

RUPERTA REGALA RARIZA, PLAINTIFF-APPELLANT, VS. VIRGINIA GUINOO, DEFENDANT-APPELLEE.

Ponente: REYES, JR., J.C., J.

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REYES, JR., J.C., J.:

Acting on the Motion for Reconsideration (Rollo, pp. 108-116) filed by plaintiff-appellant anent the Decision dated April 15 2014 (Rollo, pp. 93-102) as well as the comment (Rollo, pp. 118-121) filed by defendant-appellee, this Court finds no compelling reason to disturb the questioned decision.

Plaintiff-appellant argued that this Court did not resolve all the issues raised in the assignment of errors in the Appeal, particularly the question of whether the disputed property is conjugal or not. If it is conjugal, then upon the death of Felicisima's spouse (Constancio), the said property, is automatically transmitted to the deceased's legal heirs by operation of law, making them all co-owners of the property in question.

Plaintiff-appellant insisted that said property is conjugal, banking on the presumption under Article 160 of the Civil Code which states that "all property of the marriage is presumed to belong to the conjugal partnership, unless it be proved that it pertains exclusively to the husband or to the wife." Although it is not necessary to prove that the property was acquired with funds of the partnership, proof of acquisition during the marriage is an essential condition for the operation of the presumption in favor of the conjugal partnership (*Dela Pena vs. Avila*, 665 SCRA 553 [2012]). In other words, for the operation of this article in favor of the conjugal partnership to apply, the party who invokes the presumption must first prove that the property was acquired during the marriage (See: *Go vs. Yamane*, 489 SCRA 107, 117 [2006]).

As the party invoking the presumption of conjugality under Article 160 of the Civil Code, plaintiff-appellant failed to show by any clear and convincing evidence that the property was acquired during the subsistence of the marriage of Constancio and Felicisima. The assertion that it was acquired during the subsistence of the spouses' marriage, that the taxes paid for it came from the conjugal funds and that Felicisima Avila could not have acquired it through succession and lucrative title, were merely suppositions and conjectures, devoid of proof and factual basis. Moreover, the invocation that the Certificate of Title thereto, mentioned Felicisima Avila, married to Constancio Regala, does not necessarily establish its conjugal nature. The term is merely descriptive of the civil status of the wife and cannot be interpreted to mean that the husband is also a registered owner (*De La Pena vs. Avila*, 665 SCRA 553 [2012]). Because it is likewise possible that the property was acquired by the wife while she was still single and registered only after her marriage (*ibid.*). Neither would registration thereof in said manner constitute proof that the same was acquired during the marriage and, for said reason, to be presumed conjugal in nature (*ibid.*). Since there is no showing as to when the property in question was acquired, the fact that the title is in the name of the wife alone is determinative of its nature as paraphernal, i.e., belonging exclusively to said spouse (See: *Ruiz vs. Court of Appeals*, 401 SCRA 410, 419 [2003]).

Viewed in light of the paraphernal nature of the property, We stand firm in our earlier pronouncement that the donation made by Felicisima Avila in favor of Virginia Guinoo is valid. Under Article 428 of the Civil Code, the owner has the right to dispose of a thing without other limitation than those established by law. There is nothing

therefore to prevent Felicisima from making gratuitous donations of her 26.54-square-meter-property (that is part of larger whole) for as long as the legitimes of her compulsory heirs are not prejudiced. Thus, what needs to be resolved in the instant case is the simple question of who between the parties has the better right to possess the disputed property – the one relying on an invalid Extra-Judicial Settlement of Estate and Subdivision Plan or the other, relying on the Deed of Donation Inter Vivos executed by the registered owner thereof during her lifetime.

We have painstakingly went over and reviewed the records of the case and found no cogent reason to reverse our findings considering that all the other grounds relied upon in the motion have already been discussed and passed upon in the questioned decision. Thus, re-echoing the passing remark of the RTC on this matter:

“x x x this Court notes that there is a need for the parties, herein inclusive of the plaintiff's six (6) other siblings who were not impleaded herein to favorably consider a resurvey of Lot 154 of OCT No. RP-7749 (2833) exclusive of the area of 26.54 square meters which was donated to herein defendant so as to arrive to an equal allocation of the respective share of all the siblings (sic) of Felicisima Avila particularly the share of herein plaintiff which was adversely prejudiced by reason of the donation to herein defendant” (See: Rollo, p. 83).

WHEREFORE, premises considered, the Motion for Reconsideration is hereby DENIED for lack of merit.

SO ORDERED.

Lopez, and Inting, JJ., concur.

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