

LEONOR VILLAFLOR VDA. DE VILLANUEVA, PLAINTIFF AND APPELLANT, VS. DELFIN N. JUICO, IN HIS CAPACITY AS JUDICIAL ADMINISTRATOR OF THE TESTATE ESTATE OF FAUSTA NEPOMUCENO, DEFENDAN...

G. R. No. L-15737. February 28, 1962

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

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

Subject of this direct appeal to us on points of law is the decision of the Court of First Instance of Rizal, in its Civil Case No. Q-2809, dismissing plaintiff-appellant's complaint for the recovery of certain properties that were originally owned by the plaintiff's granduncle, Nicolas Villaflor, and which he granted to his widow, Doña Fausta Nepomuceno, bequeathing to her "su uso y posesion mientras. viva y no se case en segunda nupcias."

The following facts appear of record: On October 9, 1908, Don Nicolas Villaflor, a wealthy man of Castillejos, Zambales, executed a will in Spanish in his own handwriting, devising and bequeathing in favor of his wife, Doña Fausta Nepomuceno, one-half of all his real and personal properties, giving the other half to his brother Don Fausto Villaflor.

Clause 6th, containing the institution of heirs, reads as follows:

"SEXTO:—En virtud de las facultades que me conceden las leyes, instituyo por mis unicos y universales herederos de todos mis derechos y acciones a mi hermano D. Fausto Villaflor y a mi esposa Da. Fausta Nepomuceno para que partan todos mis bienes que me pertenescan, en iguales partes, para despues de mi muerte, exceptuandolas Donaciones y legados que, abajo mi mas expontanea voluntad, lo hago en la forma siguiente:

"SEPTIMO:—Lego para despues de mi muerte a mi esposa Da. Fausta Nepomuceno, en prueba de mi amor y cariño, los bienes, alhajas y muebles que a continuacion se expresan;

OCTAVO:—Que estos legados disfrutara mi referida esposa Da. Fausta Nepomuceno su uso y posesion mientras viva y no se case en segundas nupcias; de lo contrario, pasara a ser propiedad estos dichos legados de mi sobrina nieta Leonor Villaflor."

The 12th clause of the will provided, however, that Clauses 6th and 7th thereof would be deemed annulled from the moment he bore any child with Doiia Fausta Nepomuceno. Said Clause 12th reads as follows:

"DUODECIMO:—Quedan anulados los parrafos 6.o y 7.o de este testamento que tratan de institucion de herederos y los legados que se haran despues de mi muerte a favor de mi esposa, en el momenta que podre tener la dicha de contrar con hi jo o hijos legitimos o legitimados, pues estos, conforme a ley seran mis herederos."

Don Nicolas Villaflor died on March 3, 1922, without begetting any child with his wife Doña Fausta Nepomuceno. The latter, already a widow, thereupon instituted Special Proceeding No. 203 of the Court of First

Instance of Zambales, for the settlement of her husband's estate and in that proceeding, she was appointed judicial administratrix. In due course of administration, she submitted a project of partition, now Exhibit "E". In the order of November 24, 1924, now Exhibit "C", the probate court approved the project of partition and declared the proceeding closed. As the project of partition, Exhibit "E", now shows, Doña Fausta Nepomuceno received by virtue thereof the ownership and possession of a considerable amount of real and personal estate. By virtue also of the said project of partition, she received the use and possession of all the real and personal properties mentioned and referred to in Clause 7th of the will. The order approving the project of partition (Exh. "C"), however, expressly provided that approval thereof was "sin perjuicio de lo dispuesto en la clausula 8.o del testamento de Nicolas Villaflor".

On May 1, 1956, Doña Fausta Nepomuceno died without having contracted a second marriage, and without having begotten any child with the deceased Nicolas Villaflor. Her estate is now being settled in Special Proceeding No. Q-1563 in the lower court, with the defendant Delfin N. Juico as the duly appointed and qualified judicial administrator.

The plaintiff Leonor Villaflor Vda. de Villanueva is admitted to be the same Leonor Villaflor mentioned by Don Nicolas Villaflor in his will as his "sobrina nieta Leonor Villaflor".

Plaintiff Leonor Villaflor instituted the present action against the administrator of the estate of the widow Fausta Nepomuceno, on February 8, 1958, contending that upon the widow's death, said plaintiff became vested with the ownership of the real and personal properties bequeathed by the late Nicolas Villaflor to clause 7 of his will, pursuant to its eight (8th) clause. Defendant's position, adopted by the trial court, is that the title to the properties aforesaid became absolutely vested in the widow upon her death, on account of the fact that she never remarried.

We agree with appellant that the plain desire and intent of the testator, as manifested in clause 8 of his testament, was to invest his widow with only a usufruct or life" tenure in the properties described in the seventh clause, subject to the further condition (admitted by the appellee) that if the widow remarried, her rights would thereupon cease, even during her own lifetime. That the widow was meant to have no more than a life interest in those properties, even if she did not remarry at all, is evident from the expressions used by the deceased, *uso y posesion mientras viva* (use and possession while alive), in which the first half of the phrase ("*uso y posesion*" instead of "*dominio*" or "*propriedad*") reinforces the second ("*mientras viva*"). The testator plainly did not give his widow the full ownership of these particular properties, but only the right to their possession and use (or enjoyment) during her lifetime. This is in contrast with the remainder of the estate in which she was instituted universal heir together with the testator's brother (clause 6).

"SEXTO:—En virtud de las facultades que me conceden las leyes, instituyo por mis unicos y universales herederos de todos mis derechos y acciones a mi hermano D. Fausto Villaflor y a mi esposa Da. Fausta Nepomuceno para que partan todos mis bienes que me pertenescan, en iguales partes, para despues de mi muerte, exceptuando las Donaciones y legados que, abajo mi mas expontanea voluntad, lo hago en la forma siguiente."

The court below, in holding that the appellant Leonor Villaflor, as reversionary legatee, could succeed to the properties bequeathed by clause 7 of the testament only in the event that the widow remarried, has unwarrantedly discarded the expression "*mientras viva*", and considered the words "*uso y posesion*" as equivalent to "*dominio*" (ownership). In so doing, the trial court violated Article 791 of the Civil Code of The Philippines, as well as section 59 of Rule 123 of the Rules of Court:

"ART. 791. The words of a will are to receive an interpretation which will give to every expression some effect, rather than one which will render any of the expression inoperative; and of two modes of interpreting a will, that is to be preferred which will prevent intestacy."

"SEC. 59. Instrument construed so as to give effect to all provisions.—In the construction of an instrument where there are several provisions or particulars, such a construction is, if possible, to be adopted as will give effect to all."

Speculation as to the motives of the testator in imposing the conditions contained in clause 7 of his testament should not be allowed to obscure the clear and unambiguous meaning of his plain words, which are ever the primary source in ascertaining his intent. It is well to note that if the testator had intended to impose as sole condition the non-remarriage of his widow, the words "uso y posesion mientras viva" would have been unnecessary, since the widow could only remarry during her own lifetime.

The Civil Code, in Article 790, p. 1 (Article 675 of the Code of 1889), expressly enjoins the following:

"ART. 790. The words of a will are to be taken in their ordinary and grammatical sense, unless a clear intention to use them in another sense can be gathered, and that other can be ascertained.

Technical words in a will are to be taken in their technical sense, unless the context clearly indicates a contrary intention, or unless it satisfactorily appears that the will was drawn solely by the testator, and that he was unacquainted with such technical sense. (675a)"

In consonance with this rule, this Supreme Court has laid the doctrine in *In re Estate of Calderon*, 26 Phil., 233, that the intention and wishes of the testator, when clearly expressed in his will, constitute the fixed law of interpretation, and all questions raised at the trial, relative to its execution and fulfillment, must be settled in accordance therewith, following the plain and literal meaning of the testator's words, unless it clearly appears that his intention was otherwise. The same rule is adopted by the Supreme Court of Spain (TS. Sent. 20 Marzo 1918; 28 Mayo 1912; 30 Abril 1913; 16 Enero 1915; 23 Oct. 1925).

"La voluntad del testador, clara, precisa y constantemente expresada al ordenar su ultima voluntad, es ley unica, imperativa y obligatoria que han de obedecer y cumplir fielmente albaceas, legatarios y heredera, hoy sus sucesores, sin que esa voluntad patente, que no ha menester de interpretaciones, pues no ofrece la menor duda, pueda sustituirse por ningun otro criterio de alguno de los interesados, ni tampoco por el judicial." (Tribunal Supremo of Spain, Sept. 20, March 1918)

The American decisions invoked by appellee in his brief are inapplicable, because they involve cases where the only condition imposed on the legatee was that she should remain a widow. As already shown, the testament of Don Nicolas Villaflor clearly and unmistakably provided that his widow should have the possession and use of the legacies while alive and did not remarry. It necessarily follows that by the express provisions of the 8th clause of his will, the legacies should pass to the testator's "sobrina-nieta", appellant herein, upon the widow's death, even if the widow never remarried in her lifetime. Consequently, the widow had no right to retain or dispose of the aforesaid properties, and her estate is accountable to the reversionary legatee for their return, unless they had been lost due to fortuitous event, or for their value should rights of innocent third parties have intervened.

Premises considered, the decision appealed from is reversed, and the appellant Leonor Villaflor Vda. de Villanueva is declared entitled to the ownership and fruits of the properties described in clause 7 of the will or testament, from the date of the death of Doña Fausta Nepomuceno. The records are ordered remanded to the court of origin for liquidation, accounting, and further proceedings conformably to this decision. Costs against the administrator-appellee.

Bengzon, C. J., Padilla, Bautista Angelo, Concepcion, Barrera, Paredes, Dizon, and De Leon JJ., concur.

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