

## FELISA LIM, PETITIONER, VS. COURT OF APPEALS AND GUADALUPE ENRIQUEZ UY, RESPONDENTS.

*G.R. No. L-39381. July 18, 1975*

Ponente: CASTRO, J.

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### CASTRO, J.:

These two petitions for certiorari were separately filed by Felisa Lim and Guadalupe Enriquez Uy to review the decision dated June 6, 1974 of the Court of Appeals, and the resolutions dated September 12, 1974 and July 18, 1974 of the same court denying their respective motions for reconsideration. We affirm the judgment of the Court of Appeals.

In 1962 Felisa Lim brought suit against Francisco Miguel Romualdez Uy Chen Hong in the Court of First Instance of Manila for (1) declaration of nullity of the affidavit Uy executed in which he adjudicated to himself, as the only son and heir of Susana Lim, a lot (120 square meters) with the house thereon located at Tayabas St., Sta. Cruz, Manila; (2) cancellation of the certificate of title issued in the name of Uy; and (3) issuance of a new transfer certificate of title in her favor.

Both Uy and Felisa Lim claimed they inherited, to the exclusion of each other, the property in question from Susana Lim. Felisa Lim claims to be the natural daughter of Susana Lim. To support her claim, she presented (1) her certificate of baptism, which certificate states that Felisa Lim is the natural daughter of Susana Lim; and (2) her marriage contract, which contract states that Susana Lim gave consent to Felisa Lim's mother. Felisa Lim also alleges continuous possession of the status of a natural child.

On the other hand, Uy claimed to be the only son and heir of Susana Lim. To support his claim, he presented among others, (1) his application for alien registration in the Bureau of Immigration, which application names Susana Lim as Uy's mother; (2) the order of the Bureau of Immigration cancelling his alien registration, which order describes Uy as a Filipino citizen by derivation from his mother Susana Lim; and (3) his identification certificate issued by the Bureau of Immigration, which certificate likewise describes Uy as a citizen of the Philippines by derivation from his mother Susana Lim.

On November 22, 1967 the court a quo, after finding Felisa Lim as "the daughter and only heir" of Susana Lim, rendered judgment declaring the affidavit executed by Uy null and void, and ordering the Register of Deeds of Manila (1) to cancel the registration of the said affidavit, (2) to cancel the certificate of title in the name of Uy, and (3) to issue a new transfer certificate of title in favor of Felisa Lim.

Uy then moved for reconsideration of the aforesaid decision and asked for new trial on the ground of newly discovered evidence. This motion for reconsideration and new trial the court a quo denied.

Uy appealed to the Court of Appeals.[1] On June 6, 1974 the appellate court reversed the judgment dated November 22, 1967 of the court a quo and dismissed the complaint. The appellate court ruled that neither Felisa Lim nor Uy "is entitled to the inheritance because neither of them had been recognized by Susana Lim as her

child by any of the means provided for by law; and neither had either of them been declared in a judicial proceeding to be a child of Susana Lim." Both parties' subsequent respective motions for reconsideration were denied.

Hence the present recourse by both parties against the judgment dated June 6, 1974 of the appellate court as well as its resolutions dated September 12, 1974 and July 18, 1974 denying their respective motions for reconsideration.

In L-39381, Felisa Lim assails the finding of the appellate court that she "has no right to inherit from Susana Lim, even on the assumption that she is her natural daughter, as she had not been recognized by any of the means provided for by the New Civil Code." Felisa Lim alleges that Susana Lim's consent to her marriage, given pursuant to Act 3613 (The Marriage Law), amounted to an admission and recognition on the part of Susana Lim that she (Felisa) is her natural daughter. Felisa Lim adds that the records in the office of the Local Civil Registrar pertaining to her marriage license, "together with the supporting papers which included the consent given by Susana Lim, were destroyed during the liberation of the City of Manila." However, that Susana Lim gave consent to her marriage, Felisa Lim asserts, the marriage contract evinces. Felisa Lim states that the marriage contract partakes of a public document and thus fulfills the provisions of the old Civil Code (recognition "in some other public document") and the new Civil Code (re recognition "in any authentic writing").

In L-39033, Guadalupe Enriquez Uy takes exception to the appellate court's non-adjudication of the property in question in favor of her husband. The finding of the appellate court that her husband "is not likewise entitled to inherit from Susana Lim" makes no difference, she states, for her husband purchased the property in question "with his own money prior to his mother's death and took conveyance and title thereof" in his mother's name in deference to her since "she gave him a little amount to complete the purchase price."

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At the outset, it should be noted that Felisa Lim claims that her recognition by Susana Lim as her (the latter's) natural child took place in 1943. Since the recognition allegedly took place during the effectivity of the Civil Code of 1889, such recognition should be reckoned in accordance with the requisites established by the said Civil Code. For, the law in force at the time of the recognition governs the act of recognition.

Section 131 of the Civil Code of 1889 requires that the recognition of a natural child "be made in the record of birth, in a will, or in some other public document." Felisa Lim argues that her marriage contract partakes of a public document.

According to article 1216 of the Civil Code of 1889, public documents "are those authenticated by a notary or by a competent public official, with the formalities required by law." Thus, "there are two classes of public documents, those executed by private individuals which must be authenticated by notaries, and those issued by competent public officials by reason of their office." [2] "The public document pointed out in Article 131 as one of the means by which recognition may be made belongs to the first class." [3]

The marriage contract presented by Felisa Lim does not satisfy the requirements of solemnity prescribed by article 131 of the Civil Code of 1889. Such contract is not a written act with the intervention of a notary; it is not an instrument executed in due form before a notary and certified by him. The marriage contract is a mere declaration by the contracting parties, in the presence of the person solemnizing the marriage and of two witnesses of legal age, that they take each other as husband and wife, signed by signature or mark by the said contracting parties and the said witnesses, and attested by the person solemnizing the marriage. The marriage contract does not possess the requisites of a public document of recognition. Be it remembered that recognition, under the Civil Code of

1889, "must be precise, express and solemn." [4]

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Uy claims that her husband purchased the property in question with his own money prior to Susana Lim's death but took conveyance thereof in her name. In the circumstances, she alleges, an implied trust exists in favor of her husband. She questions the statement made by the appellate court in its resolution dated July 18, 1974 denying her motion for reconsideration, which statement reads: "The title is in the name of Susana Lim, and oral testimony cannot overcome the fact that the sale was made to Susana Lim and title issued in her favor."

An implied trust arises "where a person purchases land with his own money and takes conveyance thereof in the name of another. In such a case, the property is held on a resulting trust in favor of the one furnishing the consideration for the transfer, unless a different intention or understanding appears. The trust which results under such circumstances does not arise from contract or agreement of the parties, but from the facts and circumstances, that is to say, it results because of equity and arises by implication or operation of law." [5]

To support her allegation regarding the existence of an implied trust, Uy presented excerpts from the respective testimonies of her deceased husband, her husband's half-brother, and the former owner of the property in question. These testimonies, as excerpted, tend to prove (1) that the deceased Uy received a P10,000 legacy from his father; (2) that he purchased the property in question; and (3) that the name of Susana Lim appeared on the deed of sale.

It is thus asserted that the deceased Uy furnished the consideration, although he asked Susana Lim for a little amount to complete the purchase price of the property in question, and that having supplied the greater portion of the purchase money, he intended the purchase for his own benefit.

It is our view that two countervailing circumstances militate against Uy's theory of an implied trust in favor of her husband. (1) Uy raised the theory of implied trust for the first time in her motion for reconsideration filed with the appellate court; (2) the evidence regarding the alleged purchase by her late husband is altogether unconvincing.

Accordingly, the judgment appealed from is affirmed. No costs.

Makasiar, Esguerra, Muñoz Palma, and Martin, JJ., concur.

Teehankee, J., is on leave.

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[1] During the pendency of the appeal, Francisco Miguel Romualdez Uy Chen Hong died. His surviving spouse, Guadalupe Enriquez Uy, substituted for him.

[2] Pareja vs. Pareja, 95 Phil. 167, 171.

[3] Ibid.

[4] Montilla vs. Montilla, L-14462, June 30, 1961, 2 SCRA 695, 699.

[5] Heirs of Candelaria vs. Romero, 109 Phil. 500, 503.

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