

LORENZA CONCEPCION, ET AL., PLAINTIFFS AND APPELLEES, VS. EMILIA CONCEPCION, DEFENDANT AND APPELLANT.*G.R. No. L-4225. August 25, 1952*

Ponente: MONTEMAYOR, J.

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The present appeal involves the interpretation of Exhibit A, a deed of donation,—whether it is inter vivos or mortis causa, because if the former, it is valid having been duly accepted by the donee, but if the latter it would be void because being in the nature of disposal of property by will, according to article 620 of the Civil Code, it shall be governed by the rules established for testamentary succession. According to the law governing the execution of wills, a will should be attested by three witnesses, and there should be an attestation clause. But here there are only two witnesses to the deed of donation (Exhibit A), and it contains no attestation clause. For a better understanding of and to facilitate reference to said Exhibit A, we reproduce its pertinent provisions.

ESCRITURA DE DONACIÓN ONEROSA MORTIS CAUSA

Sepan Todos Por La, Presente:

"Yo, Manuela Concepción, mayor de edad, viuda, Filipina, con residencia y dirección postal en el municipio de San Antonio, provincia de Zambales, Filipinas, hago constar que, en consideración a los buenos servicios prestados a mi por mi sobrina, Emilia Concepción, antes y durante estos días y teniendo, además, especial predilección por sus buenas cualidades y el cariño que tengo de ella, en quien cifro un porvenir provechoso, por la presente declaro que hago DONACION MORTIS CAUSA a favor de mi citada sobrina, Emilia Concepción, sujeta a las condiciones que mas abajo se especifican, de las siguientes propiedades que se describen a continuación, a saber:

(Description of the properties donated.)

CONDICIONES

Que las condiciones de esta DOXACION son las siguientes, a saber: (a) Que el producto de una tercera (1/3) parte del terreno arriba descrito como parcela No. 1, o sea la cosecha de una extensión superficial de SEIS MIL DOSCIENTOS CINCUENTA METROS CXJADRADOS (6,250 m, c.) equivalentes a una balita, hacia el lado Este de diclino terreno, será separado anualmente y se empleara para los gastos de la celebración de mi aniversario, en caso de mi muerte, y en memoria también de la muerte de mis mayores y parientes y en sufragio de las almas de los difuntos, por lo menos una vez al año, pero también puede hacerse dicha celebración tantas veces como creyera conveniente y propio la mencionada donatoria, Emilia Concepción, que no pasara de P50 al año.

Que yo declaro además que no tengo hijos, ni ascendientes ni descendientes, ni herederos forzosos, motivo por el cual me he creído con derecho y facultad suficiente para disponer en la forma como lo hice de mis citadas propiedades, habiéndome reservado lo necesario para mi mantenimiento.

Que estas parcelas de terreno arriba descritas y deslindadas no están aun registradas bajo la ley del Registro de la Propiedad No. 496 ni bajo la Ley Hipotecaria española, por lo que las partes convienen, para los efectos que

procedan, registrar esta escritura bajo las disposiciones de la Ley No. 3344.

Que yo declaro por ultimo que esta DONACION MORTIS CAUSA como su mismo nombre lo indica, ha de producir efectos sol aviente por muerte de la donante.

ACEPTACIÓN

Yo, Emilia Concepción, mayor de edad, soltera, filipina, con residencia y dirección postal en el municipio de San Antonio, provincia de Zambales, Pilipinas, por la presente hago constar que acepto la donación arriba expresada por lo que quedo sumamente agradecida a mi dicha tia, Dona Manuela Concepción, por tal generosidad, y me comprometo a cumplir fielmente todas y cada una de las condiciones arriba impuestas.

En testimonio de todo lo cual firmamos la presente en el municipio de San Antonio, provincia de Zambales, Filipinas, hoy a 7 de Marzo de 1944, A.D.

(Fda.) MANUELA CONCEPCIÓN
(Donante)

(Fda.) EMILIA CONCEPCIÓN
(Donatoria)

A little more than three years after the execution of the above-quoted deed of donation, or rather on November 18, 1947, the donor Manuela Concepcion died. Plaintiffs-appellees who are six nephews and nieces of the donor, all surnamed Concepcion instituted special proceedings No. 491 of the Court of First Instance of Zambales for the summary settlement of the estate of their aunt, the donor. Because the estate or the greater portion thereof sought to be summarily settled and distributed was included in the donation, the donee Emilia Concepcion filed opposition to the petition for summary settlement claiming that the six parcels subject of the donation belonged to her. The Court in said special proceedings without deciding the title and right of possession to the six parcels claimed by Emilia, merely ordered the partition of the estate of Manuela Concepcion among all her heirs who are besides the six petitioners, Emilia Concepcion and her four brothers. Thereafter, and because Emilia refused to give up the parcels said to have been donated to her, including a house and a granary as well as personal properties, the six original petitioners in the special proceedings filed the present action (civil case No. 1230) in the Court of First Instance of Zambales to have themselves declared owners of and entitled to the possession of their shares in those properties claimed by Emilia in the proportion of one-eleventh (1/11) for each.

In her answer Emilia claimed title to said properties by reason of the donation and submitted a copy of the deed of donation. After trial, the lower court found that the donation was one mortis causa, and because it was not executed in the manner required by the law on wills, it was declared null and void; the properties therein included were all declared part of the estate of the deceased Manuela Concepcion subject to distribution among the heirs in the proportion of 1/11 for each as declared by the court in special proceedings No. 491; defendant Emilia Concepcion was ordered to deliver to each of the plaintiffs their respective shares of the products of the land for the agricultural year 1947-48 and those to be obtained thereafter in the proportion of 1/11 to each heir.

Emilia Concepcion appealed the decision to the Court of Appeals where the parties filed their respective briefs, but finding that only questions of law were involved in the appeal, said court by resolution certified the case to this Court.

Examining the deed of donation, Exhibit A, we find the title using the phrase mortis causa which phrase was repeated in the paragraph just before the aceptacion with the clause that the donation was to "producir efectos solamente por muerte de la donante." The lower court, evidently, impressed by these features, concluded that the donor intended to make her donation effective after her death, and that consequently, it was a donation mortis

causa.

The trial court is not entirely to blame. The deed of donation is really confusing and far from clear. The one who drafted the document would appear to have been himself confused, and in using legal phraseology rather added not a little to the confusion. We confess that the distinction between a donation inter vivos and a donation mortis causa, in spite of the comments of legal writers and the doctrines laid down by the courts is not always sharp and clear, specially when the donation is couched in language which admits of possible different interpretations. But, it is a rule consistently followed by the courts that it is the body of the document of donation and the statements contained therein, and not the title that should be considered in ascertaining the intention of the donor. Here, the donation is entitled and called donation onerosa mortis causa. From the body, however, we find that the donation was of a nature remunerative rather than onerous. It was for past services rendered, services which may not be considered as a debt to be paid by the donee but services rendered to her freely and in goodwill. The donation instead of being onerous or for a valuable consideration, as in payment of a legal obligation, was more of remuneratory or compensatory nature, besides being partly motivated by affection.

We should not give too much importance or significance to or be guided by the use of the phrase "mortis causa" in a donation and thereby to conclude that the donation is not one of inter vivos. In the case of *De Guzman et al vs. Ibea et al.* (67 Phil., 633), this Court through Mr. Chief Justice Avancena said that if a donation by its terms is inter vivos, this character is not altered by the fact that the donor styles it mortis causa.

In the case of *Laureta vs. Mata et al.* (44 Phil., 668), the court held that the donation involved was inter vivos. There, the donor Severa Magno y Laureta gave the properties involved as—

"a reward for the services which he is rendering me, and as a token of my affection toward him and of the fact that he stands high in my estimation, I hereby donate 'mortis causa' to said youth all the properties described as follows:

"I also declare that it is the condition of this donation that the donee cannot take possession of the properties donated before the death of the donor, and in the event of her death the said donee shall be under obligation to cause a mass to be held annually as a suffrage in behalf of my soul, and also to defray the expenses of my burial and funerals."

It will be observed that the present case and that of Laureta above cited are similar in that in both cases the donation was being made as a reward for services rendered and being rendered, and as a token of affection for the donee; the phrase "mortis causa" was used; the donee to take possession of the property donated only after the death of the donor; the donee was under obligation to defray the expenses incident to the celebration of the anniversary of the donor's death, including church fees. The donation in both cases were duly accepted. In said case of Laureta this Court held that the donation was in praesenti and not a gift in futuro. In support of its ruling, this Court reproduced the comment of Manresa on article 620 of the Civil Code reading as follows:

"In pure donations, in donations until an affixed day, and in donations with a resolutive condition the property is of course conveyed to the donee during the life of the donor and as to this point there is no question.

"When the time fixed for the commencement of the enjoyment of the property donated be at the death of the donor, or when the suspensive condition is related to his death, confusion might arise. To avoid it we must distinguish between the actual donation and the execution thereof. That the donation is to have effect during the lifetime of the donor or at his death does not mean the delivery of the property must be made during his life or after his death. From the moment that the donor disposes freely of his property and such disposal is accepted by the donee, the donation exists, perfectly and irrevocably (articles 618 and 623). Until the day arrives or until the condition is fulfilled, the donation, although valid when made, cannot be realized. Thus, he who makes the donation effective upon a certain date, even though, to take place at his death, disposes of that which he

donated and he cannot afterwards revoke the donation nor dispose of the said property in favor of another. If the thing is lost thru the fault of the donor, or if it is damaged, indemnity may be recovered. Regarding donations with suspensive conditions, it is sufficient to read articles 1120 and 1122 to understand the effects which this kind of donation has during the lifetime of the donor. He who makes a donation effective after his death, makes a donation, not a legacy. The mere name of the act, when a different intention does not clearly appear, is enough, in order to make applicable thereto the rules of law referring to donations. However, if the ill-named donor not only postpones the date of the execution of the donation until his death but also reserves the right to revoke said act at his pleasure, then this act is not "valid as a form, of contract; this is in truth a disposition of property mortis causa which requires the same solemnities as required in making a will."

In the case of *Sambaan vs. Villanueva*, (71 Phil., 303), the donor made a donation "en consideracion al afecto y earino que profeso a mi ahijado Jesus Flavio Villanueva." The donor furthermore imposed the condition that "esta donation la otorgo bajo las consideraciones que; solamente surtira efectos despues de ocurrida mi muerte, * * *." This court citing the same comment of Maxiresa just quoted above held that since the donation was simply made in consideration not of the death of the donor but of "the affection to the donee, the donation was inter vivos and not mortis causa, and that the condition imposed to the effect that the donation "solamente surtira efectos despues de ocurrida mi muerte," did not argue against the nature of the donation.

Again, in the case of *Joya vs. Tiongco* (71 Phil., 379), wherein the donor made the donation of a parcel of land to the brothers Agustin and Pedro Joya because of her relationship to them, and where said donation was duly accepted and registered, the decision of the Court of Appeals which found the donation to be mortis causa was reversed by this court and the donation was held to be inter vivos for the reason that the death of the donor was not the consideration of the donation but only a suspensive condition, and that the mere fact that the property donated was not to be delivered immediately to the donee but only after death of donor did not render the donation mortis causa.

From all the proceeding considerations, it is clear that even when the donor calls the donation mortis causa instead of inter vivos, even if he says it is to take effect after his death, when from the body of the instrument or donation it is to be gathered that the main consideration of the donation is not the death of the donor but rather services rendered to him, by the donee or his affection for the latter, then the donation should be considered as inter vivos, and when duly accepted, it transfers title immediately to the donee, and the condition that the donation is to take effect only after the death of donor should be interpreted as meaning that the possession and enjoyment of the fruits of the property donated should take place only after donor's death. To this effect, is the holding of this court in the case of *Balaqui vs. Dongso* (53 Phil., 673), where the donor Hipolita Balaqui made a donation to Placida Dongso in consideration of her good services rendered and because the donee had lived with the donor as a daughter, the donation containing the following paragraph:

"This gift to said Placida Dongso resident of Candom, Ilocos Sur, Philippine Islands, in recompense for her services to me, does not pass title to her during my lifetime; but when I die, she shall be the true owner of the two aforementioned parcels, including my house and shed thereon, and she shall be rightfully entitled to transmit them to her children. I also "bind myself to answer to said placida and her heirs and successors for this property, and that none shall question or disturb her right."

This court in that case held that the donation was inter vivos and irrevocable, and not mortis causa, notwithstanding the fact that the donor stated in said deed that she did not transfer the ownership of the two parcels of land donated, until upon her death, for such a statement could mean nothing else than that she only reserved to herself the possession and usufruct of said property, and because the donor could not very well guarantee the aforesaid right after her death.

In the present case, we may well hold as we do that the donor or rather the person who drafted the deed, in using

the phrase "mortis causa" and in providing that the donation should take effect only after the donor's death simply meant that the possession and enjoyment of the fruits of the properties donated should take effect only after the donor's death and not before, although this intention is rendered even dubious due to the fact that in one paragraph of the donation, she stated that she had reserved what was sufficient and necessary for her maintenance which may mean that all the properties donated were deemed transferred to the donee immediately after the donation had been accepted.

One other consideration may be mentioned in support of our stand. The donation here was accepted by Emilia; said acceptance is embodied in the deed of donation, and both donor and donee signed below said acceptance conclusively showing that the donor was aware of said acceptance. The deed and acceptance was by agreement of both recorded or registered. Everything was complete. Only donations inter vivos need be accepted. Donation mortis causa being in the nature of a legacy need not be accepted. (Manresa, Vol. 5, Fifth edition [1932], p. 83.) Presuming that the donor Manuela and the donee Emilia knew the law, the fact that they not only agreed to the acceptance but regarded said acceptance necessary argues for their understanding and intention that the donation was inter vivos.

In view of the foregoing, we find that the donation in question is inter vivos and not mortis causa, and that it is valid because the requisites of the law about the execution of wills do not apply to it. The decision appealed from is hereby reversed with costs.

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

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