

FLORENCIA VITUG, PLAINTIFF AND APPELLEE, VS. DONATA MONTEMAYOR, ET ALS., DEFENDANTS; DONATA MONTEMAYOR, DEFENDANT AND APPELLANT.

G.R. No. L-4156. May 15, 1952

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Plaintiff filed this action against the defendant in the Court of First Instance of Pampanga to recover one-twelfth (1/12) share of thirty (30) parcels of land situated in Lubao, Pampanga, which are actually registered in the name of said defendant, praying at the same time that the latter be condemned to pay to the plaintiff the sum of P1,000 yearly from May 29, 1929, and the costs of action.

The principal allegations of the complaint are: Clodualdo Vitug married two times, his first wife being Gervacia Flores, with whom he had three children, to wit, Victor, Lucina and Julio. Julio Vitug is survived by his only daughter, Florencia, plaintiff herein. His second wife is Donata Montemayor, with whom he had eight children all of whom are made defendants herein.

After the death of Clodualdo Vitug, intestate proceedings for the settlement of his estate were instituted and his widow, Donata Montemayor, was appointed administratrix of the estate. In said proceedings, all the properties of the deceased were inventoried and distributed among his heirs, with the exception of the thirty (30) parcels of land involved in this litigation. It was there agreed by the widow and the other heirs to divide and partition all the properties composing the estate into twelve equal parts, one-twelfth (1/12) share to be given to each heir, including the widow.

Plaintiff claims that, taking advantage of her position as administratrix and of the fact that she was in actual possession of the thirty parcels of land involved in this litigation, the widow, Donata Montemayor, deliberately concealed said properties and excluded them from the inventory and the project of partition she submitted in the intestate proceedings with the result that they were not included in the distribution of the estate among the heirs.

In traversing the foregoing averments, defendants claimed in their answer that the thirty parcels of land in question are paraphernal and as such belong exclusively to Donata Montemayor, whose possession thereof has been public, uninterrupted, continuous, in the concept of owner, exclusive and adverse to all other persons, from time immemorial, and whose title thereto is evidenced by Transfer Certificates of Titles Nos. 2842, 2289, 2887 and 2888 of the office of the Register of Deeds of Pampanga. These properties being paraphernal in nature, Donata Montemayor claims that she is not in duty bound to include them in the settlement and distribution of the estate of her deceased husband Clodualdo Vitug.

The issues being thus joined, and after due hearing, the court rendered its decision, which was later amended, holding that the thirty parcels of land in question are conjugal and should have been included in the settlement and distribution of the estate of the deceased Clodualdo Vitug. Consequently, it rendered judgment against the defendants, the dispositive part of which reads:

"In view of the foregoing considerations, this Court is of the opinion that the thirty parcels of land described in the complaint, one-twelfth (1/12) of which is claimed by Florencia Vitug, as heir to her deceased father, Clodualdo Vitug, husband of Donata Montemayor, were purchased with funds belonging to the conjugal partnership of Clodualdo Vitug and Donata Montemayor. But from the conduct of Clodualdo Vitug and Donata Montemayor during the existence of their marital life, the inference is clear that Clodualdo had the unequivocal intention of transmitting the full ownership of the thirty (30) parcels of land so bought to his wife, Donata Montemayor, thus considering the one-half (1/2) of the funds of the conjugal partnership so advanced for the purchase of the said parcels of land as reimbursible to the estate of Clodualdo Vitug on his death. Consequently, the one-twelfth (1/12) share of Florencia Vitug is only the one-twelfth (1/12) of the P95,000 funds advanced by the marital partnership in the purchase of the thirty (30) parcels of land now involved in this case, or one-twelfth (1/12) of P47,500 which should have belonged to the deceased Clodualdo Vitug at the time of his death, or P4,081.02. So this one-twelfth (1/12) or P4,081.02 shall pertain to Florencia Vitug as her share, plus six per cent (6%) on said amount from the time of the presentation of the complaint. Wherefore, judgment is hereby modified condemning the herein defendant Donata Montemayor to pay Florencia Vitug the sum of P4,081.02, plus six per cent (6%) thereon from the time of the filing of this complaint, and the payment of the costs".

The principal issue to be determined in this appeal is whether the thirty parcels of land involved in this litigation are conjugal, as claimed by the plaintiff, or paraphernal, as claimed by the defendants. If the former, the relief prayed for should be granted; if the latter, the action should be dismissed.

It appears that Donata Montemayor married Clodualdo Vitug on January 15, 1898, and from their marriage eight children were born. In the year 1905, she inherited from her parents several parcels of land which mostly were swamps, mangrove or nipa in nature, with the exception of a small portion which was already then a fishpond. All these properties had in 1906 to 1917 a combined assessed value of P10,790. During their marital life, these swamp, mangrove or nipa lands were improved by their conversion into fishponds, although there is no proof as to the source of the money used in making the improvement, and with regard to the property described in Exhibit "M" the evidence shows that it was converted into fishpond during the marriage but the conversion was made by the lessees in pursuance of an express condition agreed upon in the contract of lease covering the same. After their conversion into fishponds, these properties were sold by Donata Montemayor, together with the small fishpond, for an aggregate price of P116,468.37, the transactions having taken place in the years 1925, 1927 and 1928 respectively. The increase in value of said properties as a result of their conversion is P105,678.37.

The lower court considered this increase reimbursible to the conjugal partnership because, there being no evidence adduced as to the source of the money used in the conversion of the properties into fishponds, the legal presumption that arises, according to the court, is that the same had come from the conjugal fund or from the income earned by the labor or industry of each spouse. To this we agree, for under our old Civil Code, property acquired for a valuable consideration during the marriage at the expense of the common fund, or property obtained by the industry, wages or work of the spouses, or of either of them, belongs to the conjugal partnership (Article 1401). In the same way, any useful expenditure made for the benefit of the separate property of either one of the spouses by means of advances made by the partnership, or by the industry of the husband or wife, is partnership property (Article 1404). This being the legal presumption with regard to property acquired during the marriage in the absence of clear evidence proving that the money paid for its acquisition pertains exclusively either to the husband or to the wife, it follows by the same, token that all monies spent during tin marriage and paid for said property are presumed conjugal in the absence of clear evidence proving that the said monies pertain exclusively either to the husband or to the wife. Manresa, commenting on article 1401 of the old civil code, says that all expenses incurred by the spouses during marriage are presumed to have come from the common fund (9 Manresa, 633-635).

Here it does not clearly appear how much was actually spent by the spouses in converting the properties into fishponds because the parties have not presented any evidence on the matter. There is, therefore, no way by which we can accurately determine the money actually spent by the spouses in the conversion. But such failure is no impediment at all for us to determine the amount that should be actually reimbursed to the conjugal partnership, for in such a case the only way available is to estimate and determine the increase in value of the improved properties. This is the way pointed out by Manresa (9 Manresa, 623-624), and this is the pattern used by the court a quo. The increase in value, as we have already stated, is P105,678.37. This is the amount refundable to the conjugal partnership. And as the evidence shows that the funds used in purchasing the thirty parcels of land in question had come from this refundable amount, it logically follows that said properties are conjugal and should have formed part of the estate of the late Clodualdo Vitug. The fact that said properties are now registered in the exclusive name of Donata Montemayor does not destroy their nature as conjugal because they were acquired during coverture and the presumption of law created in favor of the conjugal partnership has not been overcome by clear proof to the contrary (*Guingguing vs. Abuton*, 48 Phil., 144).

One point raised by appellants which needs to be considered refers to the claim that the conversion during the marriage of the property described in Exhibits "M" and "M-1" at the expense of the lessees in accordance with the contract of lease cannot be considered as part of the rent or fruits of said property thereby implying that the increase in value of said property as a result of the conversion is not refundable to the conjugal partnership. This claim has no merit. It appears that this property was given in lease subject to the condition that it should be converted into a fishpond at the expense of the lessees and that, upon the termination of the lease, it shall be returned to the lessor as fishpond and in good condition. It also appears that the land has an area of 56 hectares, 25 ares and 50 centares, and the lease was to run for a period of eight years, but the canon to be paid was only a lump sum of P8,500, or an average of P1,062.50 a year. This is greatly disproportionate to the extent and area of the land leased. The reason for this inadequacy of the canon can only be attributed to the stipulation that the land was to be converted into a fishpond at the expense of the lessees. It is, therefore, fair to presume that the expense incurred in the conversion of the land into a fishpond which has greatly contributed to the increase of its value partakes of the nature of an additional consideration paid for the lease of the aforesaid property.

All things considered, we are of the opinion, and so hold, that the errors attributed by appellants to the lower court are not well taken.

Wherefore, the decision appealed from is hereby affirmed, with costs against appellants.

Paras, C.J., Pablo, Bengzon, Tuason, and Labrador, JJ., concur.

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