

**HONESTO ALVAREZ, ET AL., PLAINTIFFS AND APPELLANTS, VS.
PEDRO K. ESPIRITU, DEFENDANT AND APPELLEE.***G.R. No. L-18833. August 14, 1965*

Ponente: REGALA, J.

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This is an appeal from the decision of the Court of First Instance of Rizal. The resolution of the issues presented depends on a determination of whether Lot No. 292 of the Tala Estate was the paraphernal property of the late Consolacion Evangelista, or whether it was property of her conjugal partnership with Pedro K. Espiritu.

The lot in question, with an area of 2 hectares, 76 ares and 2 centares, is located in Caloocan, Rizal (now Caloocan City). It originally formed part of the Friar Lands administered under Act No. 1120.

On June 29, 1910, the Director of Lands issued Sales Certificate No. 479 in favor of Consolacion Evangelista, by virtue of which the government agreed to sell the lot for P242.04. Under the terms of this certificate, the amount of P60.04, which had been paid as rentals, was credited in favor of Consolacion Evangelista and the balance of P182 was to be paid in 18 annual installments, the first installment of P12 to be paid on July 1, 1910 and the rest to be paid every year thereafter in 17 equal installments of P10 each.

On June 13, 1923, Consolacion Evangelista married Pedro K. Espiritu. During their marriage, the installments on the price of the lot were paid with conjugal funds and by 1927 payment on all the installments was completed. On November 18, of that year, Consolacion Evangelista signed a deed entitled "Assignment of Sales Certificate No. 279" which recites as follows:

"This agreement, made in duplicate between Consolacion Evangelista, as assignor, and Pedro K. Espiritu as ASSIGNEE,

"WITNESSETH: That the said assignor, for and in consideration of the sum. of P ,[1] receipt whereof is acknowledged, hereby sells, assigns, and transfers to the said ASSIGNEE all right, and interest in and to lot 292 of the said Estate, acquired under and by the terms of sales certificate numbered 479 dated June 29, 1910, together with all buildings and improvements on the said lot belonging to the said ASSIGNOR.

"The said ASSIGNEE hereby accepts the said assignment and transfer and expressly agrees to be bound by and to keep and perform all the covenants and condition expressed in the said sale certificate to be kept and performed by the VENDEE therein."

Following the approval of this assignment by the Director of Lands, the lot was registered in the name of the spouses and Transfer Certificate of Title No. 14527 was issued to them.

On February 7, 1946, the spouses sold a half portion of the lot to Aniceto Martin for P3,000, reserving to themselves the right to redeem it within 12 years. However, before they could exercise their right of redemption, Consolacion Evangelista died on February 21, 1949, leaving a will in which she bequeathed to her husband her half interest in the remaining unsold portion of Lot No. 292. She was survived by her husband, Pedro K. Espiritu,

and by plaintiffs Nicasio and Asuncion Evangelista (her brother and sister, respectively), Honesto and Josefina Alvarez (children of her deceased sister Eduviges) and Arsenio Evangelista (son of her deceased brother Rufino).

Pedro K. Espiritu filed Special Proceedings No. 502 in the Court of First Instance of Bulacan for the settlement of his wife's estate. The will was allowed and Pedro K. Espiritu was appointed executor upon the filing of a bond. Instead of filing a bond and qualifying as executor, Espiritu asked the court to convert the proceedings into a summary settlement of the estate on the ground that the value of the properties did not exceed P3,000. The court granted his motion, heard the case and on November 15, 1954, issued an order, the dispositive portion of which reads in part as follows:

"WHEREFORE, the Court hereby distributes summarily the estate left by the deceased Consolacion Evangelista and hereby adjudicates aforesaid estate in accordance with the will, Exhibit C, of said deceased in the following' manner, to wit:

x x x x x x x x x

"(2) to Pedro K. Espiritu, of legal age, Filipino, married to Florentina Lopez, and resident of Mabolo, Polo, Bulacan, the following properties:

x x x x x x x x x

"(b) All the one-fourth (1/4) share of the deceased Consolacion Evangelista in the parcel of land known as Lot No. 292 of the Tala Estate situated in the Barrio of Llano, Caloocan, Rizal, and described in Land Tax Declaration No. 12913 (Exhibit B-2), of said municipality; * * *"

Meanwhile, Aniceto Martin, the vendee a retro of the undivided other half of Lot No. 292, died. His children executed a document on December 4, 1957 stating that "prior to July 7, 1951" Pedro K. Espiritu had paid P3,000 to their father but that death prevented the latter from executing the corresponding deed of resale. For this reason, they were reconveying to Pedro K. Espiritu "all their rights, interest, participation and ownership of whatever nature in said Lot No. 292 (1/2) of the Tala Estate Subdivision described in T.C.T. No. 14527 of the Register of Deeds of Rizal, subject matter of the Pacto de Retro Sale."

On January 8, 1959, the plaintiffs brought this action against Pedro K. Espiritu. While their original claim was that the lot was conjugal and therefore they were entitled to one-half (1/2) of it, plaintiffs later amended their complaint and alleged that the lot was the paraphernal property of Consolacion Evangelista which she brought to her marriage with Pedro K. Espiritu. They therefore contended that, as heirs of Consolacion Espiritu, they were entitled to three fourths (3/4) of the lot, only one-fourth having been disposed of in the will. On the other hand, Pedro K. Espiritu claimed that the lot was their conjugal property, one half of which was his share, in addition to one-fourth given to him in his wife's will. He subsequently died and his second wife, Florentina Lopez, who is also the administratrix of his estate, substituted for him as defendant in this case.

On January 5, 1961, the lower court rendered a decision declaring Pedro K. Espiritu the owner of the entire lot. It expilained thus:

"x x x It is well settled that the property becomes conjugal if the funds paid by the husband in the later instalments were for the purpose of the acquisition for the partnership the husband acting in his capacity as administrator of the same. And there is overwhelming evidence to support this conclusion. The deceased Consolacion Evangelista had the installments paid by the conjugal funds and her intention to have it paid not for her exclusive benefit but for that of the partnership is abundantly demonstrated in the instruments she executed. The final deed of conveyance was executed in the name of both spouses and the Torrens Title issued in their names jointly. In the Deed of Pacto de Retro she alluded to the land as property owned in common by her and her husband and not as exclusive property. The real estate taxes were paid out of the conjugal funds.

Again, this intention is clear and manifest with the subsequent execution of the Deed of Assignment purportedly conveying the lot in question in favor of the spouse jointly. Without necessarily passing upon the validity and effect of said deed, the same indubitably demonstrates the intended change of the character of the property in question. Finally, in her last will and testament, Consolacion expressly declared said lot be conjugal property.

"The Court therefore finds and so holds that the lot in question is conjugal property, both spouses being entitled to an undivided halfshare. So that on Feb. 7, 1946, when the same was sold on pacto de retro, one-half thereof was alienated, of which both spouses have an undivided equal share (ie. one-fourth each). The remaining unsold half, consist of again an undivided equal share in favor of both spouses (i.e., one-fourth each). This explains why in the will, Consolacion only bequeathed 1/4 of the lot in favor of her husband, obviously because she believed that the other remaining one-fourth is the share" of the husband in the conjugal property.

"The whole one-half portion, therefore, remaining prior to the redemption of the lot in 1957 belongs to the defendant Pedro K. Espiritu. On the other hand, the Court believes that the other half portion subsequently redeemed by Pedro K. Espiritu in 1957 with his own exclusive money also pertains to him in full ownership. This is the only just and equitable conclusion considering that in 1949 when Consolacion died, the conjugal partnership was automatically dissolved, and considering further that the spouses manifestly considered the lot in question to have been absolutely alienated without any intention to redeem the same, and that it was only in 1947 when the redemption period had almost expired that the husband on second thought believed it profitable to redeem the land with his own money and for his own exclusive benefit. x x x "

Plaintiffs have appealed to this Court. Citing the case of *Director of Lands vs. Rizal*, 87 Phil. 806, they contend that ownership of Lot No. 292 vested in Consolacion Evangelista upon the issuance to her in 1910 of a sales certificate, with the result that the lot had become her property long before her marriage in 1923 to Pedro K. Espiritu.

The point is well taken. Indeed, in *Director of Lands vs. Rizal*, this Court ruled that under the *Friar Lands Act No. 1120*, the equitable and beneficial title to the land passes to the purchaser the moment the first installment is paid and a certificate of sale is issued. The reservation of the title in favor of the government, which refers to the bare, naked title, is made merely for the protection of its interest so that the lot may not be disposed of by the purchaser before the price is paid in full. But outside of this protection, the government retains no right as an owner.

Even more in point is the case of *Lorenzo vs. Nicolas*, 91 Phil. 686, in which this Court held that friar lands bought by a woman before her marriage were her paraphernal properties, although some of the installments on their price were paid for with conjugal funds during their marriage. The conjugal partnership would only be entitled to reimbursement for the expenses. (*Civil Code*, Art. 1410)

And what of the assignment of the sale certificate which Consolacion Evangelista made to her husband and herself and the subsequent registration of the lot in their names? Neither can avail the defendant any. The assignment of the sales certificate shows very clearly that the lot was Consolacion Evangelista's exclusive property, else why would she have to make the assignment? Such an assignment is void—a patent nullity—in view of articles 1334 and 1458 which prohibit donations and sales between spouses during the marriage. (See e.g., *Uy Coque vs. Nabas L. Sioca*, 45 Phil. 430).

The lower court's reliance on the certificate of title being issued in the names of the spouses is misplaced, because sec. 70 of *Land Registration Act* provides that "nothing contained in this Act shall in anyway be construed to relieve registered land or the owners thereof from any rights incident to the relation of husband and wife." Because of the feeling of trust existing between spouses, certificates of title are often secured in the names of both, or of either, regardless of the source of the purchase money. It is thus but fair that on liquidation of the

partnership, the trust should be recognized and enforced, so that the real ownership of the property may be established. The principle that a trustee who takes a Torrens Title in his name cannot repudiate the trust by relying on the registration, is one of the well-known limitations upon the finality of a decree of title. (*Paterno vda. de Padilla vs. Bibby de Padilla*, 74 Phil. 377.)

Nor do we agree with the lower court's reasoning that because Pedro K. Espiritu redeemed one-half (1/2) of the lot with his own money, after the dissolution of the conjugal partnership of gains, he thereby became its owner. Lot No. 292, being the paraphernal property of Consolacion Evangelista before the sale, its redemption must be deemed as having reverted its ownership in the heirs of Consolacion Evangelista. (See *Guinto vs. Lim Bonfing*, 48 Phil. 884; *Santos vs. Bartolome*, 44 Phil. 76.) What Espiritu had on the portion so redeemed was merely a lien for the amount paid by him.

It is contended, however, that the probate court's order summarily distributing the estate of Consolacion Evangelista is conclusive on the conjugal character of Lot 292.

The argument has no merit. The general rule is that questions of title to property cannot be passed upon in testate or intestate proceedings. The probate court can decide only provisionally questions of title to property for the purpose of inclusion into, or exclusion from, the inventory, without prejudice to a final determination of the question in a separate action. It is only when the parties interested are all heirs and they agree to submit to the probate court the question as to title to property that the probate court may definitely pass judgment thereon. (3 Moran 427 ([1963]) That is why, in *Bernardo vs. Court Of Appeals*, 117 Phil. 385, February 28, 1963, we upheld the power of the probate court to adjudicate in the testate proceedings the question as to whether the properties therein involved belonged to the conjugal partnership or to the deceased exclusively.

In this case, however, there is no such agreement among the heirs to submit for determination of the probate court the question of whether or not Lot No. 292 was conjugal partnership property. If this point was at all considered by the probate court of Bulacan, it was only provisionally, for inventory purposes, and certainly without prejudice to the final determination of the question in a separate action such as this one.

We therefore hold that Lot No. 292 was the paraphernal property of Consolacion Evangelista. Since only one-fourth (1/4) of this lot had been given by will, there still remains undisposed three-fourths (3/4) of the same.

Under the rules of intestacy of the Spanish Civil Code[2] one-half (1/2) of the portion remaining belongs to the plaintiffs as collateral relatives and the other half belonged in usufruct to Pedro K. Espiritu as surviving spouse. (Art. 953 in relation to art. 837)[3] Nicasio and Asuncion Evangelista who are the brother and sister of the deceased, respectively, inherit per capita; while Josefina Alvarez, Honesto Alvarez and Arsenio Evangelista, who are her niece and nephews, respectively, inherit per stirpes. In addition, these collateral relatives are entitled to the corpus or capital of the other half held in usufruct by Pedro K. Espiritu. Upon the death of Espiritu on August 21, 1959, this usufruct terminated. (Sp. Civil Code, art. 513[1])

The usufruct of the husband during his life should be fixed conformably with article 838 which states:

"The usufructuary rights of the surviving spouse may be satisfied by the settlement upon him or her by the heirs of a life annuity or the income from some specific property, or by the payment of money, as may be determined by agreement between the parties, or, in default of such agreement, by judicial decision.

"Until this has been done the usufructuary interest of the surviving spouse shall constitute a lien upon all the property of the estate."

For this reason, this case should be returned to the lower court for the purpose of determining the usufructuary legitime of Pedro K. Espiritu. In addition, the lower court should determine and settle the following: (1) the

amount advanced by the conjugal partnership for the payment of installments falling due during the marriage; (2) the amount paid by Pedro K. Espiritu in redeeming Lot No. 292 after it had been sold under a deed of pacto de retro; (3) the amount of taxes paid on the property by the conjugal partnership; and (4) the value of the fruits received by the husband over and above the value of his usufruct.

Wherefore, the decision appealed from is reversed and the case is remanded to the court of origin for further proceedings in conformity with this decision, without pronouncement as to costs.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J. B. L., Paredes, Dizon, Makalintal, Bengzon, J. P., and Zaldivar, JJ., concur.

[1] No amount stated in the Deed of Assingment.

[2] Rights to inheritance of a person who died before the effectivity of the Civil Code of the Philippines on August 30, 1950 are governed by the Spanish Civil Code. (Civil Code, art. 2263)

[3] See Jones vs. Hortiguella, 64 Phil. 179 of the fruits received by the husband over and above the value of his usufruct.

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