

EMETERIO A. RODRIGUEZ (IN SUBSTITUTION OF RUFINO A. RODRIGUEZ, WHO DIED DURING THE PENDENCY OF THIS CASE IN THE COURT OF APPEALS, AND JOSE AYALA, EXECUTORS-PETITIONERS, VS. THE ...

G.R. No. L-28734. March 28, 1969

Ponente: FERNANDO, J.

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FERNANDO, J.:

A will is the testator speaking after death.[1] The law listens and yields obedience, unless in the preparation thereof or in the disposition made therein there is a failure to follow a legal norm. In the present suit, there was none as to the formalities required, the will in question having been probated on September 23, 1960. As to its intrinsic validity, there apparently was none either as shown by the project of partition having been approved by the lower court, again, without opposition.

As more specifically set forth in the decision of the Court of Appeals of January 18, 1967, the reconsideration of which after about a year, to be more precise, on January 8, 1968, led to this petition for certiorari: "It appears from the record that Doña Margarita Rodriguez died in the City of Manila on July 19, 1960, leaving a last will and testament under date of September 30, 1951 and that said last will and testament was legalized by virtue of the resolution or order of the Court of First Instance of Manila, under date of September 23, 1960, without the appellant's opposition in Special Proceeding No. 3845, hence the extrinsic validity of the will was substantially not in question. On August 27, 1962, the executor of the last will and testament of the late Doña Margarita Rodriguez pre-sented a project of partition and the same was approved by the Court of First Instance of Manila, again without the opposition of the appellants. Hence, the intrinsic validity of the will could never be again questioned and raised as issue in the trusteeship proceedings No. 51872 of the same court." [2]

One would expect, therefore, that the aforesaid decision of the Court of Appeals would write finis to this litigation. Unfortunately, it was not so. It ought not to have been the case, for, as admitted, the deceased, to quote from the language of the January 18, 1967 decision of the Court of Appeals, "at the time of her death left no compulsory heirs or forced heirs and, consequently, [was] free to dispose of her properties even to strangers at will as provided in her will." [3] It was likewise noted therein that the testatrix created a trust which was objected to by private respondents, who claimed to be first cousins of the deceased. Such an objection was overruled by the lower court which granted letters of trusteeship to petitioners, who were the executors under the will. Such an order of the lower court was appealed by respondent to the Court of Appeals, which, in the original decision of January 18, 1967, affirmed the action taken by the Court of First Instance.

A motion for reconsideration filed by private respondents resulted in a resolution of January 8, 1968, which set aside its previous decision of January 18, 1967 and modified the judgment appealed from insofar as the validity of the provision of clause 10 of the will creating the trusteeship was concerned. The disputed clause reads thus: "[Clausula Decima O Pang Sampu]. - Ipinaguutos ko na ang mga pag-aaring nasasabi sa Clausulang ito ay

pangangasiwaan sa habang panahon, at ito nga ang ipagbubukas ng 'Fideicomiso' sa Juzgado pagakatapos na maayos ang naiwanan kong pag-aari. Ang pangangasiwaang pag-aari ay ang mga sumusunod: * * *. Ang lahat ng pag-aaring nasa-sabi Clausulang ito (hindi kasama ang 'generator' at automobile) hindi maisasanla o maipagbibili kailan man, maliban sa pag-aaring nasa Quezon Boulevard, Maynila, na maaring isanla kung walang pondo sa gagamitin sa ipagpa-paigi o ipagpapagawa ng panibago at alinsunod sa kaayusang hinihingi ng panahon." [4]

In the resolution setting aside the original decision of January 18, 1967, the Court of Appeals held that the above "perpetual prohibition to alienate" the property mentioned, constitutes a clear violation of Article 867 and Article 870 of the Civil Code. It was further stated in the aforesaid resolution that the Court of Appeals did arrive "at the considered view that the trust in question is a nullity for being in violation of the afore stated rules (against perpetuities and the limitation regarding the inalienability of the hereditary estate)." [5] There being then no institution of heirs as regards the properties covered by the trust, the Court of Appeals held that "there should be intestate succession concerning the same, with the nearest relative of the deceased entitled to inherit the properties in accordance with the law on intestacy. The case should, therefore, be remanded to the lower court." [6] Hence this petition for certiorari to review the aforesaid resolution of the Court of Appeals.

The validity of the above clause was not passed upon in the decision of January 18, 1967 of the Court of Appeals; rather, it was assumed. The view that then prevailed was that the approval of the project of partition sufficed to dispose of that question. The challenged resolution of January 8, 1968 betrayed a change of heart of the Court of Appeals. It explained why: "The contention of [petitioner] that there had already been a project of partition approved by the lower court [which] operates as a waiver on the part of the [respondents] to raise the issue of the invalidity of the questioned provision of the will which We have sustained in our decision, seems to be not well taken. We have discovered from the records that the properties involved in this case have not been disposed of as yet and are still within the reach of the probate court. The necessary procedure, therefore, in accordance with the law as delineated in the above discussion, should be observed. The order of the lower court granting the petition for the formation of the trust in question should be annulled as being in violation of the rules against perpetuities and the limitation on the prohibition for the alienation of the property left by the deceased." [7]

We will not deviate from the approach thus taken by the Court of Appeals in the challenged resolution of January 8, 1968, but we differ in our conclusion. We find the clause, at least insofar as the first twenty-year period is concerned, in accordance with the Civil Code provision. [8] Accordingly, we find for petitioners and reverse the Court of Appeals.

The validity of the clause in question if interpreted to conform to the controlling legal norm prescribed by the Civil Code cannot be assailed. If the January 18, 1967 decision of the Court of Appeals were to be modified, it is only in the above sense. The reconsideration, as was done in the challenged resolution, which would have the effect of partial intestacy, was uncalled for.

It does not admit of doubt that in the disputed clause the testatrix did make clear her purpose not to mortgage or to sell forevermore (kailan man) certain properties left by her. There would seem then some justification for the Court of Appeals in the challenged resolution to deny force and effect to such a wish considering that "a perpetual prohibition to alienate" is by the Civil Code forbidden. [9] The more controlling provision, however, as already made mention of is supplied by Article 870. Its terms are clear. "The dispositions of the testator declaring all or part of the estate inalienable for more than twenty years are void."

The codal provision does not need any interpretation. It speaks categorically. What is declared void is the testamentary disposition prohibiting alienation after the twenty-year period. In the interim, such a provision does not suffer from the vice of invalidity. It cannot be stricken down. Time and time again, we have said, and we now

repeat, that when a legal provision is clear and to the point, there is no room for interpretation. It must be applied according to its literal terms.[10]

Even with the purpose that the testatrix had in mind were not as unequivocal, still the same conclusion emerges. There is no room for intestacy as would be the effect if the challenged resolution of January 8, 1968 were not set aside. The wishes of the testatrix constitute the law. Her will must be given effect. This is so even if there could be an element of uncertainty insofar as the ascertainment thereof is concerned. In the language of a Civil Code provision: "If a testamentary disposition admits of different interpretations, in case of doubt, that interpretation by which the disposition is to be operative shall be preferred." [11] Nor is this all. A later article of the Civil Code equally calls for observance. Thus: "The words of a will are to receive an interpretation which will give to every expression some effect, rather than one which will render any of the expressions in-operative; and of two modes of interpreting a will, that is to be preferred which will prevent intestacy." [12]

The net result would be to reaffirm the conclusion reached that the challenged resolution of January 8, 1968 is objectionable, in view of its lack of fidelity to the controlling legal norms.

In no other way can there be deference paid to what the testator had in mind. This Court so emphatically expressed it in a decision rendered more than sixty years ago. Thus: "Respect for the will of a testator as expressed in his last testamentary disposition, constitutes the principal basis of the rules which the law prescribes for the correct interpretation of all of the clauses of the will; the words and provisions therein written must be plainly construed in order to avoid a violation of his intentions and real purpose. The will of the testator clearly and explicitly stated must be respected and complied with as an inviolable law among the parties in interest. Such is the doctrine established by the supreme court of Spain, constantly maintained in a great number of decisions, among which are those of March 24, 1863, April 28, 1882, and December 16, 1903." [13]

Moreover, so compelling is the principle that intestacy should be avoided and the wishes of the testator allowed to prevail that we could even vary the language of the will for the purpose of giving it effect. Thus: "Where the testator's intention is manifest from the context of the will and surrounding circumstances, but is obscured by inapt and inaccurate modes of expression, the language will be subordinated to the intention, and in order to give effect to such intention, as far as possible, the court may depart from the strict wording and read a word or phrase in a sense different from that which is ordinarily attributed to it, and for such purpose may mould or change the language of the will, such as restricting its application or supply-ing omitted words or phrases." [14]

A more recent reiteration of such an attitude is found in an opinion by former Chief Justice Paras. Thus: "As a closing observation, it is not for us to discover the motives of Oliva Villapaña in leaving her properties to the person named in the will, and omitting therefrom the oppositors-appellees. Suffice it to state that the trial court itself found the will to have been executed free from falsification, fraud, trickery or undue influence, with Oliva having testamentary capacity; and in such a situation it becomes our duty to give expression to her will." [15]

What further fortifies the view taken by us is the admitted fact, as was expressed in the January 13, 1967 decision of the Court of Appeals that at the time of her death the deceased "left no compulsory heirs or forced heirs and, consequently, free to dispose of her properties even to strangers * * * as provided in her will." [16] That is what she did and petitioners have no valid cause for complaint, at least not one cognizable in a court of justice.

As we had occasion to state: "Though it might appear right that Amando Clemente should receive something from the estate because he, together with Arisen Bustamante, has been raised by the testatrix, and both are her relatives, nevertheless it would be venturesome for us to advance our own idea of a just distribution of the property in the face of a different mode of disposition so clearly expressed by the testatrix in the later will. As she had no forcible heirs, she was absolutely free to give her estate to whomsoever she chose, subject of course to the payment of her

debts. It would be a dangerous precedent to strain the interpretation of a will in order to effect what the court believes to be an equitable division of the estate of a deceased person. The only function of the courts in these cases is to carry out the intention of the deceased as manifested in the will. Once that intention has been determined through a careful reading of the will or wills, and provided the law on legitimes has not been violated, it is beyond the pale of judicial cognizance to inquire into the fairness or unfairness of any devise or bequest. It might be said that it is hard to understand how, in a temporary anger at Amando Clemente, the testatrix would entirely cut him off from the inheritance. We should not, however, sit in judgment upon her motives and sentiments, first because, as already stated, nothing in the law restrained her from disposing of her property in any manner she desired, and secondly, because there are no adequate means of ascertaining the inward processes of her conscience. She was the sole judge of her own attitude toward those who expected her bounty." [17]

Nothing can be clearer, therefore, than that petitioners could not challenge the provision in question. It had no right to vindicate. Such a right may never arise. The twenty-year period is still with us. What would transpire thereafter is still locked up in the inscrutable future, beyond the power of mere mortals to foretell. At any rate, we cannot anticipate. Nor should we. We do not possess the power either of conferring a cause of action to a party when, under the circumstances disclosed, it had none.

WHEREFORE, the resolution of January 8, 1968 of the Court of Appeals is set aside, thus leaving in full force and effect its decision of January 18, 1967, which affirmed the lower court order of May 11, 1964. With costs against private respondents.

Concepcion, C.J., Reyes, JBL, Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Teehankee, and Barredo, JJ., concur.

Capistrano, J., did not take part.

[1] Cf. Santos v. Manarang, 27 Phil. 209 (1914) and Agustines v. Court, 80 Phil. 558 (1948). Otherwise stated, Dicat testor et erit lex.

[2] Decision, pp. 1-2.

[3] Ibid, p. 2.

[4] Resolution, p. 2.

[5] Ibid, p. 7.

[6] Ibid.

[7] Resolution, p. 6.

[8] "ART. 870. The dispositions of the testator declaring all or part of the estate inalienable for more than twenty years are void."

[9] Article 867, par. 2.

[10] Cf. Lizarraga Hermanos v. Yap Tico, 24 Phil. 504 (1913); People v. Mapa, L-22301, August 30, 1967; Pacific Oxygen & Acetylene Co. v. Central Bank, L-21881, March 1, 1968; Dequito v. Lopez, L-27757, March 28, 1968 and Padilla v. City of Pasay, L-24039, June 29, 1968.

[11] Art. 788.

[12] Art. 791.

[13] *Benedicto v. Javellana*, 10 Phil. 197, 201 (1908).

[14] *Solla v. Ascueta*, 49 Phil. 333, 347-348 (1926).

[15] *Barrera v. Tampoco*, 94 Phil. 346, 353 (1954).

[16] Decision, p. 2.

[17] *Bustamante v. Arevalo*, 73 Phil. 635, 638 (1942).

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