

PEOPLE BANK AND TRUST CO., PETITIONER AND APPELLANT, VS. THE REGISTER OF DEEDS FOR THE CITY OF MANILA, RESPONDENT AND APPELLEE.

G. R. No. L-41278. May 05, 1934

Ponente: IMPERIAL, J.

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IMPERIAL, J.:

This is an appeal taken by the Peoples Bank and Trust Co., from the judgment rendered by the Court of First Instance of Manila, denying the registration of a certain instrument entitled "Agreement and Declaration of Trust".

The undisputed facts of the case may be summarized as follows:

On October 26, 1933, Dominga Angeles, married to Manuel Sandoval who resides in Palawan and from whom she lives separate and apart, executed an instrument entitled "Agreement and Declaration of Trust" in favor of the Peoples Bank and Trust Co. whereby she conveyed in trust her paraphernal property consisting of three (3) parcels of land together with two (2) buildings thereon, situated at Nos. 1989 and 1933 Juan Luna, Manila, particularly described in transfer certificate of title No. 21661 issued in her name. The said trust was constituted in order that the lands would be subdivided into small lots; that said lots would be sold either for cash or by installments; that the lands would be sold either for cash or by installments; that the trustee would use funds derived from the rents or sale thereof; that the trustee would grant a loan of P10,000 with which to redeem the mortgage in question; and that the said trustee would collect the rents to be derived from said property while the lots remained unsold.

The instrument was presented to the register of deeds for the City of Manila for registration, which was denied by the said official. Whereupon the People Bank and Trust Co. brought the matter in consulta before the Court of First Instance of Manila, which on January 5, 1934, sustained the action of the register of deeds and denied the registration applied for.

The trial court based its decision on the alleged ground that according to the terms of the contract the trustee was authorized to collect the fruits of the paraphernal property while the lots remained unsold or unalienated to other persons in the manner above stated, and, inasmuch as under the provisions of articles 1385 and 1401 (3) of the Civil Code such fruits are considered conjugal partnership property, the management of which corresponds to the husband, in accordance with article 1412 of the said Code, and said husband did not intervene in nor give his consent to the instrument in question, the same is null and void and, therefore, not susceptible of registration.

The appellant contends that pursuant to the provisions of article 1387 of the Civil Code, as amended by section 1 of Act No. 3922 of the Philippine Legislature, the grantor Dominga Angeles did not need marital consent thereto and, therefore, the instrument is valid and susceptible of registration.

The question raised in the appeal does not require interpretation nor application of the provisions of Act No. 3922, amending article 1387 of the Civil Code. For the purposes of the decision it is taken for granted that, in

accordance with the provisions of articles 1385 and 1401 (3) of the Civil Code, the fruits of the paraphernal property, which had been conveyed in trust, belong to the conjugal partnership, the management of which corresponds exclusively to the husband of the grantor (article 1412).

It should be borne in mind that according to the deed of trust the grantor neither parts with nor conveys the rents of her paraphernal property in favor of the trustee but merely authorizes it to collect them during the time the lots remain unsold. The authority thus conferred only constitutes a mere act of administration which article 1384 expressly vents upon the grantor, in the instant case involving paraphernal property which she has not delivered to her husband before a notary, for the purpose conferring its management upon him. The article in question reads as follows:

"ART. 1384. The wife shall have the management of the paraphernal property unless she has delivered the same to her husband before a notary, for the purpose of conferring its management upon him.

"In such cases it shall be the duty of the husband to execute a mortgage for the value of any personality which may be so delivered to him or otherwise secure it in the manner prescribed with respect to dowry property."

If the grantor is legal administratrix of the property in question, there can be no question that she may, as she has done in this case, delegate such power to other persons. To deny her such right would be tantamount to converting her from the administratrix thereof into a mere collector of rents.

To the wife belongs the management of the fruits of her paraphernal property, which has not been delivered to her husband under the formalities prescribed by the law, while such fruits remain unliquidated, on the ground that they answer for the necessary and indispensable expenses incurred in the administration and preservation of the property. Not till then does the husband acquire the right to claim them for the conjugal partnership of which he is the sole administrator. Applying this principle to the case under consideration, it becomes evident that the grantor's husband cannot claim the fruits in question for their conjugal partnership until a liquidation thereof has been made by her.

On the other hand, failure to comply with the requisite prescribed in article 1387 does not render the contract null and void *ad initio* but merely voidable, and the right of action which may arise under such circumstances exclusively belongs to the husband of his heirs. Wherefore, even granting that such public instrument is defective, it is, nevertheless, susceptible of registration.

What we have heretofore stated find support in the following commentaries of Manresa:

"Fortunately there is already a decision of the Supreme Court to that effect. The doctrine is sufficiently explicit. A married woman, actually living separate from her husband, leases her paraphernal property, collects rents and appoints administrators property, collects rents and appoints administrators thereof, without martial consent. The husband claims that such acts demand his permission as an indispensable requisite. The trial court absolves the wife and, upon the appeal, it is held, on November 8, 1898, that the management of paraphernal property conferred upon the wife by article 1384 of the Civil Code carries with it the power to enter into contracts regarding the same, subject only to the limitation contained in article 1387, the wife personally defraying the expenses incurred therein as a consequence, without prejudice to the liabilities to which such property is subject, in accordance with the provisions of article 1385.

"Later, the decision of October 16, 1918, held that the management of the paraphernal property by the wife should be conducted in accordance with the provisions of article 1384 of the Civil Code, which only differs from the former law in that for such acts and contracts executed in connection with said management the wife does not need martial consent. This management should not be understood as limited by the law merely to gathering fruits and collecting rents and interest thereon and delivering them to the husband, for that would be

tantamount to converting the wife from an adminatrix, into a mere collector of rents of the manifold acts embraced by the administration, and which, on the other hand, is compatible with the provisions of article 1385.

"Finally, the decision of January 14, 1928, ratifies this same doctrine and holds that the prohibition contained in article 1387 cannot, from its very nature, be interpreted except in a restrictive manner, by reason of which the wife may legally perform every act not intended to alienate, mortgage or otherwise encumber her paraphernal property, she being authorized to execute contracts arising from the administration of an estate, and consequently to obtain loans, without marital consent, for the benefit of said property.

"From the foregoing, we may conclude that, although the Civil Code has not solved this question at issue explicitly and definitely, the most logical interpretation that can be given to article 1384, in connection with article 1387, is that which grants the wife complete freedom in the management of her paraphernal property and renders marital consent as unnecessary, except for acts expressly started in articles 1387, 995 and 1053. The exceptions contained in articles 61 and 1263, although vague and broad in scope, agree with this solution inasmuch as in the last analysis they admit of cases in which a married woman does not need marital consent. Such broadness leaves enough ground to suppose that the aforesaid cases include the management granted the wife by article 1384.

* * * * *

"The consent of the husband has the same meaning in article 1387 as in all the other articles of the Code which demand this requisite. It does not merely fill up any defect in the capacity of a woman to contract and bind herself. It is a very personal power granted the head of the family to maintain good order therein, as affirmed by the Registry Office, or to avoid loss or damages that the conjugal partnership might suffer without such intervention, as affirmed by the Supreme Court. (Resolution of January 24, 1898, and decisions of June 27, 1866, and January 30, 1872.)

"Lack of marital consent does not render the act null and void but merely voidable at the instance of the husband or of his heirs. Hence the admission for resignation nowadays of contracts executed by the wife without such requisite, stating such circumstance therein, as we have declared at the end of the commentary on article 65, second edition of this work. (Resolution of November 23, 1892, August 22, 1894, and March 31, 1898.)" (Manresa, vol. IX, pp. 433, 434, 448, Fourth Edition.)

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"Article 62 declares null and void the acts executed by the wife without the consent of her husband in cases where such consent is a necessary requisite. However, according to the legal provision just considered, only the husband and his heir may avoid such acts, which is but logical and natural, considering the spirit of the legal provision in question. From the foregoing and applying the Civil Marriage Law and the former laws which accepted the same doctrine, the Supreme Court, in its decisions of June 27, 1862, held the acts performed by a married woman without permission of her husband are null and void but merely voidable, at the instance of the husband or her heirs, on the ground that the legal prohibition in question was not established in favor of third persons but with a different end or purpose, that is, in favor of the husband whom the law wants to protect from possible damages to the conjugal partnership of which he is the head.

"After the Civil Code went into effect, the General Registry Office accepted the same doctrine and even considered acts and contracts, executed by a marriage woman without permission of her husband, susceptible of registration as long as such circumstance was stated in the record, to serve as notice to third persons who might later contract with regard to the same property. (Resolutions of November 23, 1892 and August 22, 1894.) It would seem that this doctrine is contradicted by those established on January 24, 1898, March 29, 1901, and April 21, 1908, but the principal question raised in the first case was whether or not the husband could authorize as third person to give such consent, while in the second and third cases no statement was

made to the effect that the contracts was not registerable, nor much less null and void, but that the deed was not extended by the notary, who instituted the appeal, in accordance with the provisions of the law. On March 31, 1898, the General Registry Office reiterated its views in favor of registration notwithstanding the lack of the requisite of marital consent."

Wherefore, the decision appealed from is hereby reversed, and the register of deeds for the City of Manila is hereby ordered to register the instrument in question, upon payment of the corresponding legal fees, without special pronouncement as to the costs. So ordered.

Malcolm, Villa-Real, Hull, and Goddard, JJ., concur.

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