

**ROBERTO LAPERAL, JR. ET AL., PLAINTIFFS AND APPELLANTS VS.  
RAMON L. KATIGBAK, BT AL., DEFENDANTS AND APPELLEES.***G. R. No. L-11418. December 27, 1958*

Ponente: MONTEMAYOR, J.

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This is an appeal from the decision of the Court of First Instance of Manila in Civil Case No. 25235, dismissing the complaint of plaintiffs-appellants Roberto Laperal, Jr. and his wife, Purification Laperal, later referred to as the Laperals, against Ramon L. Katigbak, later referred to as Katigbak, and his wife Evelina Kalaw, later referred to as Kalaw.

On August 8, 1950, the Laperals filed Civil Case No. 11767 against Katigbak and Kalaw for the recovery of P14,000.00, evidenced by various promissory notes executed in favor of the Laperals by Katigbak, and for the return of jewelry valued at P97,500.00, delivered by the Laperals to Katigbak for sale on commission, or a total of P111,500.00. Kalaw moved for the dismissal of the complaint as against her on the ground of failure to state a cause of action. The trial court granted the motion and dismissed the case as against her. On appeal by the Laperals, the Supreme Court (Laperal vs. Katigbak, 90 Phil., 770) affirmed the order of dismissal on January 31, 1952, on the ground that for the payment of the sum sought by the Laperals, Katigbak alone was personally responsible with his own private funds, and at most, the assets of the conjugal partnership, and that to reach both kinds of property, it was unnecessary to implead Kalaw, and that as to the fruits of the paraphernal property of Kalaw, although they formed part of the assets of the conjugal partnership, they may not be subjected to payment of personal obligations of the husband, because plaintiffs made no allegation that the obligation redounded to the benefit of the family.

On November 1, 1950, upon a confession of judgment by Katigbak, the trial court rendered judgment against him to pay the Laperals the sum of P14,000.00, and to return the jewelry involved, or in lieu thereof, to pay plaintiffs P97,500.00, with interest from August 8, 1950.

About a month after this decision was rendered, Kalaw filed a complaint against her husband Katigbak for "judicial separation of property and separate administration", Civil Case No. 12860, in the Court of First Instance of Manila, on the ground that Katigbak had been given to lavish spending, gambling and other games of chance, thereby dissipating the conjugal earning; and that if Kalaw were not allowed to own and administer separately her own property, it would be impossible to accumulate anything for the support and maintenance of their three children. Before trial, Katigbak and Kalaw submitted an agreement or stipulation of facts, on the basis of which, the court rendered judgment, the dispositive part of which reads:

"EN SU VIRTUD, el Juzgado dicta sentencia de acuerdo con los términos del convenio arriba acotado, ordenando a las partes a que se atengan y cumplan estrictamente con lo convenido,, sin costas."

The agreement or stipulation of facts above referred to is reproduced below for purposes of reference:

"AGREEMENT OF PACTS

"Comes Now the Plaintiff and Defendant in the above entitled case, assisted by their respective counsel, and to this Honorable Court respectfully submit the following stipulation of facts:

"1. That, Defendant hereby admits that he abandoned the conjugal home for more than one year now and has since been living formally at the Majestic Hotel, Ermita, Manila, and later at Lipa City, Batangas;

2. That, Defendant hereby admits he has been unwise, lacks judgment in all the business ventures and abused his powers in the administration of the conjugal properties which resulted in losses o the conjugal partnership;

3. That, both Plaintiff and Defendant hereby agree to the dissolution of the conjugal partnership, subject to the approval of this Honorable Court;

4. That, both Plaintiff and Defendant hereby agree that each will manage his or her separate properties;

5. That, Plaintiff and Defendant hereby agree that their three minor children, namely, Ramon, Jr., Teodoro and Gracie Marie, all surnamed KATIGBAK, shall be placed in custody of Plaintiff, who will take charge of their support and education at her own expense;

6. That, both Plaintiff and Defendant hereby waive the right to demand for support from each other after the separation of their conjugal property;

7. That, during the existence of the conjugal partnership they acquired only the following properties:

Certificate No. 028 for 3 shares of stock of the Lipa Electric Co., Inc., with a par value of P100.00 a share, or a total par value of P300.00.

8. That, outside of the above shares of stock, no other property, either real or personal, has been acquired during their marriage;

9. That, Plaintiff has discovered that the piece of real property located in Lipa mentioned in her complaint, Paragraph IV, as having been acquired by the conjugal partnership, was sold, together with the Lipa Theatre erected thereon, by both Plaintiff and Defendant to the spouses, Mr. and Mrs. Albino Cantos, of Batangas, Batangas, during the Japanese occupation, hence it is no longer an asset of the conjugal partnership;

10. That, the Plaintiff hereby transfers, conveys and assigns unto the Defendant her one-half (1/2) share and participation in the conjugal property in Paragraph 7 herein-above described. Plaintiff hereby declares and makes manifest that she has not incurred any obligations or indebtedness for the account of or chargeable to the conjugal partnership;

"WHEREFORE, it is respectfully prayed that this Honorable Court render a decision—

"(1) Ordering the separation of the properties of the herein Plaintiff and Defendant in accordance with Article 191 et cetera of the New Civil Code;

(2) Transferring all the above conjugal properties to the Defendant;

(3) Placing their children, namely RAMON, JR. TEODORO, and Gracie Marie, all surnamed KATIGBAK, in the custody of the Plaintiff.

" Manila, Philippines, September 25, 1951."

On February 1, 1955, the Laperals filed another complaint against Kalaw and Katigbak, Civil Case No. 25235, in the Court of First Instance of Manila, seeking among other things to annul proceedings had in Civil Case No. 12860 for "judicial separation of property and separate administration," to enforce the judgment secured by the Laperals in Civil Case No. 11767 on the fruits of Kalaw's paraphernal property, and to secure a ruling declaring the real property covered by Transfer Certificate of Title No. 57626, as conjugal property of Katigbak and Kalaw.

After trial, the court dismissed the complaint, which dismissal the Laperals are now appealing to this Court, assigning the following errors:

- "1. In holding that the obligations incurred by Katigbak did not redound to the benefit of the family of Katigbak and Kalaw;
2. In holding that the obligations incurred by Katigbak cannot be enforced against the fruits of the paraphernal property of Kalaw;
3. In not requiring Kalaw to account and pay to the Laperals the net fruits of the Center Theatre Building on Quezon Boulevard, Manila, and of other paraphernal property of Kalaw in satisfaction of DECISION I in favor of the Laperals;
4. In holding Katigbak's and Kalaw's conjugal partnership property as exempt from the obligations incurred by KATIGBAK;
5. In not holding that the dissolution of the conjugal partnership of Katigbak and Kalaw is—at least insofar as concerns the LAPERALS—void;
6. In not holding that the property situated in Evangelista Street, Manila, covered by Transfer Certificate of Title No. 57626 and the Center Theater Building are conjugal partnership property and in not holding the same liable to the obligations of Katigbak in favor of the Laperals; and
7. In not requiring Kalaw as an alternative to pay one-half of the unpaid portion of DECISION I.
8. In not ordering Kalaw and Katigbak to pay the Laperals attorney's fees."

The trial court refused to enforce the obligation of Katigbak embodied in the decision against him in Civil Case No. 11767 against the fruits of the paraphernal property of Kalaw:

"\* \* \* for the reason that there is no proof that the obligations contracted by Ramon redounded to the benefit of the family \* \* \*." (p. 59, Record on Appeal.)

citing Article 1386 of the Old Civil Code (Article 139 of the New Civil Code), which provides:

"Las obligaciones personales del marido no podran hacerse efectivas sobre los frutos de los bienes parafernales a menos que se pruebe que redundaron en provecho de la familia."

One argument behind the Laperal's contention that the fruits of Kalaw's paraphernal property should be made to answer for the obligation of Katigbak is that at least, as regards the P97,500.00 worth of jewelry given to Katigbak for sale, there was involved a contract or remunerative agency and consequently, the lower court should have considered said obligation as having redounded to the benefit of the family. In support thereof, the cases of *Javier vs. Osmeña*, 34 Phil. 336, and *Abella vs. Erlanger & Galinger*, 59 Phil. 326, are cited. In those cases, this Tribunal held that the husband as the manager of the conjugal partnership, has the right to embark the partnership in an ordinary commercial enterprise for gain, and the fact that the wife may not approve of the venture, does not make it a personal and private contract of the husband; consequently, the fruits of the paraphernal property are liable. (Op. Cit. I Tolentino, pp. 348-349, 1953 Ed.) This ruling is applicable in ordinary cases. However, where as in the present case, the contract was entered into by Katigbak without Kalaw's knowledge and consent, and while he and his wife were living separately, and as a matter of fact, the proceeds thereof not having redounded to the benefit of the family, the fruits of the paraphernal property may not be made to answer for said obligation, even if it arose from an alleged remunerative agency. Furthermore, in the case of *Roberto Laperal, Jr., et al. vs. Ramon L. Katigbak, et al.*, supra, where as already stated, the dismissal of the original complaint against Kalaw was affirmed by Us, we had occasion to say and to rule as follows:

"It is true that the plaintiffs allege that both defendants acted as their agents' in the sale in commission of the jewels; but having attached the receipts as integral parts of the complaint, their allegation as to agency in so far as Evelina is concerned, should be deemed as a mere legal inference from the marital relation; not a factual assertion based on specific contract. The legal conclusion is not supported by any statute. The provisions of the New Civil Code which plaintiffs invoke on the matter are not applicable, the transactions having taken place before June

As regards the question as to whether or not the obligation assumed by Katigbak redounded to the benefit of the family, Kalaw flatly denied the same in her pleading, asking for the dismissal of the complaint as against her. Not only that, but she testified in court without contradiction that at the time Katigbak issued the promissory notes, she was already living separately from her husband Katigbak and, as a matter of fact, they were granted a divorce by petition of Kalaw in Chihuahua, Mexico, on January 11, 1955, and that she was unaware of the transaction had between Katigbak and the Laperals, and that the family received no benefit whatsoever from the transaction:

"\* \* \* los acreedores no pueden hacer efectivo el importe de sus creditos en los frutos de los bienes parafernales, a menos de que prueben que redundaron en provecho de la familia, como consta del precepto especial del art. 1.386' (9 Manresa 548, 4.a Ed.)

"\* \* \* if the conjugal assets involved are fruits or products of the paraphernal property, in case of doubt concerning its true investments, it is not the wife who has to prove the fraud or the illegality of the act; it is the husband or the creditor who has to justify that the obligations contracted redounded to the benefit of the family. The spirit of the provisions is that the husband cannot benefit for his own interest for private or personal undertakings of the fruits of the paraphernal property; that these shall be destined to the true needs and charges of the conjugal partnership and accordingly, that they be employed, as they should for the benefit of the family." (Francisco, Book I, Civil Code of the Philippines, pp. 433-434).

In the case of Quintos de Ansaldo, et al. vs. Sheriff of Manila, et al., 64 Phil. 115, where no attempt was made to prove that the obligations contracted by the husband redounded to the benefit of the family, this court sustained the order of the trial court nullifying the execution levied on the fruits of the wife's paraphernal property:

"Construing the two articles together [Arts. 1386 and 1408, old Civil Code; 161 and 139 New Civil Code] it seems clear that the fruits of the paraphernal property which became part of the assets of the conjugal partnership are not liable for the payment of personal obligations of the husband, unless it proved that such obligations are productive of some benefit to the family.

"In the case now before us, no attempt has been made to prove that the obligations contracted by the appellee, Angel A. Ansaldo, were productive of some benefit to the family. It is, however, claimed that, as the sum of P636.80 has become the property of the conjugal partnership, at least one-half thereof was properly levied on execution, as the share of the appellee Angel A. Ansaldo. This contention is without merit. The right of the husband to one-half of the property of the conjugal partnership does not vest until the dissolution of the marriage, when the copartnership is also dissolved. (Civil Code, Arts 1392 and 1426)." (Quintos de Ansaldo vs. Sheriff of Manila, supra. See also, La Corporation de Padres Agustinos, etc., et al. vs. Angel A. Ansaldo et al. 66 Phil., 566, citing 9 Manresa p. 507, 2nd Ed.)

The trial court applying the provisions of Article 161 of the New Civil Code which provides that the conjugal partnership shall be liable for debts and obligations contracted by the husband for the benefit of the conjugal partnership, refused to enforce the judgment debt of Katigbak against the conjugal property, for the reason that the Laperals failed to prove affirmatively that the obligation redounded to the benefit of the family. Said the trial court:

"\* \* \*. And for the reason that there is no proof that the obligations contracted by Ramon redounded to the benefit of the family it will appear that these obligations could not be enforced upon the fruits of the

paraphernal properties; neither could they be enforced naturally upon the paraphernal properties; but they could be enforced upon the conjugal partnership property. Having arrived at this point, the Court finds an obstacle to plaintiffs' claim which it cannot ignore. As the obligations were contracted and made payable under the regime of the Old Civil Code, if the case were to be decided under that, the action would lie to enforce the payment against the conjugal properties; unfortunately the Civil Code has suffered an amendment in this regard and as the law now stands, the conjugal partnership cannot be liable for an obligation of the husband unless it was contracted by him for the benefit of the family, which is an affirmative fact that should be proved (Art. 161, New Civil Code) and in the present case the Court has all the right to presume that the obligations did not redound to the benefit of the family, considering par. 5 of the complaint in the Civil Case 12860 and par. 2 of the agreement of facts therein. If then this is the present law what effect does it have on the case? Since the exemption from liability for personal obligations of the husband is a right given to the conjugal partnership for the first time by this Code; it should be operative at once, unless it should impair a right vested under the old legislation (Art. 2253, New Civil Code). But the right of the Laperals so far as the judgment against Ramon Katigbak is concerned is one thing and their right to proceed against the conjugal properties of Ramon and Evelina is another; the first one was a property right vested under the old Code; the second was right also under that but one that had not yet vested before the New Civil Code came into being. All vested rights are property but not all rights are; the Legislature can come in and destroy rights not yet vested without impairment of due process. Perhaps the case can be illustrated by analogy to Art. 2261 of the New Civil Code; the Legislature there has decreed that exemptions from liability under Art. 302 were operative at once; and as this is a case analogous it should under Art. 2269, be solved in the same manner. The result will be dismissal." (pp. 59-61, Record on Appeal.)

The Laperals, however, contend that inasmuch as the debts were contracted and were made payable before the New Civil Code went into effect, then Article 1408 of the Old Civil Code should apply; and that inasmuch as under the latter, in relation to third persons, the husband and the conjugal partnership are considered identical, then the obligations contracted by Katigbak are chargeable against the conjugal property, except the fruits of the paraphernal property, even if the obligation did not benefit the family. We are inclined to agree with the Laperals, on this vital question. For purposes of reference, we are reproducing Articles 4t 161, 2252 and 2253 of the New Civil Code, and Article 1408 of the Old Civil Code:

"ART. 4. Laws shall have no retroactive effect, unless the contrary is provided."

"ART. 161. The conjugal partnership shall be liable for: (1) All debts and obligations contracted by the husband for the benefit of the conjugal partnership, and those contracted by the wife, also for the same purpose, in cases where she may legally bind the partnership; \* \* \*."

"Art. 2252. Changes made and new provisions and rules laid down by this Code which may prejudice or impair vested or acquired rights in accordance with the old legislation shall have no retroactive effect."

"For the determination of the applicable law in cases which are not specified elsewhere in this Code, the following articles shall be observed: (Pars. 1 and 2, Transitional Provisions)."

"ART. 2253. The Civil Code of 1889 and other previous laws shall govern rights originating, under said laws, from acts done or events which took place under their regime, even though this Code may regulate them in a different manner, or may not recognize them. But if a right should be declared for the first time in this Code, it shall be effective at once, even though the act or event which gives rise thereto may have been done or may have occurred under the prior legislation, provided said new right does not prejudice or impair any vested or acquired right, of the same origin. (Rule 1)".

"ART. 1408. The conjugal partnership shall be liable for:

- All the debts and obligations contracted during the marriage by the husband, and also for those contracted by the

wife in the cases in which she can legally bind the partnership; \* \* \*." (Old Civil Code)

In relation to the obligation assumed by Katigbak, namely, the loans evidenced by the promissory notes and the delivery to him of the jewelry for sale, which loans and jewelry were to be paid and accounted for, respectively, before the promulgation of the New Civil Code on August 30, 1950, the same would ordinarily be governed by the Old Civil Code of 1889, this, under the first part of Art. 2253. Applying the Old Civil Code, particularly, Article 1408, paragraph 1, this obligation renders the conjugal partnership liable, for the reason that said Article 1408 does not require that said obligation should benefit the conjugal partnership.

Then Article 161 of the New Civil Code provides that the conjugal partnership shall be liable for debts and obligations contracted by the husband only when they were for the benefit of the conjugal partnership. In other words, the conjugal properties are exempt from this liability when the obligations did not benefit the conjugal partnership, as they did not as a matter of fact in the present case. This legal exemption may be regarded as a new right declared for the first time in the New Civil Code, particularly, by the later part of Article 2253, and should be made effective at once, even though the obligation contracted by the husband may have been done or occurred under the regime of the Old Civil Code. This, the trial court did; it gave effect to this new right of exemption. However, and this is important, said latter part of Article 2253 clearly imposes a qualification or condition, namely, that the new right to be made effective at once does not prejudice or impair any vested or acquired right. Not only this, but Articles 4 and 2252 of the New Civil Code provide that laws shall have no retroactive effect, unless the contrary is provided, and that new provisions and rules laid down by the new Code which may prejudice or impair vested or acquired rights shall have no retroactive effect.

Commenting on Articles 2252 to 2270, the Code Commission, in its report, said the following:

"The articles submitted are based on article 4 of the new Code which states that law shall have no retroactive effect, unless the contrary is provided. The question of how far the new Civil Code should be made applicable to past acts and events is attended with the utmost difficulty. It is easy enough to understand the abstract principle that laws have no retroactive effect because vested or acquired rights should be respected. But what are vested or acquired rights?

"The Commission did not venture to formulate a definition of a vested or acquired right, seeing that the problem is extremely complicated. Neither did the Commission deem it advisable to propose detailed rules, as is done in Switzerland."

\* \* \* \* \*

"What constitutes a vested or acquired right will be determined by the courts as each particular issue is submitted to them, by applying the transitional provisions set forth and in case of doubt, by observing article 9 governing the silence or obscurity of the law. In this manner, the Commission is confident that the judiciary with its enlightenment and high sense of justice will be able to decide in what cases the old Civil Code should apply and in what cases the new one should be binding. This course has been preferred by the Commission, which did not presume to be able to foresee and adequately provide for each and every question that may arise."

The Code Commission did not formulate a definition of a vested or acquired right; neither do we propose to do so, not only because of the extensive and complicated scope and nature of the same, but also because we find it unnecessary at this time.

The question is whether or not any vested or acquired right is involved in the instant case. The answer, in our opinion, is in the affirmative. When the Laperals granted the loans and delivered the jewelry to Katigbak to be paid and accounted for by him, the law then in force (Article 1408, Old Civil Code) made the conjugal partnership

liable for the obligation. In other words, in giving the loan and delivering the jewelry to Katigbak, the Laperals, for purposes of security and assurance, presumably or undoubtedly looked to the conjugal properties as security to answer for the obligation, should Katigbak fail to make good his undertaking. Stated differently, the Laperals acquired a sort of lien on said conjugal properties. For instance, if before the obligation was paid and fulfilled, or even before maturity, the conjugal partners or either of them tried to dispose of the conjugal properties, the Laperals could take judicial measures to stop and frustrate the attempt, if intended to defraud creditors. We hold that this right of the Laperals is an acquired or vested right which attached to the obligation. The Laperals, in order to acquire or to vest their right, did not have to wait until the obligation matured, or the obligor failed, and then bring the corresponding suit in court, obtain a favorable decision, as well as a writ of execution against the conjugal partnership to enforce the, judgment. The right of the Laperals vested at the very moment the obligation was contracted, under the provisions of the Old Civil Code. For this reason, the provisions of Article 161 of the New Civil Code cannot apply, and the trial court erred in applying the same.

However, our holding does not write a finish to the case. Because the trial court held that the conjugal partnership was not liable, it naturally, saw no reason or necessity for ruling upon the other issues involved, such as the legality of the proceedings in Civil Case No. 12860 for the dissolution of the conjugal partnership, and whether or not the property covered by Transfer Certificate of Title 27626 belongs to the conjugal partnership.

In conclusion, we hold that while the fruits of the paraphernal property of Kalaw are not liable for the enforcement of the obligation contracted by Katigbak, nevertheless, the conjugal properties are.

The case is hereby ordered remanded for further proceedings to the trial court, the latter to make the necessary findings indicated, and then render a decision on the basis of said findings and in accordance with our decision. No costs.

Paras, C. J., Bengzon, Bautista Angelo, Labrador, Reyes, J. B. L., and Endencia, JJ., concur.

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