CIRILA ARCABA, PETITIONER, VS. ERLINDA TABANCURA VDA. DE BATOCAEL, SEIGFREDO C. TABANCURA, DORIS C. TABANCURA, LUZELLI C. TABANCURA, BELEN C. TABANCURA, RAUL A. COMILLE, BERNADE...

G.R. No. 146683. November 22, 2001

Ponente: MENDOZA, J.

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MENDOZA, J.:

Petitioner Cirila Arcaba seeks review on certiorari of the decision[1] of the Court of Appeals, which affirmed with modification the decision[2] of the Regional Trial Court, Branch 10, Dipolog City, Zamboanga del Norte in Civil Case No. 4593, declaring as void a deed of donation inter vivos executed by the late Francisco T. Comille in her favor and its subsequent resolution[3] denying reconsideration.

The facts are as follows:

On January 16, 1956, Francisco Comille and his wife Zosima Montallana became the registered owners of Lot No. 437-A located at the corner of Calle Santa Rosa (now Balintawak Street) and Calle Rosario (now Rizal Avenue) in Dipolog City, Zamboanga del Norte. The total area of the lot was 418 square meters.[4] After the death of Zosima on October 3, 1980, Francisco and his mother-in-law, Juliana Bustalino Montallana, executed a deed of extrajudicial partition with waiver of rights, in which the latter waived her share consisting of one-fourth ([1]/4) of the property to Francisco.[5] On June 27, 1916, Francisco registered the lot in his name with the Registry of Deeds.[6]

Having no children to take care of him after his retirement, Francisco asked his niece Leticia Bellosillo,[7] the latter's cousin, Luzviminda Paghacian,[8] and petitioner Cirila Arcaba, then a widow, to take care of his house, as well as the store inside.[9]

Conflicting testimonies were offered as to the nature of the relationship between Cirila and Francisco. Leticia Bellosillo said Francisco and Cirila were lovers since they slept in the same room,[10] while Erlinda Tabancura,[11] another niece of Francisco, claimed that the latter had told her that Cirila was his mistress.[12] On the other hand, Cirila said she was a mere helper who could enter the master's bedroom only when the old man asked her to and that Francisco in any case was too old for her. She denied they ever had sexual intercourse.[13]

It appears that when Leticia and Luzviminda were married, only Cirila was left to take care of Francisco.[14] Cirila testified that she was a 34-year old widow while Francisco was a 75-year old widower when she began working for the latter; that he could still walk with her assistance at that time;[15] and that his health eventually deteriorated and he became bedridden.[16] Erlinda Tabancura testified that Francisco's sole source of income consisted of rentals from his lot near the public streets.[17] He did not pay Cirila a regular cash wage as a househelper, though he provided her family with food and lodging.[18]

On January 24, 1991, a few months before his death, Francisco executed an instrument denominated "Deed of

Donation Inter Vivos," in which he ceded a portion of Lot 437-A, consisting of 150 square meters, together with his house, to Cirila, who accepted the donation in the same instrument. Francisco left the larger portion of 268 square meters in his name. The deed stated that the donation was being made in consideration of "the faithful services [Cirila Arcaba] had rendered over the past ten (10) years." The deed was notarized by Atty. Vic T. Lacaya, Sr.[19] and later registered by Cirila as its absolute owner.[20]

On October 4, 1991, Francisco died without any children. In 1993, the lot which Cirila received from Francisco had a market value of P57,105.00 and an assessed value of P28,550.00.[21]

On February 18, 1993, respondents filed a complaint against petitioner for declaration of nullity of a deed of donation inter vivos, recovery of possession, and damages. Respondents, who are the decedent's nephews and nieces and his heirs by intestate succession, alleged that Cirila was the common-law wife of Francisco and the donation inter vivos made by Francisco in her favor is void under Article 87 of the Family Code, which provides:

Every donation or grant of gratuitous advantage, direct or indirect, between the spouses during the marriage shall be void, except moderate gifts which the spouses may give each other on the occasion of any family rejoicing. The prohibition shall also apply to persons living together as husband and wife without a valid marriage.

On February 25, 1999, the trial court rendered judgment in favor of respondents, holding the donation void under this provision of the Family Code. The trial court reached this conclusion based on the testimony of Erlinda Tabancura and certain documents bearing the signature of one "Cirila Comille." The documents were (1) an application for a business permit to operate as real estate lessor, dated January 8, 1991, with a carbon copy of the signature "Cirila Comille";[22] (2) a sanitary permit to operate as real estate lessor with a health certificate showing the signature "Cirila Comille" in black ink;[23] and (3) the death certificate of the decedent with the signature "Cirila A. Comille" written in black ink.[24] The dispositive portion of the trial court's decision states:

WHEREFORE, in view of the foregoing, judgment is rendered:

1. Declaring the Deed of Donation Inter Vivos executed by the late Francisco Comille recorded as Doc. No. 7; Page No. 3; Book No. V; Series of 1991 in the Notarial Register of Notary Public Vic T. Lacaya (Annex "A" to the Complaint) null and void;

2. Ordering the defendant to deliver possession of the house and lot subject of the deed unto the plaintiffs within thirty (30) days after finality of this decision; and finally

3. Ordering the defendant to pay attorney's fees in the sum of P10,000.00.

SO ORDERED.[25]

Petitioner appealed to the Court of Appeals, which rendered on June 19, 2000 the decision subject of this appeal. As already stated, the appeals court denied reconsideration. Its conclusion was based on (1) the testimonies of Leticia, Erlinda, and Cirila; (2) the copies of documents purportedly showing Cirila's use of Francisco's surname; (3) a pleading in another civil case mentioning payment of rentals to Cirila as Francisco's common-law wife; and (4) the fact that Cirila did not receive a regular cash wage.

Petitioner assigns the following errors as having been committed by the Court of Appeals:

(a) The judgment of the Court of Appeals that petitioner was the common-law wife of the late Francisco Comille is not correct and is a reversible error because it is based on a misapprehension of facts, and unduly breaks the chain of circumstances detailed by the totality of the evidence, its findings being predicated on totally incompetent or hearsay evidence, and grounded on mere speculation, conjecture or possibility. (Salazar v.

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Gutierrez, 33 SCRA 243 and other cases; cited in Quiason, Philippine Courts and their Jurisdictions, 1993 ed., p. 604)

(b) The Court of Appeals erred in shifting the burden of evidence from the plaintiff to defendant. (Bunyi v. Reyes, 39 SCRA 504; Quiason, id.)

(c) The Court of Appeals decided the case in a way probably not in accord with law or with the applicable jurisprudence in Rodriguez v. Rodriguez, 20 SCRA 908, and Liguez v. CA, 102 Phil. 577, 584.[26]

The issue in this case is whether the Court of Appeals correctly applied Art. 87 of the Family Code to the circumstances of this case. After a review of the records, we rule in the affirmative.

The general rule is that only questions of law may be raised in a petition for review under Rule 45 of the Rules of Court, subject only to certain exceptions: (a) when the conclusion is a finding grounded entirely on speculations, surmises, or conjectures; (b) when the inference made is manifestly mistaken, absurd, or impossible; (c) where there is grave abuse of discretion; (d) when the judgment is based on a misapprehension of facts; (e) when the findings of fact are conflicting; (f) when the Court of Appeals, in making its findings, went beyond the issues of the case and the same are contrary to the admissions of both appellant and appellee; (g) when the findings of the Court of Appeals are contrary to those of the trial court; (h) when the findings of fact are conclusions without citation of specific evidence on which they are based; (i) when the finding of fact of the Court of Appeals is premised on the supposed absence of evidence but is contradicted by the evidence on record; and (j) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties and which, if properly considered, would justify a different conclusion.[27] It appearing that the Court of Appeals based its findings on evidence presented by both parties, the general rule should apply.

In Bitangcor v. Tan,[28] we held that the term "cohabitation" or "living together as husband and wife" means not only residing under one roof, but also having repeated sexual intercourse. Cohabitation, of course, means more than sexual intercourse, especially when one of the parties is already old and may no longer be interested in sex. At the very least, cohabitation is the public assumption by a man and a woman of the marital relation, and dwelling together as man and wife, thereby holding themselves out to the public as such. Secret meetings or nights clandestinely spent together, even if often repeated, do not constitute such kind of cohabitation; they are merely meretricious.[29] In this jurisdiction, this Court has considered as sufficient proof of common-law relationship the stipulations between the parties,[30] a conviction of concubinage,[31] or the existence of illegitimate children.[32]

Was Cirila Francisco's employee or his common-law wife? Cirila admitted that she and Francisco resided under one roof for a long time. It is very possible that the two consummated their relationship, since Cirila gave Francisco therapeutic massage and Leticia said they slept in the same bedroom. At the very least, their public conduct indicated that theirs was not just a relationship of caregiver and patient, but that of exclusive partners akin to husband and wife.

Aside from Erlinda Tabancura's testimony that her uncle told her that Cirila was his mistress, there are other indications that Cirila and Francisco were common-law spouses. Seigfredo Tabancura presented documents apparently signed by Cirila using the surname "Comille." As previously stated, these are an application for a business permit to operate as a real estate lessor,[33] a sanitary permit to operate as real estate lessor with a health certificate,[34] and the death certificate of Francisco.[35] These documents show that Cirila saw herself as Francisco's common-law wife, otherwise, she would not have used his last name. Similarly, in the answer filed by Francisco's lessees in "Erlinda Tabancura, et al. vs. Gracia Adriatico Sy and Antonio Sy," RTC Civil Case No. 4719 (for collection of rentals), these lessees referred to Cirila as "the common-law spouse of Francisco." Finally,

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the fact that Cirila did not demand from Francisco a regular cash wage is an indication that she was not simply a caregiver-employee, but Francisco's common law spouse. She was, after all, entitled to a regular cash wage under the law.[36] It is difficult to believe that she stayed with Francisco and served him out of pure beneficence. Human reason would thus lead to the conclusion that she was Francisco's common-law spouse.

Respondents having proven by a preponderance of evidence that Cirila and Francisco lived together as husband and wife without a valid marriage, the inescapable conclusion is that the donation made by Francisco in favor of Cirila is void under Art. 87 of the Family Code.

WHEREFORE, the decision of the Court of Appeals affirming the decision of the trial court is hereby AFFIRMED.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, Buena, and De Leon, Jr., JJ., concur.

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[1] Per Associate Justice Bernardo Salas and concurred in by Associate Justices Presbiterio Velasco, Jr. and Edgardo Cruz.

[2] Per Judge Wilfredo C. Martinez.

[3] Per Associate Justice Edgardo Cruz, with the concurrence of Associate Justices Teodoro Regino and Presbitero Velasco, Jr.

[4] Exh. A; Records, p. 66.

[5] Exh. D; id., p. 71.

[6] Exhs. E & 3; id., pp. 73, 102.

[7] Also called "Letitia," "Letecia," and "Leticia Belosillo."

[8] Also known as "Luzminda."

[9] TSN (Leticia Bellosillo), pp. 12-15, Sept. 27, 1994; TSN (Cirila Arcaba), p. 8, Aug. 14, 1994.

[10] TSN (Leticia Bellosillo), p. 14, Sept. 27, 1994.

[11] Also known as "Erlinda Tabangcura Vda. de Batocael."

[12] TSN (Erlinda Tabancura), p. 17, April 28, 1994.

[13] TSN (Cirila Arcaba), p. 11, Aug. 14, 1996.

[14] TSN (Leticia Bellosillo), pp. 14-16, Sept. 27, 1994.

[15] TSN (Cirila Arcaba), p. 8, Aug. 14, 1996.

[16] Id., p. 10; Rollo, p. 33.

[17] TSN (Erlinda Tabancura), p. 12, April 28, 1994; TSN (Cirila Arcaba), p. 8, Aug. 14, 1994.

[18] TSN (Erlinda Tabancura), p. 9, Aug. 14, 1996.

[19] Exh. C; Records, p. 69.

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[20] TSN (Atty. Vic T. Lacaya, Sr.), pp. 3-4, Feb. 13, 1995; Exh. 3-B; Records, p. 102.

[21] Exh. B; Records, p. 68.

[22] Exh. H-1; id., p. 154.

[23] Exh. J-2; id., p. 155.

[24] Exh. O-1; id., p. 159.

[25] Decision, pp. 1-13; Rollo, pp. 36-48.

[26] Petition, p. 7; Rollo, p. 9.

[27] Martinez v. Court of Appeals, G.R. No. 123547, May 21, 2001; Floro v. Llenado, 244 SCRA 715 (1995).

[28] 112 SCRA 113 (1982); See also A. SEMPIO-DIY, HANDBOOK ON THE FAMILY CODE OF THE PHILIPPINES 115-117 (1995).

[29] 52 Am Jur 2d §50.

[30] The Insular Life Company, Ltd. v. Ebrado, 80 SCRA 181 (1977); Matabuena v. Cervantes, 38 SCRA 284 (1971).

[31] Calimlim-Canullas v. Fortun, 129 SCRA 675 (1984).

[32] People v. Villagonzalo, 238 SCRA 215 (1994); Bienvenido v. Court of Appeals, 237 SCRA 676 (1994).

[33] Exh. H-1; Records, p. 154.

[34] Exh. J-2; id., p. 155.

[35] Exh. O-1; id., p. 159.

[36] LABOR CODE, ARTS. 99-101.

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