

CORNELIA MATABUENA, PLAINTIFF-APPELLANT, VS. PETRONILA CERVANTES, DEFENDANT-APPELLEE.*G.R. No. L-28771. March 31, 1971*

Ponente: FERNANDO, J.

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A question of first impression is before this Court in this litigation. We are called upon to decide whether the ban on a donation between the spouses during a marriage applies to a common-law relationship.[1] The plaintiff, now appellant Cornelia Matabuena, a sister of the deceased Felix Matabuena, maintains that a donation made while he was living maritally without benefit of marriage to defendant, now appellee Petronila Cervantes, was void. Defendant would uphold its validity. The lower court, after noting that it was made at a time before defendant was married to the donor, sustained the latter's stand. Hence this appeal. The question, as noted, is novel in character, this Court not having had as yet the opportunity of ruling on it. A 1954 decision of the Court of Appeals, *Buenaventura v. Bautista*, [2] by the then Justice J. B. L. Reyes, who was appointed to this Court later that year, is indicative of the appropriate response that should be given. The conclusion reached therein is that a donation between common-law spouses falls within the prohibition and is "null and void as contrary to public policy." [3] Such a view merits fully the acceptance of this Court. The decision must be reversed.

In the decision of November 23, 1965, the lower court, after stating that in plaintiff's complaint alleging absolute ownership of the parcel of land in question, she specifically raised the question that the donation made by Felix Matabuena to defendant Petronila Cervantes was null and void under the aforesaid article of the Civil Code and that defendant on the other hand did assert ownership precisely because such a donation was made in 1956 and her marriage to the deceased did not take place until 1962, noted that when the case was called for trial on November 19, 1965, there was a stipulation of facts which it quoted. [4] Thus: "The plaintiff and the defendant assisted by their respective counsels, jointly agree and stipulate: 1. That the deceased Felix Matabuena owned the property in question; 2. That said Felix Matabuena executed a Deed of Donation inter vivos in favor of Defendant, Petronila Cervantes over the parcel of land in question on February 20, 1956, which same donation was accepted by defendant; 3. That the donation of the land to the defendant which took effect immediately was made during the common-law relationship as husband and wife between the defendant-donee and the now deceased donor and later said donor and donee were married on March 28, 1962; 4. That the deceased Felix Matabuena died intestate on September 13, 1962; 5. That the plaintiff claims the property by reason of being the only sister and nearest collateral relative of the deceased by virtue of an affidavit of self-adjudication executed by her in 1962 and had the land declared in her name and paid the estate and inheritance taxes thereon." [5]

The judgment of the lower court on the above facts was adverse to plaintiff. It reasoned out thus: "A donation under the terms of Article 133 of the Civil Code is void if made between the spouses during the marriage. When the donation was made by Felix Matabuena in favor of the defendant on February 20, 1956, Petronila Cervantes and Felix Matabuena were not yet married. At that time they were not spouses. They became spouses only when they married on March 28, 1962, six years after the deed of donation had been executed." [6]

We reach a different conclusion. While Art. 133 of the Civil Code considers as void a "donation between the spouses during the marriage", policy considerations of the most exigent character as well as the dictates of morality require that the same prohibition should apply to a common-law relationship. We reverse.

1. As announced at the outset of this opinion, a 1954 Court of Appeals decision, *Buenaventura v. Bautista*,^[7] interpreting a similar provision of the old Civil Code^[8] speaks unequivocally. If the policy of the law is, in the language of the opinion of the then Justice J. B. L. Reyes of that Court, "to prohibit donations in favor of the other consort and his descendants because of fear of undue and improper pressure and influence upon the donor, a prejudice deeply rooted in our ancient law; 'porque no se engañen despojandose el uno al otro por amor que han de consuno,' [according to] the Partidas (Part. IV, Tit. XI, LAW IV), reiterating the rationale 'Ne mutuato amore invicem spoliarentur' of the Pandects (Bk. 24, Tit. 1, De donat, inter virum et uxorem); then there is every reason to apply the same prohibitive policy to persons living together as husband and wife without benefit of nuptials. For it is not to be doubted that assent to such irregular connection for thirty years bespeaks greater influence of one party over the other, so that the danger that the law seeks to avoid is correspondingly increased. Moreover, as already pointed out by Ulpian (in his lib. 32 ad Sabinum, fr. 1), 'it would not be just that such donations should subsist, lest the condition of those who incurred guilt should turn out to be better.' So long as marriage remains the cornerstone of our family law, reason and morality alike demand that the disabilities attached to marriage should likewise attach to concubinage."^[9]

2. It is hardly necessary to add that even in the absence of the above pronouncement, any other conclusion cannot stand the test of scrutiny. It would be to indict the framers of the Civil Code for a failure to apply a laudable rule to a situation which in its essentials cannot be distinguished. Moreover, if it is at all to be differentiated, the policy of the law which embodies a deeply-rooted notion of what is just and what is right would be nullified if such irregular relationship instead of being visited with disabilities would be attended with benefits. Certainly a legal norm should not be susceptible to such a reproach. If there is ever any occasion where the principle of statutory construction that what is within the spirit of the law is as much a part of it as what is written, this is it. Otherwise the basic purpose discernible in such codal provision would not be attained. Whatever omission may be apparent in an interpretation purely literal of the language used must be remedied by an adherence to its avowed objective. In the language of Justice Pablo: "El espíritu que informa la ley debe ser la luz que ha de guiar a los tribunales en la aplicación de sus disposiciones."^[10]

3. The lack of validity of the donation made by the deceased to defendant Petronila Cervantes does not necessarily result in plaintiff having exclusive right to the disputed property. Prior to the death of Felix Matabuena, the relationship between him and the defendant was legitimated by their marriage on March 28, 1962. She is therefore his widow. As provided for in the Civil Code, she is entitled to one-half of the inheritance and the plaintiff, as the surviving sister, to the other half.^[11]

WHEREFORE, the lower court decision of November 23, 1965 dismissing the complaint with costs is reversed. The questioned donation is declared void, with the rights of plain-tiff and defendant as pro indiviso heirs to the property in question recognized. The case is remanded to the lower court for its appropriate disposition in accordance with the above opinion. Without pronouncement as to costs.

Concepcion, C.J., Reyes, Dizon, Makalintal, Zaldivar, Ruiz Castro, Barredo, Villamor, and Makasiar, JJ., concur. Teehankee, J., took no part.

[1] Art. 133 of the Civil Code provides: "Every donation between the spouses during the marriage shall be void. This prohibition does not apply when the donation takes effect after the death of the donor. Neither does this

prohibition apply to moderate gifts which the spouses may give each other on the occasion of any family rejoicing."

[2] 50 O.G. 3679 (1954).

[3] Ibid, p. 3686.

[4] Decision, Record on Appeal, pp. 17-19.

[5] Ibid, pp. 19-20.

[6] Ibid, p. 21.

[7] 50 O.G. 3679.

[8] Art. 1334 of the former Civil Code was similarly worded: "All donations between the spouses made during the marriage shall be void."

[9] Buenaventura v. Bautista, 50 O.G. 3679, 3686 (1954).

[10] The excerpt from *Yellow Taxi and Pasay Trans. Workers Union v. Manila Yellow Taxicab Co.*, 80 Phil. 833, 838 (1948) reads in full: "Esta interpretacion de la ley es insostenible. El espiritu que informa la ley debe ser la luz que ha de guiar a los tribunales en la aplicacion de sus disposiciones. No deben atenerse a la letra de la ley cuando la interpretacion literal se separa de la intencion de la legislatura y especialmente cuando lleva a conclusiones incompatibles con el objeto manifesto de la ley. Cuando hay conflicto entre la interpretacion literal y la inter-pretacion fundada en el proposito de la ley, la ultima debe prevalecer." Cf. *Tañada v. Cuenco*, 103 Phil. 1051 (1957); *Hidalgo v. Hidalgo*, L-25326-27, May 29, 1970, 33 SCRA 105; *Casela v. Court of Appeals*, L-26754, Oct. 16, 1970, 35 SCRA 279.

[11] According to Art. 1001 of the Civil Code: "Should brothers and sisters or their children survive with the widow or widower, the latter shall be entitled to one-half of the inheritance and the brothers and sisters or their children to the other half. (953, 837a)."

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