff and Pedro Natividad is entirely distinct from the controversy between him and Silvestre Flores, and neither controversy has anything at all to do with the other, and they are in effect two distinct and separate actions.

(1) The facts in reference to the parcel of land occupied by Pedro Natividad are as follows: Pedro Angeles and Tomasa Mundano were married prior to the year 1888, and during their marriage Tomasa acquired the legal title to the tract of land here in question. On the 14th day of July, 1899, Pedro Angeles and his wife, Tomasa, executed and delivered the following document:

“We, Pedro de los Angeles and Tomasa Mundano, husband and wife, natives and residents of the town of Santa Cruz, Province of La Laguna, of age, hereby acknowledge to have received from Pedro Natividad and his wife, Agapita Guilatro, the sum of 500 pesos, in silver coin, which we promise to return subject to no condition whatsoever as soon as we get the money.

“And as security therefor we hereby pledge the title deed to a piece of land in the barrio of Bunuhan of the town of Pila, the boundaries of which are set forth in the said document. In witness whereof we affix our signatures hereto.

“Nagcarlang, July 14, 1899.

(Signed) “PEDRO ANGELES.

(Signed) “TOMASA MUNDANO.”

The document referred to in this agreement constituted the title papers to the land in question, and they were then delivered to Pedro Natividad, and he now has them in his possession. Pedro Angeles died in the year 1899, after the execution of this document. Tomasa died in March, 1901. Pedro Natividad testified at the trial that when Tomasa died, he took possession of the land waiting for some one of the heirs of the said Pedro and Tomasa to appear and pay the debt due him. He paid the land taxes, but never cultivated the land and never received anything from it, as the evidence in this case shows.

The theory of the plaintiff is that the property belonged to the conjugal partnership during the life of the spouses; that this partnership having been dissolved by the death of the husband, its affairs should by law be liquidated and settled by the representatives of the husband; that he is such representative and is entitled to the possession of the property for the purpose of liquidating the affairs of the conjugal partnership. The claim of Pedro Natividad is that the property was not the property of the conjugal partnership, but was the private property of Tomasa; that it was bought with her money and that the husband had no interest therein. There is no evidence in the case to show from what source the money came which was used to buy the land. Although the legal title was taken in the name of the wife, yet in all the proceedings, including the proceedings relating to the judicial possession which was given to the wife, the husband appeared and took part. Article 1407 of the Civil Code is as follows:

“All the property of the marriage shall be considered as partnership property until it is proven that it belongs exclusively to the husband or to the wife.”

The facts of this case bring it within the terms of that article. In the absence of proof that the money with which the land was bought belonged to the wife, it must be declared to be conjugal property.

The next question to be considered is, Who is the person entitled to liquidate the affairs of the conjugal partnership when it is dissolved by the death of the husband? The Civil Code makes no express provision on this subject. Article 1418 says that when the partnership is dissolved the inventory shall at once be made, but it does not say by whom. Article 1428 is as follows:

“With regard to making the inventory, rules for the appraisal and sale of the property belonging to the conjugal partnership, guaranty and security for the respective dowries, and all other particulars, not expressly fixed in this chapter, the prescriptions of section fifth, chapter fifth, title third, book third, and sections second and third, chapter third of this title shall be observed.”

Among the articles found in section 5, referred to in this article, is article 1014, which is as follows:

“An heir who may have in his possession the property of the estate or a part thereof, and who may wish to make use of the benefit of inventory or of the right to deliberate, shall state this to the judge of competent jurisdiction in testamentary or intestate proceedings, within ten days following that on which he has become aware that he is such an heir, if he resides in the place where the deceased may have died. If he resides outside of it the period shall be thirty days.

“In either case the heir must request, at the same time, the making of the inventory and the citation of the creditors and legatees in order that they may be present thereat if they wish to.”

The only provision of the Code of Civil Procedure which seems directly applicable is section 685, which is as follows:

“*Community property.*—One-half the community property, as determined by the law in force in the Philippine Islands before the 13th day of August, 1898, belonging to a husband and wife, shall be deemed to belong to the deceased husband or wife, and shall be inventoried and accounted for, and distributed as a part of the estate, in the same manner as all other property belonging to the

estate.”

This section can not be so construed as to require one-half of the property of the conjugal partnership to be inventoried as the exclusive property of the deceased spouse before any settlement of the affairs of the partnership. Such a construction would be in direct violation of the law, which requires that the partnership property be used to pay its debts, and provides that one-half of the net proceeds only belong to each spouse. (Art. 1426, Civil Code.) This section (685) must mean that when the partnership affairs have been settled, and all its debts and obligations discharged, then one-half of the net proceeds shall be considered as the exclusive property of the deceased spouse. By the provisions of the new Code of Civil Procedure in the settlement of estates of deceased persons it is necessary to appoint commissioners, before whom the creditors of the deceased must present their claims within a time fixed by the court. The husband is the administrator of the conjugal partnership. (Art. 1412.) His debts contracted during the marriage are its debts. (Art. 1418.) When a conjugal partnership is dissolved by the death of the husband it would be extremely difficult to settle his estate in accordance with the provisions of the present Code of Procedure without settling the partnership affairs. It is difficult to harmonize the new system with that part of the old which remains, but we conclude that when the partnership is dissolved by the death of the husband the inventory which is mentioned in article 1418 should be made, and the partnership affairs settled in the Court of First Instance which takes jurisdiction of the settlement of his estate, and in the same proceeding. This view being adopted, it follows as a necessary consequence that the executor or administrator appointed in that proceeding must be the person who is entitled to the custody of the property of the conjugal partnership while the settlement is being made.

This construction of the law does not deprive the wife, the surviving partner, of all intervention in the settlement of the affairs of the partnership, for in intestate estates she is entitled to be appointed administratrix of her husband's estate, unless some good reason for not appointing her is shown.

Applying these principles to the present case it appears that the partnership was dissolved by the death of the husband; that its affairs should be settled in the proceedings for the settlement of his estate; that the plaintiff is the administrator appointed in that proceeding; that the property in question belonged to the partnership, and that therefore the plaintiff is entitled to maintain this action. In the settlement of the affairs of the partnership hereafter, this, with all other property of the partnership, will be held for the payment of the debts of

the partnership, including the debt of Pedro Natividad.

The question whether or not this rule for the settlement of the affairs of the conjugal partnership when it is dissolved by the death of the husband, is equally applicable when the partnership is dissolved by the death of the wife, we do not consider.

The delivery of the title deeds to the property in question to Pedro Natividad, in connection with what is said in the document above quoted, did not create any lien in his favor upon the land in question, nor entitle him to retain it until his debt was paid.

(2) The facts in reference to the tract of land claimed by Silvestre Flores are as follows: The land belonged to the conjugal partnership. Before the death of the husband, the husband and wife had sold it to Alejandro Teodoro for 300 pesos with the right of repurchase. Pedro Angeles died without having exercised this right. After his death his widow, Tomasa, with money of her own, repurchased the land from Teodoro, avowedly in her own interest, and not in the interest of the dissolved partnership. She afterwards sold it to Silvestre Flores, the defendant. This repurchase of the land by her after the death of her husband gave her the sole ownership thereof, and the heirs of her husband acquired no rights therein by her repurchase.

The court below entered judgment in favor of both defendants. That judgment, so far as Silvestre Flores is concerned, is affirmed, with the costs of this instance against the appellant. The judgment directed the payment of a certain sum by Flores to the administrator. In this respect we think the court committed an error, but as Flores did not appeal, that error can not be corrected. As to Pedro Natividad the judgment is reversed, and the cause remanded to the court below, with directions to enter judgment, for the plaintiff for the possession of the property in question as the property of the conjugal partnership of Pedro Angeles and Tomasa Mundano. No costs, as respects Pedro Natividad, will be allowed to the plaintiff in this court. After the expiration of twenty days let final judgment be entered in accordance herewith and ten days thereafter let the case be remanded to the lower court for proper procedure. So ordered.

Arellano, C. J., Torres, Mapa, and Carson, JJ., concur.
