

## **BUHAY DE ROMA, PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND FELICIDAD CARIN GAL, AS GUARDIAN OF ROSALINDA DE ROMA, RESPONDENTS.**

*G.R. No. L-46903. July 23, 1987*

Ponente: CRUZ, J.

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### **CRUZ, J.:**

Candelaria de Roma had two legally adopted daughters, Buhay de Roma and Rosalinda de Roma. She died intestate on April 30, 1971, and administration proceedings were instituted in the Court of First Instance of Laguna by the private respondent as guardian of Rosalinda. Buhay was appointed administratrix and in due time filed an inventory of the estate. This was opposed by Rosalinda on the ground that certain properties earlier donated by Candelaria to Buhay, and the fruits thereof, had not been included.[1]

The properties in question consisted of seven parcels of coconut land worth P10,297.50.[2] There is no dispute regarding their valuation; what the parties cannot agree upon is whether these lands are subject to collation. The private respondent vigorously argues that it is, conformably to Article 1061 of the Civil Code. Buhay, for her part, citing Article 1062, claims she has no obligation to collate because the decedent prohibited such collation and the donation was not officious.

The two articles provide as follows:

"Article 1061. Every compulsory heir, who succeeds with other compulsory heirs, must bring into the mass of the estate any property or right which he may have received from the decedent during the lifetime of the latter, by way of donation, or any other gratuitous title, in order that it may be computed in the determination of the legitime of each heir, and in the account of the partition."

"Article 1062. Collation shall not take place among compulsory heirs if the donor should have so expressly provided, or if the donee should repudiate the inheritance, unless the donation should be reduced as inofficious."

The issue was resolved in favor of the petitioner by the trial court,[\*] which held that the decedent, when she made the donation in favor of Buhay, expressly prohibited collation. Moreover, the donation did not impair the legitimes of the two adopted daughters as it could be accommodated in, and in fact was imputed to, the free portion of Candelaria's estate.[3]

On appeal, the order of the trial court was reversed, the respondent court[\*][\*] holding that the deed of donation contained no express prohibition to collate as an exception to Article 1062. Accordingly, it ordered collation and equally divided the net estate of the decedent, including the fruits of the donated property, between Buhay and Rosalinda.[4]

The pertinent portions of the deed of donation are as follows:

IKALAWA. — Na alang-alang sa aking pagmamahal, pagtingin at pagsisilbi sa akin ng aking anak na si

BUHAY DE ROMA, kasal kay Arabella Castaneda, may karampatang gulang, mamamayang Pilipino at naninirahan at may pahatirang-sulat din dito sa Lunsod ng San Pablo sa pamamagitan ng kasulatang ito ay kusang-loob kong ibinibigay, ipinagkakaloob at inililipat sa nabanggit na BUHAY DE ROMA, sa kanyang mga kahalili at tagapagmana, sa pamamagitan ng pagbibigay na di na mababawing muli, ang lahat ng mga lagay ng lupa na sinasabi sa itaas, sa ilalim ng kasunduan na ngayon pa ay siya na ang nagmamay-aring tunay ng mga lupang ito at kanya nang maaring ipalipat ang mga hoja declaratoria ng mga lupang ito sa kanyang pangalan, datapwa't samantalang ako ay nabubuhay, ay ako rin ang makikinabang sa mga mapuputi at mamomosesion sa mga nasabing lupa;

"IKATLO. — Na pinagtibay ko na ako ay marami pang ibang mga pag-aari na sapat pang aking ikabuhay at sa pagbibigay kong ito ay hindi masisira ang legitima ng mga tao na dapat magmana sa akin, sapagkat ang mga lupang sinasabi sa itaas ay bahagi ng aking kabuhayan na ako ay may layang ipamigay kahit na kaninong tao na kung tawagin ay Libre Disposicion." [5]

We agree with the respondent court that there is nothing in the above provisions expressly prohibiting the collation of the donated properties. As the said court correctly observed, the phrase "sa pamamagitan ng pagbibigay na di na mababawing muli" merely described the donation as "irrevocable" and should not be construed as an express prohibition against collation.[6] The fact that a donation is irrevocable does not necessarily exempt the subject thereof from the collation required under Article 1061.

We surmise from the use of such terms as "legitime" and "free portion" in the deed of donation that it was prepared by a lawyer, and we may also presume he understood the legal consequences of the donation being made. It is reasonable to suppose, given the precise language of the document, that he would have included therein an express prohibition to collate if that had been the donor's intention.

Anything less than such express prohibition will not suffice under the clear language of Article 1062. The suggestion that there was an implied prohibition because the properties donated were imputable to the free portion of the decedent's estate merits little consideration. Imputation is not the question here, nor is it claimed that the disputed donation is officious. The sole issue is whether or not there was an express prohibition to collate, and we see none.

The intention to exempt from collation should be expressed plainly and unequivocally as an exception to the general rule announced in Article 1062. Absent such a clear indication of that intention, we apply not the exception but the rule, which is categorical enough.

There is no need to dwell long on the other error assigned by the petitioner regarding the decision of the appealed case by the respondent court beyond the 12-month period prescribed by Article X, Section 11 (1) of the 1973 Constitution. As we held in *Marcelino v. Cruz*, [7] the said provision was merely directory and failure to decide on time would not deprive the corresponding courts of jurisdiction or render their decisions invalid.

It is worth stressing that the aforementioned provision has now been reworded in Article VIII, Section 15, of the 1987 Constitution, which also impresses upon the courts of justice, indeed with greater urgency, the need for the speedy disposition of the cases that have been clogging their dockets these many years. Serious studies and efforts are now being taken by the Court to meet that need.

WHEREFORE, the appealed decision is **AFFIRMED** in toto, with costs against the petitioner. It is so ordered.

Teehankee, C.J., Narvasa, Paras, and Gancayco, JJ., concur.

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[1] Record on Appeal, pp. 14-23.

[2] Ibid., pp. 69-73.

[\*] Judge Manuel T. Reyes.

[3] Rollo, pp. 16-25.

[\*][\*] San Diego, J., ponente, and Busran and Jimenez, JJ.

[4] Ibid., pp. 31-35.

[5] Id., pp. 15-16.

[6] Tagalog Forms for Notaries Public, Rosendo Ignacio, 1967, 2[nd] Ed., pp. 21, 23, 26, 28, 31.

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