

**CONSTANCIO SIENES, ET AL., PLAINTIFFS AND APPELLANTS, VS.
FIDEL ESPARCIA, ET AL., DEFENDANTS AND APPELLEES.***G.R. No. 12957. March 24, 1961*

Ponente: DIZON, J.

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Appellants commence this action below to secure judgments (1) declaring null and void the sale executed by Paulina and Cipriana Yaeso in favor of appellees, the spouses Fidel Esparcia and Paulina Sienes; (2) ordering the Esparcia spouses to reconvey to appellants Lot 3368 of the Cadastral Survey of Ayuquitan (now Amlan), Oriental Negros; and (3) ordering all the appellees to pay, jointly and severally, to appellants the sum of P500.00 as damages, plus the costs of suit. In their answer appellees disclaimed any knowledge or information regarding the sale allegedly made on April 20, 1951 by Andrea Gutang in favor of appellants and alleged that if such sale was made, the same was void on the ground that Andrea Gutang had no right to dispose of the property subject matter, thereof. They further alleged that said property had never been in possession of appellants, the truth being that appellees, as owners, had been in continuous possession thereof since the death of Francisco Yaeso. By way of affirmative defense and counterclaim, they further alleged that on July 30, 1951, Paulina and Cipriana Yaeso, as the only, surviving heirs of Francisco Yaeso, executed a public instrument of sale in favor of the spouses Fidel Esparcia and Paulina Sienes, the said sale having been registered together with an affidavit of adjudication executed by Paulina and Cipriana on July 18, 1951, as sole surviving heirs of the aforesaid deceased; that since then the Esparcias had been in possession of the property as owners.

After trial upon the issues thus joined, the lower court rendered judgment as follows:

"In view of all the foregoing, judgment is hereby rendered declaring (1) that the sale of Lot No. 3368 made by Andrea Gutang to the plaintiff spouses Constancio Sienes and Genoveva Silay is void, and the reconveyance prayed for by them is denied; (2) that the sale made by Paulina and Cipriana Yaeso in favor of defendants Fidel Esparcia and Paulina Sienes involving the same lot is also void, and they have no valid title thereto; and (3) that the reservable property in question is part of and must be reverted to the estate of Cipriano Yaeso, the lone surviving relative and heir of Francisco Yaeso at the death of Andrea Gutang as of December 13, 1951. No pronouncement as to costs."

From the above decision the Sienes spouses interposed the present appeal, their principal contentions being, firstly, that the lower court erred in holding that Lot 3368 of the Cadastral Survey of Ayuquitan was a reservable property; secondly, in annulling the sale of said lot executed by Andrea Gutang in their favor; and lastly, in holding that Cipriana Yaeso, as reservee, was entitled to inherit said land.

There is no dispute as to the following facts:

Lot 3368 originally belong to Saturnino Yaeso. With his first wife, Teresa Ruales, he had four children named Agaton, Fernando, Paulina and Cipriana, while with his second wife, Andrea Gutang, he had an only son named Francisco. According to the cadastral records of Ayuquitan, the properties left by Saturnino upon his death—the

date of which does not clearly appear of record—where left to his children as follows: Lot 3366 to Cipriana, Lot 3367 to Fernando, Lot 3375, to Agaton, Lot 3377 (southern portion) to Paulina, and Lot 3368 (western portion) to Francisco. As a result of the cadastral proceedings. Original Certificate of Title No. 10275 covering Lot 3368 was issued in the name of Francisco. Because Francisco was a minor at the time, his mother administered the property for him, declared it in her name for taxation purposes (Exhs. A & A-1), and paid the taxes due thereon (Exhs. B, C, C-1 & A-2). When Francisco died on May 29, 1932 at the age of 20, single and without any descendant, his mother, as his sole heir, executed the public instrument Exhibit F entitled extra-judicial settlement and sale whereby, among other things, for and in consideration of the sum of P800.00, she sold the property in question to appellants. When thereafter said vendees demanded from Paulina Yaeso and her husband Jose Esparcia, the surrender of Original Certificate of Title No. 10275—which was in their possession—the latter refused, thus giving rise to the filing of the corresponding motion in the cadastral record No. 507. The same, however, was denied (Exhs. 8 & 9).

Thereafter, or more specifically, on July 30, 1951, Cipriana and Paulina Yaeso, the surviving half-sisters of Francisco, and who as such had declared the property in their name on January 1, 1951 executed a deed of sale in favor of the spouses Fidel Esparcia and Paulina Sienes (Exh. 2) who, in turn, declared it in their name for tax purposes and thereafter secured the issuance in their name of Transfer Certificate of Title No. T-2141 (Exhs. 5 and 5-A).

As held by the trial court, it is clear upon the facts already stated, that the land in question was reservable property. Francisco Yaeso inherited it by operation of law from his father Saturnino, and upon Francisco's death, unmarried and without descendants, it was inherited, in turn, by his mother, Andrea Gutang. The latter was, therefore, under obligation to reserve it for the benefit of relatives within the third degree belonging to the line from which said property came, if any survived her. The record discloses in this connection that Andrea Gutang died on December 13, 1951, the lone reservee surviving her being Cipriana Yaeso who died only on January 13, 1952 (Exh. 10).

In connection with reservable property, the weight of opinion is that the reserva creates two resolutive conditions, namely, (1) the death of the ascendant obliged to reserve and (2) the survival, at the time of his death, of relatives within the third degree belonging to the line from which the property came (6 Manresa 268-269; 6 Sanchez Roman 1934). The Court has held in connection with this matter that the reservista has the legal title and dominion to the reservable property but subject to a resolutive condition; that he is like a life usufructuary of the reservable property; that he may alienate the same but subject to reservation, said alienation transmitting only the revocable and conditional ownership of the reservista, the rights acquired by the transferee being revoked or resolved by the survival of reservatorios at the time of death of the reservista (Edroso vs. Sablan, 25 Phil., 295; Lunsod vs. Ortega, 46 Phil., 664; Florentino vs. Florentino 40 Phil., 480; and Director of Lands vs. Aguas, 63 Phil., 279).

The sale made by Andrea Gutang in favor of appellees was, therefore, subject to the condition that the vendees would definitely acquire ownership, by virtue of the alienation, only if the vendor died without being survived by any person entitled to the reservable property. Inasmuch as when Andrea Gutang died, Cipriano Yaeso was still alive, the conclusion becomes inescapable that the previous sale made by the former in favor of appellants became of no legal effect and the reservable property subject matter thereof passed in exclusive ownership to Cipriana.

On the other hand, it is also clear that the sale executed by the sisters Paulina and Cipriana Yaeso in favor of the spouse Fidel Esparcia and Paulina Sienes was subject to a similar resolutive condition. The reserve instituted by law in favor of the heirs within the third degree belonging to the line from which the reservable property came, constitutes a real right which the reservee may alienate and dispose of, albeit conditionally, the condition being

that the alienation shall transfer ownership to the vendee only if and when the reservee survives the person obliged to reserve. In the present case, Cipriana Yaeso, one of the reservees, was still alive when Andrea Gutang, the person obliged to reserve died. Thus the former became the absolute owner of the reservable property upon Andrea's death. While it may be true that the sale made by her and her sister prior to this event, became effective because of the occurrence of the resolutory condition, we are not now in a position to reverse the appealed decision, in so far as it orders the reversion of the property in question to the Estate of Cipriana Yaeso, because the vendees—the Esparcia spouses—did not appeal therefrom.

Wherefore, the appealed decision—as above modified—is affirmed, with costs, and without prejudice to whatever action in equity the Esparcia spouses may have against the Estate of Cipriana Yaeso for the reconveyance of the property in question.

Bengzon, Acting C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, and Paredes, JJ., concur.

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