

**IN THE TESTATE ESTATE OF DON ISIDRO ARAGON, DECEASED.
JOSEFA A. VDA. DE CLAUDIO, RAMON DIOKNO AND MENANDRO
QUIOGUE, CLAIMANTS AND APPELLANTS, VS. CRISANTO ARAGON,
ADMINISTRATOR ...**

G. R. No. L-2920. January 23, 1951

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Isidro Aragon died on November 26, 1944, in the city of Manila, leaving a will. In paragraph 7 of the will, the deceased made certain legacies in favor of the following persons: Josef a Aragon Vda. de Claudio, P10,000; Ramon Diokno, P8,000; Menandro Quiogue, P4,000.

Instead of taking steps to have the will probated in accordance with law, the heirs made and executed a document wherein they agreed to distribute among them the properties of the deceased in accordance with the terms and conditions ordained by him in his will, including money and shares of stock not mentioned therein. And the reference to the factory of soap which was burdened with the payment of legacies, the following was agreed upon:

"2.º Asimismo se adjudica a Clara Aragon de Villanueva, Crisanto Aragon, Conception Aragon de Santiago, Guillermo Aragon, Francisco Aragon, Asuncion y Lilia Garcia, Nominada Aragon y Valentina Tibayan viuda de Aragon en comun y proindiviso, y en la proportion de una octava parte cada una (considerandose a Asuncion y Lilia Garcia como una parte), la fabrica de jabon en Pasay, Rizal, con toda au existencia, equipo y mobiliario, incluyendo los edificios y el terreno en que se halla levantada, * * *".

After the death of Isidro Aragon, some pieces of equipment that were attached to the soap factory, such as a Buick jeetney, a Chevrolet truck and a Ford truck, were sold by the heirs on June 28, 1945. The value of this equipment amounts to P6,000.00. The building in which the factory of soap was housed was leased by the administrator with a monthly rental of P400.00, so that he received a total of P10,400 as rental for twenty-six months, and when he later decided to reside in the building he never paid any rental therefor as it was his duty to do.

The heirs apparently had taken some steps to sell the property, perhaps with the purpose of paying off the legacies, but their efforts proved futile and so far they have not paid any of the legacies, while the building is fast deteriorating and is continuously menaced by destruction by fire without hope of recovery because it has never been insured.

For the foregoing reasons, invoking the provisions of Rule 74, section 4, of the Rules of Court, the legatees, through counsel, filed with the Court of First Instance of Manila on August 29, 1947, a motion praying that the rentals so far earned by the property be ordered deposited with the court to pay the legacies made in favor of the movants with legal interest thereon, and that a writ of execution be issued to pay the balance of the legacies, if any, against the factory of soap, and the land, buildings, furniture and equipment belonging thereto, charging the costs and other incidental expenses of the proceedings against the heirs of the deceased.

On October 22, 1947, the court, instead of granting the motion, ordered the movants to submit a petition for the probate of the will on the ground that, unless the will is probated, the legacies which movants claim to have been made in their favor cannot be entertained; and this step having been taken, the will was admitted to probate, and Crisanto Aragon was appointed administrator of the estate.

On January 20, 1948, the legatees moved that the administrator be ordered to sell the property at public auction in order that with its proceeds the legacies may be paid as soon as possible. To this the administrator countered stating that, whereas it is the desire of the heirs to comply with the provisions of the will as early as possible, they cannot however agree to the sale of the property at public auction for such would be detrimental to their interests, and in lieu thereof he requested that he be authorized to sell it at the best obtainable price inasmuch as the heirs had agreed to exert their best efforts to sell the property even at a reduced amount of P70,000. This request was granted and the administrator was given four months within which to sell the property with the understanding that if at the expiration of said period the property is still unsold, it would be sold at public auction to the highest bidder.

Two days before the expiration of the period given by the Court, the administrator again asked for six (6) months additional period within which to sell the property, which was strongly opposed by the legatees. The Court, however, granted the administrator an additional period of three (3) months provided that he deliver to the legatees the amount of P6,000 rentals he then had in his possession. The administrator having failed to obey this order, the legatees insisted in their desire that the property be sold at public auction. This pretense was again denied, and on August 18, 1948, the administrator moved that the amounts of the legacies fixed by the testator be reduced in proportion to the price at which the property may be sold for the reason that due to the depreciation of land values the price originally fixed by the testator as basis for the payment of the legacies of P16,500.00 could no longer be realized with the possible result that it may be sold with a reduction of 50 per cent in value. To this motion the legatees filed a vigorous objection contending that the reduction prayed for is unjust and unwarranted under the circumstances. And on September 10, 1948, the court granted the motion stating in its dispositive part as follows:

"En su virtud, el Juzgado encuentra bien fundada la mocion del administrador, y ordena que se reduzcan los legados mandados en el testamento, en proporcion al producto que se obtenga de la venta de la fabrica de jabon, y esta reduccion sera en un por ciento equivalente al por ciento que representan las cantidades asignadas por el testador a los legatarios sobre la base de P116,500 que el ha fijado." (p. 57, Rec. on Appeal).

On October 12, 1948, the legatees moved for a reconsideration of said order invoking the same reasons and praying at the same time that the property in question be immediately sold at public auction, and this motion having been denied, (although the court ordered the administrator to sell the property at public auction and to deposit its proceeds with the clerk of court until further orders), the legatees gave notice of their intention to appeal both from the order of the lower court of September 10, 1948, in toto, and from the order of November 18, 1948, in so far as it maintains its order of September 10, 1948.

The case is now before this Court purely on questions of law.

* * * * *

The only question raised in this appeal refers to the order of the lower court, dated September 10, 1948, which directs the reduction of the legacies in favor of appellants in proportion to the proceeds that may be realized from the sale of the property in question taking into account as basis the original value of P116,500 fixed by the testator in his will. It is claimed that this order is erroneous because the lower court does not have power and authority to grant such reduction under the law.

The question raised herein involves a study of the scope and extent of the power of a testator to dispose of his property in a way that may not impair the rights given to the heirs by law. The issue is fundamental because it strikes at the very power of a person to dispose of his property mortis causa. This calls for a delimitation of this power to determine if in the disposition of his property the testator has transgressed the law.

All authorities are unanimous that the only portion of the estate that cannot be impaired by the testator is the legitime. This is the part of the property which the testator cannot dispose of because the law has reserved it for certain heirs, called forced heirs. (Art. 806, Civil Code). Among these heirs are the legitimate children and descendants with respect to their legitimate parents and ascendants (Art. 807, *idem*). The legitime of these heirs consists of two-thirds (2/3) of the estate, one-half of which the testator may dispose of as a betterment to a legitimate child or descendant. (Art. 808, *idem*). The testator cannot deprive his forced heirs of this legitime, except in cases specifically determined by law. (Art. 813, *idem*). And while a person may make donations, no one can give more than that which he can give by will otherwise, the excess shall be inofficious, and shall be reduced accordingly. (Art. 636, 654, *idem*) and as a rule, testamentary dispositions which impair the legitime shall be reduced on petition of the heirs insofar as they are inofficious or excessive. (Art. 817, *idem*).

The foregoing provisions give a clear idea of the scope and extent of the power of a testator as regards the disposition of his property mortis causa. They demonstrate conclusively that the power of a testator to dispose of his property is untrammelled provided it does not impair the legitime of the heirs. In other words, it can be safely said that all testamentary dispositions are deemed valid if they do not exceed the one-third (1/3) free disposal reserved by law to the testator. Any excess shall be reduced as inofficious.

Bearing in mind the foregoing considerations, the question now to be determined is: do the legacies given by the testator to claimant-appellants in this case impair the legitime of his forced heirs? In other words, do they exceed the portion of free disposal which the law reserves to the testator? The answer cannot but be in the negative in the light of the facts obtaining in this case. It appears undisputed from the evidence of record that all the heirs of the deceased of their own will and accord had distributed -among them the estate in accordance with the terms and conditions of the will so much so that the only thing remaining to be done is the settlement of the legacies in question. In other words, the parties do not seem to dispute the fact that the heirs have already received and taken possession of their respective shares in the inheritance within the limits guaranteed to them by law, with the expectation that, whatever balance may remain after the legacies in question had been paid, it would still be distributed to them, not to complete their legitime, but as an increase or addition to the hereditary portion already received by them. This is clearly apparent in the deed of partition executed by the heirs, and no one now claims that the testator in making the legacies has transgressed the bounds of the law. We can therefore safely affirm that the legitime of the heirs is not in any way impaired by the legacies given to the appellants, and as such they are not inofficious and cannot be validly reduced under the law. To do so would be capricious and arbitrary.

If the legacies are not inofficious, as we have stated before, can they be reduced on some other ground? Of course this would depend upon the desire of the testator clearly expressed in his will. There is nothing that would prevent the testator from doing so if such is his true desire. This is his undisputable prerogative. But this intent must appear clearly in his will in order to prevent that an injustice be done to the legatees. This cannot be left to a mere conjecture. This is necessary in order that the will of the testator may not be thwarted or defeated, more so if the legacies have been made for some onerous consideration. And this intent can only be ascertained by making a careful scrutiny of the provisions of the will on the matter. Let us now quote these provisions of the will:

"8. La Fabrica de Jabon en Pasay (C. T. T. No. 4218, Rizal antes, hoy Manila), con toda su existencia, equipo y mobiliario, sera vendida a un precio no menor de P116,500, y de esta venta se sacaran los legados mandados en el parrafo 7 de esto testamento, asi como los gastos de la testamentaria, y el resto se dividira en ocho partes

iguales, Una octava parte para mi esposa, una octava parte para cada uno de mis seis hijos de primeras y se gun das nupcias, y una octava parte para mis dos nietas por mi difunta hija Adela en partes iguales. Mientras la fabrica no se haya vendido, la misma estara en comunidad entre mis citados esposa, hijos y nietos, con la carga de los legados y gastos referidos y los gastos propios de su administracion, que la tendra Crisanto Aragon, quien podra operarla con la misma libertad que si ftiera yo mismo, y los citados comuneros no podran enagenar o gravar su participation en la comunidad sino a favor de todos o alguno de los otros comuneros. De los productos de la operation de la fabrica, despues de pagados los gastos corrientes de administracion, se iran pagando las cargas, y el resto que hubiere se dividira entre los comuneros como arriba queda dispuesto." (pp. 2-3, Rec. on Appeal).

From the foregoing it should be noted that the testator burdens the factory of soap, with the land, equipment and furniture belonging thereto, with the payment of the legacies and directs that it be sold, to pay the legacies, at a price of not less than P116,500. This is the only pertinent provision on this matter. The testator does not say that if the property is not sold at that price, the legacies will be reduced accordingly. He merely directs that the legacies be paid from the proceeds of the sale, including all the expenses incident to the probate of the will, and that the balance be divided among the heirs. The mere fact that the testator has fixed the price at which the property will be sold, is not indicative of an intention to reduce the legacies if the property is sold at a lesser price. It is merely a statement of his desire to have the property sold at such price in the hope of obtaining greater profit for the benefit of the heirs. It cannot be presumed that the testator wanted to have that price serve as the basis for the payment of the legacies considering the fact that he must be presumed to know that material values are fluctuating in nature. This is a contingency which he is presumed to have in mind when he decided to make the legacies. If notwithstanding his knowledge of this contingency, that is, his knowledge that the price may go down, he did not impose any condition nor limitation on the amount of the legacies to be paid, it must be because of his desire that they be paid in full even if the property charged with their payment be sold at a lesser price. A different interpretation would be capricious and arbitrary. No other interpretation is warranted in the absence of a clear proof to the contrary. This interpretation is fair and is in line with the rule laid down in Art. 675 of the Civil Code. The decision of the Supreme Court of Spain of June 28, 1881, cited by appellants,[1] is of persuasive effect in this case, and supports the view we have here expressed. We are persuaded to conclude that the lower court erred in ordering the reduction of the legacies in the light of the facts obtaining in this case.

Wherefore, the order of the lower court dated September 10, 1948, as well as its order of November 19, 1948, insofar as it maintains said order are hereby Bet aside. The administrator is hereby ordered to pay the legacies as ordained in the will without any reduction. No pronouncement as to costs.

Moron, C. J., Paras, Feria, Pablo, Bengzon, Padilla, Tuason, Montemayor, Reyes and Jugo, JJ., concur.

[1] Una sirvienta a quien su azno legara en testamento 4,000 pesos de las 40,000 que tenia en el Banco de Zaragoza, entablo contra los herederos demanda en reclamacion del legado, que impugnaron aquellos bajo el concepto de que el testador no tenia en dicho establecimiento de credito cantidad alguna. Estimada en todas sus partes la pretension de la actora, la parte demandada interpuso recurso de casacion, por haberse infringido la ley 18, tit. IX, Partida 6.a, pero el Tribunal Supremo declara no haber lugar a el:

"Considerando . . . que D. Leon Puertolas ... no hizo un senalamiento limitativo, sino una asignacion simplemente demostrativa de los fondos a que podia afectarse el pago del legado generico remuneratorio con causa cierta y no discutida . . . (Sentencia 28 junio 1881.—Gacs. de la Sala I.a., t.II. pag. 150.)—21 Enciclopedia Juridica Espafiola, 188." (pp. 10-11, Appellants' briefs.)

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