

**VICENTE ALDABA, ET AL., PETITIONERS, VS. COURT OF APPEALS,
CESAR ALDABA, ET AL., RESPONDENTS.***G.R. No. L-21676. February 28, 1969*

Ponente: ZALDIVAR, J.

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This is a petition to review the decision of the Court of Appeals in case CA-G.R. No. 27561-R, entitled "Vicente Aldaba, et al., plaintiffs-appellants, versus Cesar Aldaba, et al., defendants-appellees", affirming the decision of the Court of First Instance of Manila in its Civil Case No. 41260.

When Belen Aldaba, a rich woman of Malolos, Bula-can, died on February 25, 1955, she left as her presumptive heirs her surviving husband Estanislao Bautista, and her brother Cesar Aldaba. Belen Aldaba was childless. Among the properties that she left were the two lots involved in this case, situated at 427 Maganda Street, Santa Mesa, Manila.

Petitioners Dr. Vicente Aldaba and Jane Aldaba, father and daughter respectively, lived during the last war in their house in Malate, Manila. Belen Aldaba used to go to their house to seek the advice and medical assistance of Dr. Vicente Aldaba. When the latter's house was burned during the liberation of Manila in 1945, Belen Aldaba invited Dr. Aldaba and his daughter, who was then a student in medicine, to live in one of her two houses standing on the lots in question, and the Aldaba father and daughter accepted the offer of Belen and they actually lived in one of those two houses until sometime in 1957 when respondent Emmanuel Bautista filed an ejectment case against them in the city court of Manila. Dr. Vicente Aldaba continued to act as a sort of adviser of Belen, and Jane, after becoming a qualified doctor of medicine, became the personal physician of Belen until the latter's death on February 25, 1955.

On June 24, 1955, the presumptive heirs, Estanislao Bautista and Cesar Aldaba, executed a deed of extrajudicial partition of the properties left by the deceased Belen Aldaba, by virtue of which deed the two lots in question were allotted to Cesar Aldaba. Subsequently, on August 26, 1957, herein respondents Cesar Aldaba and Emmanuel Bautista, the latter being a grandson of Estanislao Bautista by his first marriage, executed a deed whereby the two lots that were allotted to Cesar Aldaba were ceded to Emmanuel Bautista in exchange of the latter's lot situated at San Juan, Rizal. By virtue of the deed or extrajudicial partition and the deed of exchange, Transfer Certificates of Title Nos. 1334 and 1335 respectively covering lots Nos. 32 and 34 - now in question - both in the name of Belen Aldaba, were cancelled by the Register of Deeds of Manila, and Transfer Certificates of Title Nos. 49996 and 49997 in the name of Emmanuel Bautista were issued in lieu thereof.

Emmanuel Bautista then required Dr. Vicente Aldaba to vacate the lots in question and, upon the latter's refusal, filed an ejectment case against him in the City Court of Manila. Without awaiting the final result of the ejectment case, herein petitioners filed, on August 22, 1959, a complaint in the Court of First Instance of Manila, docketed as Civil Case No. 41260, against herein respondents Cesar Aldaba and Emmanuel Bautista and the Register of Deeds of Manila, alleging that they had become the owners of the two lots in question, and praying that the deed

or partition entered into by Estanislao Bautista and Cesar Aldaba be declared null and void with respect to Lot No.32, covered by Transfer Certificate of Title No. 1334, and lot No. 34 covered by Transfer Certificate of Title No. 1335; that said lots be declared the property of therein plaintiffs (herein petitioners); and that the Register of Deeds of Manila be ordered to cancel TCT Nos. 49996 and 49997 in the name of Emmanuel Bautista and in lieu thereof issue two new TCT's in the name of therein plaintiffs.

After hearing, the court a quo rendered a decision dismissing the complaint, and declaring, among others, that if the deceased Belen Aldaba intended to convey the lots in question to Vicente Aldaba and Jane Aldaba, by way of donation, the conveyance should be considered a donation inter vivos, for the validity of which a public instrument was necessary pursuant to Article 749 of the Civil Code. The dispositive portion of the decision of the trial court reads as follows:

"IN VIEW WHEREOF both complaint and counterclaim dismissed; the Court holds Emmanuel Bautista to be the absolute owner of the property in question, land and improvement, but with the right of plaintiffs to stay until they should have been reimbursed of P5,000.00 but without any obligation, until such reimbursement, to pay any rental unto defendant Emmanuel Bautista. No pronouncement as to costs."

From this decision, therein plaintiffs appealed to the Court of Appeals, and the latter court rendered a decision, on June 21, 1963, raising from P5,000 to P8,000 the amount to be reimbursed to plaintiffs-appellants, but affirming in all other respects the decision of the lower court. Herein petitioners' motion for reconsideration of the decision having been denied by the Court of Appeals, they forthwith filed the present petition in this Court.

Before this Court, petitioners now contend that the Court of Appeals erred: (1) in affirming the decision of the Court of First Instance; (2) in holding that the donation, as found by the Court of First Instance of Manila, was a simple donation inter vivos and not a donation "con causa onerosa" and so it was void for it did not follow the requirements of Article 749 of the Civil Code; (3) in not holding that the property in question had already been donated to herein petitioners in consideration of the latter's services; (4) in not declaring petitioners to be the absolute owners of the property in dispute; and (5) in considering testimonies which had been stricken out.

The errors assigned by petitioners being inter-related, We are going to discuss them together.

Petitioners contend that petitioners Dr. Vicente Aldaba and Jane Aldaba had rendered services to the deceased Belen Aldaba for more than ten years without receiving any compensation, and so in compensation for their services Belen Aldaba gave them the lots in dispute including the improvements thereon. It is the stand of petitioners that the property in question was conveyed to them by way of an onerous donation which is governed by Article 733, and not Article 749, of the Civil Code. Under Article 733 of the Civil Code an onerous donation does not have to be done by virtue of a public instrument. The petitioners point to the note, Exhibit 6, as indicating that a donation had been made, which note reads as follows:

"June 18, 1953

"Jane,

Huag kayong umalis diyan. Tala-gang iyan ay para sa inyo. Alam nila na iyan ay sainyo.

Belen A. Bautista."

Petitioners maintain that the note, although it could not transmit title, showed, nevertheless, that a donation had already been made long before its writing, in consideration of the services rendered before the writing and to be rendered after its writing. And the donation being with an onerous cause, petitioners maintain that it was valid even if it was done orally. Petitioners further maintain that if Exhibit 6 labors under some ambiguity, this

ambiguity is cured by Exhibit 7, which reads as follows:

"June 27, 1956

"Dear Nana Tering,

"Narito po ang notice tungkol sa amillaramiento na pagbabayaran diyan sa lupa at bahay na kinatatayuan ninyo. Sa Malolos po ito tinanggap. Ang pag-babayaran po ng Inkong ay bayad na.

"Gumagalang,

"Cely."

The addressee, Tering, was the wife of Dr. Vicente Aldaba, and the sender, Cely, was the wife of respondent Emmanuel Bautista. This note, petitioners argue, proves that respondents had recognized the ownership of the petitioners of the house and lot, for, otherwise, Cely should have sent the notice of real estate tax to respondent Cesar Aldaba, to whom was allotted the property in question by virtue of the extra-judicial partition.

Respondents, Cesar Aldaba and Emmanuel Bautista, on the other hand, contend that the evidence of the plaintiff does not disclose clearly that a donation had been made. Respondents point out that the note, Exhibit 6, as worded, is vague, in that it could not be interpreted as referring to the lots in question, or that which was given therein was given for a valuable consideration. And finally, respondents contend that if the property had really been given to petitioners, why did they not take any step to transfer the property in their names?

The Court of Appeals, in its decision, made the following findings and conclusions:

- (1) The note Exhibit 6 did not make any reference to the lots in question, nor to the services rendered, or to be rendered, in favor of Belen. The note was insufficient as a conveyance, and hence could not be considered as evidence of a donation with onerous cause. This note can be considered, at most, as indicative of the intention to donate.
- (2) There is no satisfactory explanation why from 1945 to 1955, no notarial document was executed by Belen in favor of petitioners who were educated persons. The reason given was "extremada delicadeza" which reason the Court of Appeals considered as unsatisfactory.
- (3) The evidence regarding the value of the services (P53,000.00) rendered by petitioners (father and daughter) to Belen does not improve the proof regarding the alleged donation. If petitioners believed that the gratuitous use of the property was not sufficient to compensate them for their services, they could have presented their claims in the intestate proceedings, which they themselves could have initiated, if none was instituted.

The conclusion of the Court of Appeals, as well as that of the trial court, that there was no onerous donation made by Belen Aldaba to petitioners is based upon their appreciation of the evidence, and this Court will not disturb the factual findings of those courts.

The question to be resolved in the instant case is: Was there a disposition of the property in question made by the deceased Belen Aldaba in favor of herein petitioners? The note, Exhibit 6, considered alone, was, as held by the Court of Appeals, confirming the opinion of the lower court, only an indication of the intention of Belen Aldaba to donate to the petitioners the property occupied by the latter. We agree with this conclusion of the trial court and the Court of Appeals. The note, in fact, expressed that the property was really intended for the petitioners, "talagang iyan ay para sa inyo." If the property was only intended for petitioners then, at the time of its writing, the property had not yet been disposed of in their favor. There is no evidence in the record that such intention was effectively carried out after the writing of the note. Inasmuch as the mere expression of an intention is not a

promise, because a promise is an undertaking to carry the intention into effect[1], We cannot, considering Exhibit 6 alone, conclude that the deceased promised, much less did convey, the property in question to the petitioners. That the note, Exhibit 6, was only an indication of an intention to give was also the interpretation given by petitioners themselves, when they said in their memorandum, dated February 2, 1960, in the lower court[2] thus:

"Legally speaking, there was a contractual relation created between Belen Aldaba and the plaintiff since 1945 where-by the former would give to the latter the two parcels of land, together with the house standing thereon, upon the rendition of said services. This fact can be gleaned from the note (Exh. "6", Plaintiffs) which in part says: TALAGANG IYAN AY PARA SAINYO."

We have said that Exhibit 6 expressed only the intention to donate. Let us suppose, for the sake of argument, that previous to the writing of the note there had already been a disposition of the property in favor of the petitioners. This disposition alone, would not make the donation a donation for a valuable consideration. We still have to ask: What was the consideration of such disposition? We do not find in the record that there had been an express agreement between petitioners and Belen Aldaba that the latter would pay for the services of the former. If there was no express agreement, could it not be at least implied? There could not be an implied contract for payment because We find in the record that Jane did not expect to be paid for her services. In the memorandum of counsel for the petitioners in the trial court We find this statement:

"For all she did to her aunt she expected not to be paid."[3]

When a person does not expect to be paid for his services, there cannot be a contract implied in fact to make compensation for said services.

"However, no contract implied in fact to make compensation for personal services performed for another arises unless the party furnishing the services then expected or had reason to expect the payment of compensation by the other party. To give rise to an implied contract to pay for services, they must have been rendered by one party in expectation that the other party would pay for them, and have been accepted by the other party with knowledge of that expectation." (58 Am. Jur. p. 512 and cases cited therein).

In the same manner, when the person rendering the services has renounced his fees, the services are not demandable obligations.[4]

Even if it be assumed for the sake or argument that the services of petitioners constituted a demandable debt, We still have to ask whether in the instant case this was the consideration for which the deceased made the (alleged) disposition of the property to the petitioners. As we have adverted to, we have not come across in the record even a claim that there was an express agreement between petitioners and Belen Aldaba that the latter would give the property in question in consideration of the services of petitioners. All that petitioners could claim regarding this matter was that "it was impliedly understood" between them.[5] How said agreement was implied and from what facts it was implied, petitioners did not make clear. The question of whether or not what is relied upon as a consideration had been knowingly accepted by the parties as a consideration, is a question of fact[6], and the Court of Appeals has not found in the instant case that the lots in question were given to petitioners in consideration of the services rendered by them to Belen Aldaba.

We find, therefore, that the conditions to constitute a donation cum causa onerosa are not present in the instant case, and the claim of petitioners that the two lots in question were donated to them by Belen Aldaba cannot be sustained.

WHEREFORE, the decision of the Court of Appeals is affirmed, with costs against the petitioners.

IT IS SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Castro, Fernando, Capistrano, Teehankee, and Barredo, JJ., concur.

Sanchez, J., did not take part.

[1] 17 American jurisprudence, 2d. p. 334.

[2] Record on Appeal, pp. 87-88. Underscoring supplied.

[3] Record on Appeal, p. 83.

[4] Manresa, Commentaries al Código Civil Español, 5th ed. Vol. V, p. 73.

[5] Brief for petitioners, p. 14.

[6] 17 American Jurisprudence 2d. pp. 434-435.

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