

103 Phil. 132

[G.R. No. L-10947. March 18, 1958]

JOSE MAYOR, PLAINTIFF AND APPELLANT, VS. MACARIO MILLAN, WILFEEDO MISA AND SEVERO MISA, DEFENDANTS AND APPELLEES.

REYES, J.B.L., J.:

Appealed to this Court on points of law is the decision of the Court of First Instance of Zambales (Civil Case No. 1489) dismissing appellant's complaint to recover nine-tenths (9/10) of a parcel of land in sitio Bungao, barrio Pamloran, Sta. Cruz, Zambales, covered by Tax Declaration No. 34396.

When the case was called for hearing in the court below, the parties submitted the following stipulation of facts:

- “1. The parties admit that the plaintiff, Jose Mayor is the only surviving brother of Severino Mayor;
2. That Severino Mayor donated the land described in the complaint to Iluminada Miraflor in consideration of his marriage to her, as per the deed of donation, a public instrument, dated October 25, 1927, marked as Annex “A”, and that the signature appearing on said Annex “A” which reads “.lose Mayor” is the signature of the plaintiff, Jose Mayor;
3. That Severino Mayor and Iluminada Miraflor were married at Sta. Cruz, Zambales, on November 15, 1927, as per the certificate of the Municipal Treasurer of Santa Cruz, Zambales, dated August 4, 1952, marked as Annex “B”;
4. That Candida Mayor is the daughter of the spouses, Severino Mayor and Iluminada Miraflor, who was born on October 23, 1928, as per Annex “C”;
5. That Severino Mayor died at Sta. Cruz, Zambales on January 30, 1929, as per

Annex "D";

6. That Candida Mayor, the daughter, died at Infanta, Pangasinan on September 25, 1929, as per Annex. "E";

7. That Iluminada Mirafior sold the land described in the complaint to the defendants, Severo Misa, in a public instrument dated April 9, 1932, as per Annex "F";

8. That the defendant, Severo Misa, donated the land described in the complaint to Juana Montevirgen, in consideration of her marriage to Ms son, Wilfredo Misa, one of the defendants, in a public instrument dated May 16, 1933, as per Annex "G";

9. That the defendant, Wilfredo Misa and his wife, Juana Montevirgon sold the land described in the complaint to the defendants, Macario Millan, in a public instrument, dated March 20, 1949, as per Annex "H";

10. That the defendant, Macario Millan is now the one in possession of the land since March 28, 1949, up to the present time and enjoying the products thereof for his own exclusive use; and that his possession thereto, including those of his predecessors in interest, Iluminada Mirafior, and the defendants, Severo Misa, Wilfredo Misa, is more than 24 years up to the time the complaint was filed under claim of ownership of said land described in the complaint;

11. That the late Severino Mayor was not survived by any ascendant, sister, nephew or niece except the lone surviving brother, the plaintiff, Jose Mayor;

12. That the parcel of land described in the complaint was the only property (parcel of land) registered in the name of Severino Mayor, as the former owner, according to the records of the Municipal Treasurer of Sta. Cruz, Zambales, marked as Annex "T";

13. That the entire parcel of land described in the complaint was donated in consideration of marriage by Severino Mayor to Iluminada Mirafior, as per Annex "A" above;

14. That the defendants, Severo Misa, Wilfredo Misa and Macario

Millun had received annually as net share of the land described in the complaint, thirty (80) cavans of palay since the year 1932 up to the present;

15. That the price per cavan of palay for the years 1932 to 1940, was P2.50; and during the Japanese occupation, P15, Philippine money; and from the year 1945 to date at P10, per cavan." (Rec. App. pp. 17-18)

The theory of the appellant, which he also advances on appeal, is predicated on Art. 1331 of the old Civil Code of 1889, in force in 1927 when the donation was made.

"Art. 1331. Affianced persons may give to one another by their ante-nuptial contract not to exceed one tenth of their present property; with respect to their future property they may make donations to each other to take effect only in case of the donor's death, within the limits established by this code with respect to testamentary successions."

Appellant argues that under this article the donation by Severino Mayor in favor of his then prospective bride (who later became his wife) was valid only as to one-tenth (1/10) of the lot in question; that the donor retained ownership of nine tenths (9/10) thereof; that upon Severino's death this interest was transmitted to his daughter Candida Mayor, who died in 1929 and was succeeded by her mother, Illuminada Miraflor; that the latter inherited the property from her daughter but subject to *reserva troncal* (under Art. 811 of the old Code^[1]) in favor of plaintiff herein who, as an uncle of Candida, was within the third degree of relationship from her. Hence, appellant concludes, upon the death of the *reservista* Illuminada Miraflor, appellant became entitled to nine-tenths (9/10) of the property as reversioner, and the alienation made by the aforesaid *reservista*, as well as all subsequent alienations of the property in favor of other parties, became void.

The appeal must be dismissed. As the trial judge, Hon. Lucas Laeson, correctly pointed out, there is no proof that the value of the entire lot donated exceeded 1/10 of the property owned by the donor at the time of the donation. Article 1331 of the then Civil Code of 1889 (in force at the time) did not restrict the donor to a tenth of each and every item of property he owns; the limit of one-tenth must be computed on the value of his entire patrimony, just as the free part is computed on the value of a testator's net assets as a whole, in order to

determine whether or not his donations are inofficious (cf. Civil Code of 1889, Art. 654; new Civil Code, Art. 771).

Under the facts stipulated, there remain two alternatives, either of which suffices to destroy the basic assumption upon which appellant's case rests: that Severino Mayor had other lands elsewhere than in Zambales; or that, assuming he held no immovable property other than the lot now in question, that he might possess personal property worth nine times the value of the controverted land. Being the one who contests the validity of the donation, it was incumbent upon appellant to produce satisfactory proof to exclude both alternatives, i.e., to show that the donor had no other property besides the disputed lot; and his duty to do so is all the more imperative because the land in question is now in the hands of innocent parties. Not having satisfied the *onus probandi*, appellant's cause of action was rightly rejected by the court below.

The decision appealed from is affirmed with costs against appellant. So ordered.

Pards, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Bautista, Angelo, Labrador, Concepcion, Endencia and Felix, JJ., concur.

^[1] Article 891, New Civil Code.
