

JESUSA LACSON VDA. DE ARROYO, ET AL., PETITIONERS, VS. EL BEATERIO DEL SANTISSIMO ROSARIO DE MOLO, ET AL., RESPONDENTS.

G.R. No. L-22005. May 03, 1968

Ponente: DIZON, J.

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DIZON, J.:

Appeal by certiorari taken by Jesusa Lacson Vda. de Arroyo and other heirs of the late Ignacio Arroyo, from the decision of the Court of Appeals in C.A.-G.R.-28555 affirming the one rendered by the Court of First Instance of Iloilo in Civil Case No. 4759 entitled "Jesusa Lacson Vda. de Arroyo et al., vs. El Beaterio Del Santissimo Rosario de Molo, et al." holding "that the plaintiffs have failed to establish fair and reliable basis upon which the donation in question may be justly declared inofficious", and, for this reason, dismissing the case, without costs.

The facts as found by the Court of Appeals - substantially the same as those found by the Court of First Instance - are as follows:

"On July 2, 1924, the late Ignacio Arroyo partitioned his estate inter vivos among his three children Jose Arroyo, Mariano Arroyo and Sor Rosario (Arroyo) de la Visitacion by executing with them a public instrument called 'Convenio de Re-particidn de Bienes y Adjudicacion de Herencia' (Exh. 'A'). The three children also received therein their inheritance from their deceased mother Maria Pidal, the first wife of Ignacio Arroyo. The estate of Ignacio Arroyo was apportioned in four parts, with specified properties being given to each of the three children, and the remaining properties, likewise specified, being adjudicated to Ignacio Arroyo, or reserved for himself, as comprising his one-third portion of free disposal.

"On March 8, 1927 Jose Arroyo died leaving his widow Jesusa Lacson Vda. de Arroyo and their children as his only heirs.

"On January 9, 1928, Ignacio Arroyo, in a public document called 'Escritura de Donacidn' (Exh. B, disposed of almost all of the properties adjudicated to him in the aforementioned 'Convenio de Reparticion in favor of the Beaterio del Santissimo Rosario de Molo, a religious corporation. This donation, with all the conditions thereof, was accepted by the donee on the same date and in the same instrument. Subsequent documents clarifying the properties subject matter of the donation, and modifying the conditions imposed thereby, were executed on August 11, 1931 and on October 8, 1931 (Exhs. 'C', 'D' and 'E').

"On October 22, 1931 Ignacio Arroyo executed his last will and testament (Exh. 'F'). The 'Convenio de Reparticion' aforementioned was reproduced in said will as an integral part thereof, following a statement therein regarding its execution, and regarding its being confirmed and reproduced therein so that its validity will never be questioned. The donation in favor of the Beaterio del Santissimo Rosario de Molo, its acceptance and subsequent modifications were likewise related in the said will.

"On January 8, 1935 Ignacio Arroyo died and his last will and testament was probated, without any opposition, by the Court of First Instance of Iloilo on February 25, 1935.

"On January 20, 1936 Ricardo Carreon, as administrator of the intestate estate of Concepcion Gerona, filed an amended complaint (Exh. 'G') against Lucio Lacson as executor of Ignacio Arroyo, Jose Arroyo, Jr. as administrator of the intestate estate of Jose Arroyo, the Beaterio del Santissimo Rosario de Molo and the Municipality of Iloilo, docketed as Civil Case No. 9137 of the Court of First Instance of Iloilo, seeking the re-recovery, inter alia, of one-half of the properties adjudicated to Jose Arroyo and Mariano Arroyo in the 'Convenio de Reparticion' (Exh. 'A') and one-half of the properties donated to the Beaterio del Santissimo Rosario de Molo in the 'Escritura de Donacion' (Exh. 'B'). The court rendered judgment against the defendants, but cleared the Beaterio and the municipality of Iloilo from any liability, and refrained from disturbing the status of the properties donated to them, reserving the right of the plaintiff to claim from the executor of Ignacio Arroyo one-half of the value of these donated properties. The Arroyos appealed the decision to the Supreme Court but war destroyed the re-cords of the case, so that a new trial was or-dered. Civil Case No. 9137 of the Court of First Instance of Iloilo was then tried anew, but on November 3, 1949, the plaintiffs there-in and Jesusa Lacson Vda. de Arroyo as adminis-tratrix of the intestate estate of Jose Arroyo entered into an agreement whereby the former renounced and waived in favor of the latter all their rights and interests on any and all the properties therein litigated in consideration of the sum of P65,000.00 and the assumption of the obligation to pay the attorney's fees of the counsel of the plaintiffs in the sum of P40,000.00 (Exh. 'M-1'). Upon motion of both parties the Court of First Instance dismissed the complaint in Civil Case No. 9137 on the same date (Exh. 'R').

"On March 13, 1958, Jesusa Lacson Vda. de Arroyo and her children, as the heirs of Jose Arroyo, filed the complaint in this case, seeking declaration of the donation made by Ignacio Arroyo to the Beaterio del Santissimo Rosario de Molo in 1928 as inofficious and to recover the excess thereof. The principal defendant is the Beaterio del Santissimo Rosario de Molo, although the estate of Sor Rosario (Arroyo) de la Visitacion and the heirs of Mariano Arroyo were impleaded as defendants for being allegedly unwilling co-plaintiffs. On March 24, 1958 defendants filed their answer including a counterclaim, which plaintiffs answered on April 14, 1958. After due trial, decision was rendered on August 29, 1960, dismissing the complaint for failure of the plaintiffs to establish fair and reasonable basis upon which the donation in question may be justly declared inofficious. The counterclaim was likewise dismissed."

After a careful consideration of the foregoing facts, the trial court held "that the plaintiffs have failed to establish fair and reasonable basis upon which the donation in question may be justly declared inofficious"(Record on Appeal p. 168). For its part, the Court of Appeals affirmed the decision of the trial court because, in its opinion, "the decision appealed from does not err in finding no fair and reasonable basis for declaring the Beaterio donation inofficious".

According to the decision of the Court of Appeals, the lone assignment of error submitted by the appellants in their brief argued "for the sufficiency of plaintiffs-appellants evidence as a fair and reasonable basis for resting a finding that the donation in question is inofficious". It is clear, therefore, that the only issue submitted to said court, and by it decided, was purely one of fact.

In this connection it is a matter removed from dispute that We can review decisions of the Court of Appeals only on errors of law, its findings of fact being conclusive.

A question of law has been declared as one not calling for the examination of the probative value of the evidence presented by the parties (Goduco vs. Court of Appeals et al., 63 Off. Gaz.; [2] 309; Air France, etc. vs. Carrascoso, et al., 64 Off. Gaz.; [19] 4524). Moran's Comments on the subject (rules of Court, Volume 11, 1963 Edition, p. 412) are to the effect that "For a question to be one of law, it must involve no examination of the provative value of the evidence presented by the litigants or any of them."

In a case similar to the one at bar (Lim vs. Calaguas, G. R. No. L-2031, May 30, 1949, 40 O.G., 11 Supp. 247, 83 Phil. 796) We held:

"Our review should be confined to the facts and circumstances found by the Court of Appeals. And we agree that such facts and circumstances in this case do not sustain the theory of the appellant. Indeed it is seriously to be doubted whether we could reverse the conclusion of the appellate court to the effect that those facts and circumstances are not 'enough evidence' to show clearly and beyond doubt that the parties intended the contract to be a mortgage instead of a conditional conveyance. That conclusion is obviously ONE OF FACT, not a bit different from the verdict of a jury in a murder trial that the circumstantial evidence presented by the prosecution has proved, or has not proved that the accused had killed the deceased.

"In disputes of this nature, the pivotal inquiry is: Do the circumstances show beyond doubt that the parties made a contract different from the express terms of the document they signed? Is the evidence clear, convincing and satisfactory that the deal was a mortgage instead of a sale with pacto de retro? (Cuyugan v. Santos 34 Phil 100; Tolentino v. Gonzales, 50 Phil 558). That query necessarily invites calibration of the whole 'evidence', considering mainly the credibi-lity of witnesses, existence and relevancy of specific surrounding circumstances, their relation to each other and to the whole and the probabili-ties of the situation. Consequently the question must be deemed factual for the Appeals' Court to solve.

"In the United States where questions of law are for the jury, it is held that if the question whether a given transaction amounts to a conditional sale or mere mortgage depends upon written instru-ments alone, it is a question for the court; but if extraneous evidence is required or received for the purpose of ascertaining the real intention of the parties, the question is for the jury (41 C.J. 361 citing many cases, particularly Bogk v. Gasset, 149 U.S. 17, Howard v. Kopperl, 74 Tex. 194; 5 SW 627 and Kinnert v. Strong, 103 Wis. 70; 79 N.W. 32) and 'an issue involving determination of the x x x intent of a person or persons with respect to acts done by them is a question of fact for the jury. (64 C.J. 365)." (underlining ours).

In Rapatan vs. Chicano, G. R. No. L-13828, February 25, 1960, We likewise said:

"But the trial court did not merely dismiss the complaint, proceeded to receive evidence on the counterclaim of defendants. In this respect the trial court said 'With respect to the counterclaim alleged in the amended answer of the said defendants, the preponderance of evidence discloses that the imputations contained in the complaint that the late Escolastico G. Chicano, husband of Coleta de Chicano and father of Elpidio Chicano had acquired the land in question from the plaintiffs through fraud and that the said defendants 'taking advantage of the ignorance of the plaintiffs herein managed fraudulently to transfer the tax declaration of the land in question in the name of the plaintiffs to the name of defendants, are false, malicious and defamatory to the memory of the late Escolastico Chicano and the reputation of his heirs, Elpidio Chicano and Coleta de Chicano, thus causing the latter mental anguish, besmirched, reputation, wounded feelings, moral shock and simi-lar injuries,' and accordingly, ordered plaintiffs to pay the sum of P5,000.00 as moral damages.

"Considering that the foregoing finding is a question of fact which involves an evaluation of the evidence and the same is now assigned as error, we are of the opinion that this case comes within the appellate jurisdiction of the Court of Appeals."

In the light of the foregoing it is clear that petitioners now seek a reversal of the decision of the Court of Appeals not upon a question of law but upon one of fact - one which necessarily involves the examination of the probative value of the evidence presented by them, it being their contention that such evidence, which the Court of Appeals precisely held to be insufficient to justify the granting of the relief sought, is, in fact, sufficient for that purpose. In other words, petitioners seek to have Us substitute our judgment in lieu of that of the Court of Appeals in the resolution-of a question of fact.

But to avoid the necessarily fatal application of the well settled rule on the matter, petitioners' lone assignment of error in the brief submitted to Us attempts to state the issue somewhat differently, saying that the Court of Appeals "gravely erred in not declaring the donation in question inofficious and in not ordering the return to petitioners of the excess thereof". Re-stating the issue at page 2 of their brief they submit again that "the only

question presented in this appeal is whether the conclusions of the Honorable Court of Appeals drawn from the undisputed facts are correct or not".

Petitioners' obvious effort to show in this manner that the Court of Appeals committed errors of law is unavailing, because for Us to hold that, upon the evidence of record, the questioned donation is inofficious, We must necessarily weigh or evaluate their evidence and hold that - contrary to the opinion of the Court of Appeals - that evidence is of sufficient probative value to show that the questioned donation is inofficious.

Upon the other hand, the authorities relied upon by petitioners do not support their contention.

What we said in *Manila Railroad Company vs. Attorney General*, 41 Phil 160, 169, is simply to the effect that a witness who personally knows the land sought to be expropriated because he had possessed it as owner or had administered it or lived on it for a long time, or because he had bought and sold much land situated in the same municipality, or had been engaged in farming and business and had therefore acquired experience and knowledge of the value of lands in the locality, is competent to testify on the value of said land. To hold that a particular person is competent to testify upon a given matter does not mean that his testimony upon the same must be believed by the Court or must be deemed by the latter to be of sufficient probative value to establish the point which it was intended to prove. Competency as a witness is one thing, and it is another to be a credible witness, so credible that the Court must accept what he says. A perusal of the decision subject of review clearly shows that the Court of Appeals did not hold that witness Doromal was not a competent witness in relation to the value of the properties involved in the questioned donation; it simply declined to believe his testimony or to give it probative value sufficient to prove what petitioners were trying to establish. Had the Court of Appeals considered him not to be a competent witness upon that matter, it would have completely ignored or disregarded his testimony instead of weighing it or evaluating it; this, however, resulting in the Court arriving at the conclusion that such evidence did not have sufficient probative value to convince the Court.

The passages quoted from 20 *American Jurisprudence*, p. 749-750 and 755 are likewise in support of the proposition that "professional appraisers and dealers engaged in the business of buying and selling similar property are competent to testify as to value" or are "competent to express his (their) judgment as to its value". To say that a particular witness "is competent to express his judgment" as to the value of particular properties is manifestly a far cry from the proposition that because he is competent to express such judgment, the Court must necessarily accept and believe his testimony. The Court - particularly trial courts - may allow a person to testify as a witness upon a given matter because he is competent but may thereafter decide whether to believe or not to believe his testimony.

As regards the Court of Appeals refusal to believe or to be bound by the testimony of petitioner Jesusa Lacson Vt. de Arroyo because "a sale between brothers can not be a reliable index of the fair market value of a property", petitioners now contend that there is no evidence at all that the deceased Jose Arroyo (late husband of said petitioner) or the deceased Mariano Arroyo were trying to help one another when they executed the deed of conveyance involving one-half share of Haciendas "Manolita" and "Conchita" in favor of the former. This obviously raises the same question of whether or not the Court of Appeals committed any error in evaluating the testimony of the witness already named - a question purely of fact which We are not authorized to review.

IN VIEW OF ALL THE FOREGOING, the decision appealed from is affirmed, with costs.

Reyes, J.B.L., Makalintal, Bengzon, Sanchez, Castro, Angeles and Fernando, JJ., concur.

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