102 Phil. 1055

**[ G.R. Nos. L-11483-11484. February 14, 1958 ]**

**IN THE MATTER OF THE TESTATE ESTATE OF THE DECEASED EDWARD E. CHRISTENSEN, ADOLFO CRUZ AZNAR, PETITIONER. MARIA LUCY CHRISTENSEN DANEY AND ADOLFO CRUZ AZNAR, PETITIONERS AND APPELLANTS, VS. MARIA HELEN CHRISTENSEN GARCIA AND BERNARDA CAMPORE-DONDO, OPPOSITORS AND APPELLEES.**

**BERNARDA CAMPOREDONDO, PLAINTIFF AND APPELLEE, VS. ADOLFO CRUZ AZNAR, AS EXECUTOR OF THE DECEASED EDWARD E. CHRISTENSEN, DEFENDANT AND APPELLANT.**

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

**FELIX, J.:**

From the records of the above-entitled cases, it appears that as of 1913, Edward E. Christensen, an American citizen, was already residing in Davao and on the following year became the manager of the Mindanao Estates located in the municipality of Padada of the same province. At a certain time, which the lower court placed at 1917, a group of laborers recruited from Argao, Cebu, arrived to work in the said plantation. Among the group was a young girl, Bernarda Camporedondo, who became an assistant to the cook. Thereafter, this girl and Edward E. Christensen, who was also unmarried started living together as husband and wife and although the records failed to establish the exact date when such relationship commenced, the lower court found the same to have been continuous for over 30 years until the death of Christensen occurred on April 30, 1953. Out of said relations, 2 children, Lucy and Helen Christensen, were allegedly born.

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Upon the demise of the American, who had left a considerable amount

of properties, his will naming Adolfo Cruz Aznar as executor was duly presented for probate In court and became the subject of Special Proceedings No. 622 of the Court of First Instance of Davao. Said will contains, among others, the following provisions:

* * * * * * *

"3. I declare
* * * that I have but one (1) child, named MARIA LUCY CHRISTENSEN (now Mrs. Bernard Daney), who was born in the Philippines about twenty-eight years ago, and who is now residing at No. 665 Rodger Young Village, Los Angeles, California, U.S.A.

"4. I further declare that I now
have no living ascendants, and no descendants except my above named daughter, MARIA LUCY CHIRISTENSEN DANEY.

* * * * * * *

"7. I give, devise and bequeath unto MARIA HELEN
CHRISTENSEN, now married to Eduardo Garcia, about eighteen years of age and who, notwithstanding the fact that she was baptized Christensen, is not in any way related to me, nor has she been at any time adopted by me, and who, from all information I have now resides in Egpit, Digos, Davao, Philippines, the sum of THREE THOUSAND SIX HUNDRED PESOS (P3,600) Philippine Currency, the same to be deposited in trust for the said Maria Helen Christensen with the Davao Branch of the Philippine National Bank, and paid to her at the rate of One Hundred Pesos {P100), Philippine Currency per month until the principal thereof as well as any interest which may have accrued thereon, is exhausted.

"8.
I give, devise and bequeath unto BERNARDA CAMPOREDONDO, now residing in Padada, Davao, Philippines, the sum of One Thousand Pesos (P1,000), Philippine Currency.

* * * * * * *

"12. I hereby give, devise and bequeath, unto my well-beloved daughter, the said MARIA LUCY CHRISTENSEN DANEY (Mrs. Bernard Daney), now residing as aforesaid at No. 665 Eodger Young Village Los Angeles, California, U.S.A., all the income from the rest, remainder, and residue of my property and estate, real, personal and/or mixed, of whatsoever kind or character, and wheresoever situated, of which I may be possessed at my death and which may have come to me from any source whatsoever, during her lifetime, Provided, however, that should the said MARIA LUCY CHRISTENSEN DANEY at any time prior to her decease having living issue, then, and in that event, the life interest herein given shall terminate, and if so terminated, then I give, devise, and bequeath to my said daughter, the said MARIA LUCY CHRISTENSEN DANEY, the rest, remainder and residue of my property, with the same force and effect as if I had originally so given, devised and bequeathed it to her; and provided, further, that should the said Maria Lucy Christensen Daney die without living- issue, then, and in that event, I give, devise and bequeath all the rest, remainder and residue of my property, one-half (1/2) to my well-beloved sister, Mrs. CARRIE LOUISE C. BORTON, now residing at No. 2124 Twentieth Street, Bakersfield, California, U.S.A., and one-half (1/2) to the children of my deceased brother, JOSEPH C. CHRISTEN SEN, * * *,

"13. I hereby nominate and appoint Mr. Adolfo Cruz Aznar, of DavaoCity, Philippines, my executor, and the executor of this, my last will and testament.

* * * (Exh. A)

Oppositions to the probate of this will were separately filed by Maria Helen Christensen Garcia and Bernarda Camporedondo, the first contending that the will lacked the formalities required by law; that granting that it had, the dispositions made therein were illegal because although she and Lucy Christensen were both children had by the

deceased with Bernarda Camporedondo, yet she was given only a meager sum of P3,600 out of an estate valued at $485,000 while Lucy would get the rest of the properties; and that the petitioner Adolfo Cruz Aznar was not qualified to be appointed as administrator of the estate because he had an interest adverse to that of the estate. It was therefore prayed by this oppositor that the application for probate be denied and the will disallowed; that the proceeding be declared intestate and that another disinterested person be appointed as administrator.

Bernarda Camporedondo, on the other hand, claimed ownership over one-half of the entire estate in virtue of her relationship with the deceased, it being alleged that she and the testator having lived together as husband and wife continuously for a period of over 30 years, the properties acquired during such cohabitation should be governed by the rules on co-ownership. This opposition was dismissed by the probate court on the ground that she had no right to intervene in said proceeding, for as such common-law wife she had no successional right that might be affected by the probate of the will, and likewise, she could not be allowed to establish her title and co-ownership over the properties therein for such questions must be ventilated in a court of general jurisdiction. In view of this ruling of the Court and in order to attain the purpose sought by her overruled opposition Bernarda Camporedondo had to institute, as she did institute Civil Case No. 1076 of the Court of First Instance of Davao (G. R. No. L-11483) which we will consider and discuss hereinafter.

In the meantime, Adolfo Cruz Aznar was appointed special administrator of the estate after filing a bond for P5,000 pending the appointment of a regular one, and letters of special administration were correspondingly issued to him on May 21, 1953.

The records further show that subsequent to her original opposition, Helen Christensen Garcia filed a supplemental opposition and motion to declare her an acknowledged natural child of Edward E. Christensen, alleging that she was conceived during the time when her mother Bernarda Camporedondo was living with the deceased as his common-law

wife; that she had been in continuous possession of the status of a natural child of the deceased; that she had in her favor evidence and/or proof that Edward Christensen was her father; and that she and Lucy had the same civil status as children of the decedent and Bernarda Camporedondo. This motion was opposed jointly by the executor and Maria Lucy Christensen Daney asserting that before, during and after the conception and birth of Helen Christensen Garcia, her mother was generally known to be carrying relations with B different men; that during the lifetime of the decedent and even years before his death, Edward Christensen verbally as well as in writing disavowed relationship with said oppositor; that oppositor appropriated and used the surname Christensen illegally and without permission from the deceased. Thus they prayed the Court that the will be allowed; that Maria Helen Christensen Garcia be declared not in any way related to the deceased; and that the motion of said oppositor be denied.

After due hearing, the lower court in a decision dated February 28, 1953, found that oppositor Maria Helen Christensen had been in continuous possession of the status of a natural child of the deceased Edward Christensen notwithstanding the fact that she was disowned by him in his will, for such action must have been brought about by the latter’s disapproval of said oppositors marriage to a man he did not like. But taking into consideration that such possession of the status of a natural child did not of itself constitute acknowledgment but may only be availed of to compel acknowledgment, the lower Court directed Maria Lucy Christensen Daney to acknowledge the oppositor as a natural child of Edward E. Christensen. The will was, however, allowed and letters testamentary consequently issued to Adolfo Cruz Aznar, the executor named therein. From the portion of the decision .requiring Lucy Christensen to acknowledge Helen as a natural child of the testator, the former and the executor interposed an appeal to the Court of Appeals (CA-G. R. No. 13421-R), but the appellate tribunal elevated the same to Us on the ground that the case involves an estate the value of which far exceeds P50,000.00 and thus falls within the exclusive appellate jurisdiction of this Court pursuant to Section 17 (5), Republic Act No. 296.

The principal issue in this litigation is whether the lower Court erred in finding that the oppositor Maria Helen Christensen Garcia had been in continuous possession of the status of a natural child of the deceased Edward E. Christensen and in directing Maria. Lucy Christensen Daney, recognized daughter and instituted heir of the decedent, to acknowledge the former as such natural child.

Maria Lucy Christensen was born on April 25, 1922, and Maria Helen Christensen on July 2, 1934, of the same mother, Bernarda Camporedondo, during the period when the latter was publicly known to have been living as common-law wife of Edward E. Christensen. From the facts of the case there can be no question as to Lucy's parentage, but controversy arose when Edward Christensen, in making his last will and testament, disavowed such paternity to Helen and gave her only a legacy of P3,600. In the course of the proceeding for the probate of the will (Exh. A), Helen introduced documentary and testimonial evidence to support her claim that she, like Lucy, was a natural child of the deceased and, therefore, entitled to the hereditary share corresponding to such descendant. Several witnesses testified in her favor, including her mother Bernarda Camporedondo, her former teachers and other residents of the community, tending to prove that she was known in the locality as a child of the testator and was introduced by the latter to the circle of his friends and acquaintances as his daughter. Family portraits, greeting cards and letters were likewise presented to bolster her assertion that she had always been treated by the deceased and by Lucy herself as a member of the family.

Lucy Christensen and Adolfo Cruz Aznar, as executor, tried to repudiate her claim by introducing evidence to prove that on or about the period when she was conceived and born, her mother was carrying' an affair with another man, Zosimo Silva, a former laborer in her Paligue plantation. Silva executed an affidavit and even took the witness stand to testify to this effect. Appellants also strived to show that the decedent's solicitations for Helen's welfare and the help extended to her merely sprang out of generosity and hammered on the fact that on several occasions, the deceased disclaimed any relationship with her (Exh. O-Daney, Exh. Q-Daney, Exh. Z-Daney, Exh. 8-Helen).

Going over the evidence adduced during the trial, it appears indubitable that on or about the period when Helen was born, Bernarda Camporedondo had established residence at her plantation at Paligue, Davao, and that although Edward Christensen stayed in Davao City to manage his merchandising business, he spent the weekends with the former and their child Lucy in the Christensen plantation. Even granting that Zosimo Silva at this stage fitted himself into the picture, it cannot be denied that Helen's mother and the deceased were generally and publicly known to be living together as husband and wife. This must have been the reason why Christensen from Helen's birth in 1934 provided for her maintenance; .shouldered the expenses for her education to the extent that she was even enrolled as an intern in an exclusive college for girls in Manila; tolerated or allowed her carrying the surname "Christensen", and in effect gave her the attention and care that a father would only do to his offspring. We should take note that nothing appears on record to show that Christensen ever entertained any doubt or disputed Helen's paternity. His repudiations of her relationship with him came about only after he and Bernarda Camporedondo parted ways in March, 1950, and apparently after Helen took sides with her mother. Furthermore, it seems that despite the decedent's desire that she continue her studies, Helen ignored the same and got married to a man for whom Christensen held no high esteem. We may state at this juncture that while it is true that herein appellants introduced witnesses to disprove oppositor's claim, the lower Court that had the opportunity to observe the conduct of the witnesses while testifying and could better gauge their credibility and impartiality in the case, arrived at the conclusion that Maria Helen Christensen had established that she had been in continuous possession of the status of a natural child of the deceased. Considering the preponderant evidence on record, We see no reason to reverse said ruling. The testator's last acts' cannot be made the criterion in determining whether oppositor was his child or not, for human frailty and parental arrogance sometimes may draw a person to adopt unnatural or harsh measures against an erring child or one who displeases him just so the weight of his authority could be felt. In the consideration of a claim that one is a natural child, the attitude or direct acts of

the person against whom such action is directed or that of his family before the controversy arose or during his lifetime if he predeceases the claimant, and not at a single opportunity or on isolated occasions but as a whole, must be taken into account. The possession of such status is one of the cases that gives rise to the right, in favor of the child, of compulsory recognition. (Art. 283, Civil Code).

The lower Court, however, after making its finding directed Maria Lucy Christensen Daney, an heir of the decedent, to recognize oppositor as a natural child of the deceased. This seems improper. The Civil Code provides for 2 kinds of acknowledgement of a natural child: voluntary and compulsory. In the first instance, which may be effected in the record of birth, a will, a statement before a court of record or in an authentic writing (Art. 278, Civil Code), court intervention is very nil if not altogether wanting, whereas in the second, judicial pronouncement is essential, and while it is true that the effect of a voluntary and a compulsory acknowledgment on the rights of the child so recognized is the same, to maintain the view of the lower Court would eliminate the distinction between voluntary acts and those brought about by judicial dicta. And if We consider that in the case where the presumed parent dies ahead of the child and action for compulsory recognition is brought against the heirs of the deceased, as in the instant case, the situation would take an absurd turn, for the heirs would be compelled to recognize such child as a natural child of the deceased without a proper provision of the law, for as it now stands, the Civil Code only requires a declaration by the court of the child's status as a natural child of the parent who, if living, would be compelled to recognize his offspring as such. Therefore, We hold that in cases of compulsory recognition, as in the case at bar, it would be sufficient that a competent court, after taking into account all the evidence on record, would declare that under any of the circumstances specified by Article 283 of the Civil Code, a child has acquired the status of a natural child of the presumptive parent and as such is entitled to all rights granted to it by law, for such declaration is by itself already a judicial recognition of the paternity of the parent concerned which is hers against whom the action is directed, are bound

to respect.

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Coming now to Civil Case No. 1076 of the Court of First Instance of Bavao, Bernarda Camporedondo claimed in her complaint 1/2 of the properties of the deceased as co-owner thereof in virtue of her relations with the deceased. She alleged as basis for her action that she and the deceased Edward E. Christensen had lived and cohabited as husband and wife, continuously and openly for a period of more than 30 years; that within said period, plaintiff and the deceased acquired real and personal properties through their common effort and industry; and that in virtue of such relationship, she was a co-owner of said properties. As the executor refused to account for and deliver the share allegedly belonging to her despite her repeated demands, she prayed the court that said executor be ordered to submit an inventory and render an accounting of the entire estate of the deceased; to divide the same into 2 equal parts and declare that one of them lawfully belonged to plaintiff; and for such other reliefs as may be deemed just and equitable in the premises. In his answer, the executor denied the averments of the complaint, contending that the decedent was the sole owner of the properties left by him as they were acquired through his own efforts; that plaintiff had never been a co-owner of any property acquired or possessed by the late Edward Christensen during his lifetime; that the personal relationship between plaintiff and the deceased was purely clandestine because the former habitually lived in her plantation at Paligue, Davao, from the time she acquired the same in 1928; that she also maintained relations with 2 other men; and that the claim of plaintiff would violate the provisions of Article 2253 of the Civil Code as the vested rights of the compulsory heirs of the deceased would be impaired. Defendant thus prayed for the dismissal of the complaint and as counterclaim demanded the sum of P70,000.00 representing actual, moral and exemplary damages.

Due hearing was conducted thereon and after the parties had submitted their respective memoranda, the lower Court on August 25, 1954, rendered judgment finding that the deceased Edward Christensen

and Bernarda Camporedondo, not otherwise suffering1 from any impediment to contract marriage, lived together as husband and wife without marital ties continuously for over 30 years until the former's death in 195-3; that out of such relations 2 children were born; and that the properties in controversy were acquired by either or both of them through their work or industry. Relying on Section 144 of the Civil Code which said court considered to have created another mode of acquiring ownership, plaintiff was held to be entitled to one-half of said properties as co-owner thereof in view of her relationship with the deceased and ordered the executor to account for and deliver the same to her. From this decision, defendant Aznar, as Executor of the will, perfected an appeal to the Court of Appeals, but as the property involved in the litigation exceeds P50,000.00, said tribunal elevated the case to Us for consideration.

It is not controverted that at the time of his death, Edward Christensen was the owner of certain properties, including shares of stock in the plantation bearing his name and a general merchandising store in Davao City. It is also undeniable that the deceased and appellee, both capacitated to enter into the married state, maintained relations as husband and wife, continuously and publicly for a considerable number of years which the lower Court declared to be until the death of Christensen in 1953. While as a general rule appellate courts do not usually disturb the lower court's findings of fact, unless said finding is not supported by or totally devoid of or inconsistent with the evidence on record, such finding must of necessity be modified to conform with the evidence if the reviewing tribunal were to arrive at the proper and just solution of the controversy. In the instant case, the court *a quo* overlooked or failed to consider the testimonies of both Lucy and Helen Christensen to the effect that the deceased and their mother Bernarda Camporedondo had some .sort of quarrel or misunderstanding and parted ways as of March, 1950, a fact which appellee was not able to overcome. Taking into account the circumstances of this case as found by the trial court, with the modification that the cohabitation should appear as continuous from the early 20's until March, 1950, the question left

for our determination is whether Bernarda Camporedondo, by reason of such relationship, may be considered as a co-owner of the properties acquired by the deceased during said period and thus entitled to one-half thereof after the latter's death.

Presumably taking judicial notice of the existence in our society of a certain kind of relationship brought about by couples living together as husbands and wives without the benefit of marriage, acquiring and bringing properties unto said union, and probably realizing that while same may not be acceptable from the moral point of view they are as much entitled to the protection of the laws as any other property owners, the lawmakers incorporated Article 144 in Republic Act No. 386 (Civil Code of the Philippines) to govern their, property relations. Said article read as follows:

> Art. 114. When a man and a woman live together as husband and wife, but they are not married, or their marriage is void from the beginning, the property acquired by either or both of them through their work or industry or their wages and salaries shall be governed by the rules on co-ownership.

It must be noted that such form of co-ownership requires that the man and the woman thus living together must not in any way be incapacitated to contract marriage and that the properties realized during their cohabitation be acquired through the work, industry, employment or occupation of both or either of them. And the same thing may be said of those whose marriages are by provision of law declared void ab initio. While it is true that these requisites are fully met and satisfied in the case at bar, We must remember that the deceased and herein appellee were already estranged as of March, 1950. There being no provision of law governing the cessation of such informal civil partnership, if it ever existed, same may be considered terminated upon their separation or desistance to continue said relations. The Spanish Civil Code which was then in force contains to counterpart of Article 144 and as the records in the instant case

failed to show that a subsequent reconciliation ever took place and considering that Republic Act No. 386 which recognized such form of co-ownership went into operation only on *August 30, 1950,* evidently, this later enactment cannot be invoked as basis for appellee's claim.

In determining the question poised by this action We may look upon the jurisprudence then obtaining on the matter. As early as 1925, this Court already declared that where a man and a woman, not suffering from any impediment to contract marriage, live together as husband and wife, an informal civil partnership exists and made the pronouncement that each of them has an interest in the properties acquired during said union and is entitled to participate therein *if said properties were the product of their JOINT efforts* (Marata *vs.* Dionio G. R. No. 24449, Dec. 31, 1925). In another case, this Court similarly held that although there is no technical marital partnership between persons living maritally without being lawfully married, nevertheless there is between them an informal civil partnership, and *the parties would be entitled to an equal interest where the property is acquired through their JOINT efforts* (Lesaca *vs.* Felix Vda. de Lesaca, 91 Phil., 135).

Appellee, claiming that the properties in controversy were the product of their joint industry apparently in her desire to tread on the doctrine laid down in the aforementioned cases, would lead Us to believe that her help was solicited or she took a hand in the management and/or acquisition of the same. But such assertion appears incredible if We consider that she was observed by the trial Court as an illiterate woman who cannot even remember simple things as the date when she arrived at the Mindanao Estate, when she commenced relationship with the deceased, not even her approximate age or that of her children. And considering that aside from her own declaration, which We find to be highly improbable, there appears no evidence to prove her alleged contribution or participation in the acquisition of the properties involved therein, and that in view of the holding of this Court that for a claim to one-half of such property to be allowed it must be proved that same was acquired through their *joint* efforts and labor (Flores *vs.* Rehabilitation Finance Corporation,[*] 50 Off. Gaz. 1029), We have no recourse but reverse the holding of the

lower Court and deny the claim of Bernarda Camporedondo. We may further state that even granting, for the sake of argument, that this case falls under the provisions of Article 144 of the Civil Code, same would be applicable *only* as far as properties acquired after the effectivity of Republic Act 386 are concerned and to no other, for such law cannot be given retroactive effect to govern those already possessed before August 30, 1950. It may be argued, however, that being a newly created right, the provisions of Section 144 should be made to retroact if only to enforce such right. Article 2252 of the same Code is explicit in this respect when it states:

> SEC. 2252. Changes made and new provisions and rules laid down by this Code which may prejudice or impair vested or acquired rights in accordance with the old legislation, shall have no retroactive effect.

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As it cannot be denied that the rights and legitimes of the compulsory heirs of the deceased Edward Christensen would be impaired or diminished if the claim of herein appellee would succeed, the answer to such argument would be simply obvious.

With regard to appellant Aznar's contention that the lower Court erred in admitting the testimony of appellee Bernarda Camporedondo dealing with facts that transpired before the death of Edward Christensen on the ground that it is prohibited by Section 26-(*c*), Rule 123 of the Rules of Court, We deem it unnecessary to delve on the same because even admitting that the court *a quo* committed the error assigned, yet it will not affect anymore the outcome of the case in view of the conclusion We have already arrived at on the main issue.

On the strength of the foregoing considerations, We affirm the decision of the lower Court in case G. R. No. L—11484, with the modification that Maria Lucy Christensen Daney need not be compelled to

acknowledge her sister Maria Helen Christensen Garcia as a natural child of her father Edward E. Christensen, the declaration of the Court in this respect being sufficient to enable her to all the rights inherent to such status.

The decision appealed from in case G. R. No. L-11483 is hereby reversed and another one rendered, dismissing plaintiff's complaint.

Costs are taxed against appellants in G. R. No. L-11484 and against appellee Bernarda Camporedondo in G. R. No. L-11483. it is so ordered.

*Paras, C.J., Bengzon, Padilla, Reyes, A., Bautista Angela, Conception, Reyes, J.B.L.,* and *Endencia, JJ.,* concur.

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[1] 94 Phil., 451.

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