

**ANACLETO BALICUDIONG, SOCORRO, REGINA, AGAPITO,
FRANCISCO, WENCESLAO, ROMULO AND JOVITO, ALL SURNAMED
JIMENEZ, RODOLFO BALICUDIONG AND GREGORIA BALICUDIONG,
PLAINTIFFS-APPELLEES...**

G.R. No. L-29603. June 07, 1971

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Direct appeal on questions of law by the defendants-appellants, heirs of Antonio Balicudiong, from the decision of the Court of First Instance of Cavite, in its Civil Case No. TM-11,[1] declaring, inter alia, the nullity of a deed of assignment as to one-half (1/2) of a parcel of land of the Imus Friar Lands Estate and ordering the partition of half of the lot on the basis of its finding that said lot is conjugal property.

The appealed decision states the case and the facts to be as follows:

"This is an action for annulment and parti-tion between brothers and sisters. It is undisputed that Mateo Balicudiong and Anastacia Alcoba were husband and wife, having been married on 12 May 1884 (Exh. 'A'). Out of this wedlock, four children were begotten, namely, Isabel, Antonio, Cirila and Anacleto, all surnamed Bali-cudiong. Cirila died, but is survived by her children Rodolfo Balicudiong and Gregoria Balicudiong. Isabel, Antonio and Anacleto survived their parents, but during the trial, Isabel and Antonio died. Isabel left seven children, namely, Socorro, Regina, Agapito, Francisco, Romulo, Wenceslao and Jovito, all surnamed Jimenez. Antonio is also survived by his children, to wit, Rodolfo, Amelia, Casimira and Damiana, all surnamed Balicudiong. Anastacia Alcoba died on September 23, 1923 (Exh. 'D').

"On July 1, 1920, Mateo Balicudiong, while his wife Anastacia Alcoba was still living, bought from the Bureau of Lands through its Friar Lands Agency at Imus, Cavite, Lot No. 5547 of the Imus Friar Lands Estate on installment basis for the sum of P433.00 plus interest. Sale Certificate No. 6612 (Exh. 'E') was issued by the Bureau of Lands in the name of Mateo Balicudiong, which certificate states that the sale is effective from July 1, 1920. As stated above, Anastacia Alcoba died on September 23, 1923, but Mateo Balicudiong continued paying the installment price of the lot in question until the purchase price together with the interest was fully paid on June 1, 1931, as shown by the Installment Record Certificate No. 6612 (Exh. 'F'). On June 4, 1931, Mateo Balicudiong executed a deed of assignment of Sale Certificate No. 6612 in favor of his son, Antonio Balicudiong in consideration of the sum of P300.00, which was duly acknowledged before Notary Public Isidro Fojas in Manila and approved by the Director of Lands."

It was also undisputed that "when Mateo Balicudiong purchased the lot in question, his wife Anastacia Alcoba was still living, while the spouses were enjoying the use of the conjugal funds" and "there is no proof that the lot in question was acquired with the exclusive money of one of the spouses only,", for which reason the court a quo held that the lot is conjugal property. But the court also found that the deed of assignment in favor of the son, Antonio, is valid, for it was duly acknowledged before a notary public and the assignor Mateo Balicudiong was not then senile, since he was only 61 years old and not mentally sick. The court a quo rejected the infirmities

of the transaction averred by plaintiffs-appellees, such as its having been entered into between father and son, and the consideration being only P300.00. The court found no evidence that Mateo possessed the lot from the time he acquired it until his death in 1945 but found contrary proof that as early as 1927 or 1928 assignee Antonio Balicudiong was already in possession and that "it was under his administration that the lot was converted from pasture land into agricultural land and that Eligio Parales was the one working for him". It held that even though Mateo was not the absolute owner of the whole lot, being conjugal, his possession was in good faith. The court a quo thus rendered judgment, as stated at the beginning of this decision, that the assignment by Mateo to Antonio was valid only as to one-half (1/2) of the property.

The appellant heirs of Antonio Balicudiong (Mateo's assignee) assign as errors the lower court's declaration of nullity of the deed of assignment with respect to a half-portion of the lot, its ordering the partition of half of the lot among the heirs of Anastacia Alcoba and its refusal to dismiss the complaint notwithstanding prescription in favor of Antonio.

The appellants first urge that the lot is the exclusive property of Mateo, and not in community with his wife Anastacia, because his right to purchase the lot, based upon entry and occupation under the Friar Lands Act, Act No. 1120, is a personal one; and that such right descended to him through succession from his ancestors. The immemorial occupation of the lot of Mateo Balicudiong's ancestors is claimed to be within judicial notice.

The argument is without basis; there is nothing in the record establishing Mateo's alleged successional rights. Moreover, such alleged successional rights to purchase by reason of occupation from time immemorial contravenes the historical fact that friar lands were bought by the Government of the Philippine Islands, pursuant to an Act of Congress of the United States, approved on 1 July 1902, not from individual persons but from certain companies, a society and a religious order; and that under the Friar Lands Act, only "actual settlers and occupants at the time said lands are acquired by the Government" were given preference to lease, purchase, or acquire their holdings, in disregard of the settlement and occupation of persons before the government acquired the lands.[2] And since Mateo admittedly bought the land from the Government, he would be estopped from claiming that his rights were derived from his ancestors, and his successors in interest are likewise in estoppel.

According to the defendants-appellants, the right of a deceased holder of a certificate, under Section 16 of Act 1120, as amended, is inherited by his or her surviving spouse, and, in the event that said holder does not leave a surviving spouse, such rights descend to his or her children. It is claimed that the right of a surviving spouse excludes that of the children and that the children would have had the right to inherit the lot had Anastacia died without a surviving spouse. Appellants are in error in this respect.

When on 1 July 1920 Mateo Balicudiong bought the lot from the Government, he acquired the beneficial and equitable title thereto even before completion of payment of the purchase price, with the bare and naked title remaining in the Government. The reservation of title in the Government, pursuant to Section 15 of the Act, is merely for its own protection. Thus, it has been held that an accretion to a lot before payment of the last installment of the purchase price belongs to the purchaser, not to the government, because the moment the purchaser paid the first installment and was given a certificate of sale, the beneficial and equitable title went to the purchaser.[3] To the same effect is *Alvarez vs. Espiritu*,[4] where it was reiterated that ownership is vested upon issuance of the sale certificate. Since, in the present case, the sale certificate was issued on 1 July 1920, the beneficial and equitable title to the lot passed to Mateo Balicudiong as of that moment, even if the purchase price had not then yet been paid in full; and, since said title was acquired during coverture, it is conjugal in nature. The presumption, under the civil law, being that all property acquired by onerous title during the marriage is conjugal,[5] a pre-sumption that here stands un rebutted.

Appellants argue that upon the death of Anastacia Alcoba in 1923 the transmission of her inchoate share in the beneficial and equitable title to the lot is not directly governed by the Civil Code but by the Friar Lands Act. They invoke *Arayata vs. Joya*,^[6] where it was held:

"The provisions of the Civil Code referring to conjugal property cannot be applied in this case, as was done by the trial court, because the law re-gulating the acquisition, disposition and transmission of rights to the friar lands acquired by the Insular Gov-ernment, lays down rules in conflict with the aforesaid provisions of the Civil Code; and as the said Code is of a general character, while Act No. 1120 is a special law, the latter should prevail."

They now seek to have applied in their favor the special rule of succession with respect to friar lands, as provided for in Section 16 of Act 1120, enacted in 1904, to wit:

"Sec. 16. In the event of the death of a holder of a certificate the issuance of which is provided for in section twelve hereof, prior to the execution of a deed by the Government to any purchaser, his widow shall be entitled to receive a deed of the land stated in the certificate upon showing that she has complied with the require-ments of law for the purchase of the same. In case a holder of a certificate dies before the giving of the deed and does not leave a widow, then the interest of the holder of the certificate shall descend and deed shall issue to the persons who under the laws of the Philippine Islands would have taken had the title been perfected before the death of the holder of the certificate, upon proof of the holders thus entitled of compliance with all the requirements of the certificate."

Unfortunately for the appellants, Section 16 of Act 1120, copied above, was amended when Act 2945 took effect upon its approval on 16 February 1921.

As amended by Act 2945, said Section 16 of Act 1120 provides as follows:

"In the event of death of a holder of a certificate the issuance of which is provided for in section twelve hereof, prior to the execution of a deed by the Government to any purchaser, the in-terest of the holder of the certificate shall descend and deed shall issue to the persons who under the laws of the Philippine Islands would have taken had the title been perfected before the death of the holder of the certificate, upon proof of compliance with all the requirements of the certificate. . . . "[7] (Emphasis supplied)

A check of all laws passed since 16 February 1921 until Anastacia Alcoba's death on 23 September 1923 does not show a further amendment to the amendment introduced by Act 2945; the foregoing amendment was, therefore, the governing law at the time of Anastacia's death.

Comparing the first part of the original Section 16 and its amendment, it is seen that while under the original provision the interest of a deceased certificate holder passed to his widow (or widower), it is not so under the amendment, which provides that his interest shall descend "to the persons who under the laws of the Philippine Islands would have taken had title been perfected before the death of the holder of the certificate, . . ." and these persons are no other than his or her heirs under the Civil Code of 1889. Under Article 657 of the said Code, the children of Anastacia, namely, Isabel, Antonio, Cirila and Anacleto, inherited their mother's inchoate share in the lot, while Mateo, the surviving spouse, inherited, under Article 834, only a usufructuary right for life. The cases of *Alvarez, et al. vs. Espiritu*,^[8] relied upon by the trial court, *Lorenzo vs. Nicolas*,^[9] and *Pugeda vs. Tries*^[10] are not applicable in the present case insofar as the descent of the share of a deceased wife in a sale certificate is concerned, because these cases were not decided on the issue of the applicability of the amendment injected in Act 1120 by Act 2945.

Upon receiving the title deed to the land in controversy, Mateo assigned not the one-half but the whole of the lot to his son, Antonio, on 4 June 1931, for the sum of P300.00. The assignment as to the share pertaining to his

deceased wife is void ab initio,[11] the alienation having been made after 24 November 1924, when Act 3176 took effect. Previous to this date, a surviving husband could encumber or alienate the half belonging to the other spouse,[12] as statutory liquidator of the conjugal partnership; but after Act 3176, such surviving spouse could no longer do so.[13] As Mateo assigned the half-share of his wife after 24 November 1924, then to the extent of his predeceased wife's interest the assignment is void, except as to Antonio's own share in her estate (1/4 of her half interest in the entire lot), he being one of her four children. That Mateo, after the death of his wife, continued paying the installments did not affect the conjugal nature of the property for, pursuant to the law in effect at the time of death of Anastacia in 1923 (i.e., before the amendment of Act 190 by Act 3176), it became Mateo's duty to pay said installments because he was then the liquidator of the conjugal partnership properties, independently of his wife's administrator or executor,[14] and the obligation to pay the remaining installments was an obligation of the partnership, having been contracted during the marriage.[15]

But with regard to the share of the other heirs of Anastacia Alcoba (Isabel, Cirila and Anacleto), We find that appellants' claim of acquisition thereof through prescription in favor of their father Antonio Balicudiong is meritorious. The deed of assignment of the disputed lot was executed by Mateo Balicudiong in favor of Antonio on 4 June 1931; the deed of conveyance by the Director of Lands was registered in the Register of Deeds of Cavite on 28 September 1931 and, on the same date, a certificate of title to the property was issued in the name of Antonio. Antonio has been in possession of the lot since 1927 or 1928, as found by the trial court. Anastacia Alcoba died on 23 September 1923, yet plaintiffs-appellees filed their complaint only on 6 December 1952. Since the court a quo found that the assignment was real and not fictitious, and Antonio's certificate of title was issued to him on 28 September 1931, plaintiffs-appellees' action to set the transfer aside is now barred by prescription, since the ten-year period within which the same could have been filed started to run from the date of issuance of the certificate of title.[16] From 1931 to 1952 is an interval of twenty-one years.

The net result is that Antonio acquired his father's half of Lot 5547 by purchase, while the shares of his sisters and brother in the other half that formed part of their mother's estate became also his by prescription, and upon his (Antonio's) death, passed to his own heirs, appellants herein.

FOR THE FOREGOING REASONS, the appealed judgment is hereby reversed, and a new one entered dismissing the complaint. Costs against plaintiffs-appellees.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

Ruiz Castro, J., on leave.

[1] The records were erroneously forwarded to the Court of Appeals, hence, its Clerk of Court transmitted them to the Supreme Court on 24 September 1968. (Rollo, page 1).

[2] See Preamble to Act No. 1120, 12 Phil. Laws Anno. (PAL) 153-155.

[3] Director of Lands, et al. v. Rizal, et al., 87 Phil. 806.

[4] L-18833, 14 August 1965, 14 SCRA 892.

[5] Ponce de Leon v. RFC, L-24571, 18 December 1970, 36 SCRA 289, and cases cited therein.

[6] 51 Phil. 654, 662 (1928).

[7] Public Laws, Bureau of Printing, Vol. 16, pages 194-195; 12 PAL 167.

[8] L-18833, 14 August 1965, 14 SCRA 892.

[9] 91 Phil. 686.

[10] L-16925, 31 March 1962, 4 SCRA 849.

[11] Ibarle v. Po, 92 Phil. 721; Anteojo v. CA, 87 Phil. 522.

[12] Manuel & Laxamana v. Lozano, 41 Phil. 855.

[13] Corpuz v. Corpuz, 97 Phil. 655. Act 3176 prescribes that:

"Section 1. Section six hundred and eighty-five of Act Numbered One hundred and ninety, known as the Code of Civil Procedure, is hereby amended to read as follows:

"SEC. 685. When the marriage is dissolved by the death of the husband or wife, the community property shall be inventoried, administered, and liquidated, and the debts thereof shall be paid, in the testamentary or intestate proceedings of the deceased spouse, in accordance with the provisions of this Code relative to the administration and liquidation of the estates of deceased persons, or in an ordinary liquidation and partition proceeding, unless the parties, being all of age and legally capacitated, avail themselves of the right granted to them by this Code of proceeding to an extrajudicial partition and liquidation of said property.

"In case it is necessary to sell any portion of said community property in order to pay the outstanding debts and obligations of the same, such sale shall be made in the manner and with the formalities established by this Code for the sale of the property of deceased persons. Any sale, transfer, alienation or disposition of said property effected without said formalities shall be null and void, except as regards the portion that belonged to the vendor at the time the liquidation and partition was made."

[14] Fermin v. Pase Carlos, 48 Phil, 406; Caragay v. Urquiza, 53 Phil. 72; Enriquez v. Saez, 55 L. ed (US) 476.

[15] Article 1408, old Civil Code.

[16] Section 40, former Code of Civil Procedure; Villanueva v. Portigo, L-27002, 27 August 1969, 29 SCRA 99; J. M. Tuazon & Co. v. Munar, L-21544, 30 September 1968, 25 SCRA 405.

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