

PURIFICACION BALILO-MONTERO AND JOVENCIO BALILO, PETITIONERS, VS. EUGENIA SEPTIMO, CONSUELO ROBLES AND PLACIDO ROBLES, RESPONDENTS.

G.R. NO. 149751. March 11, 2005

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Jose Balilo was the owner of a parcel of land, with an area of 7.7837 hectares, located in San Jose, Occidental Mindoro, covered by Homestead Patent No. 46784 issued on February 21, 1938. Based on the said patent, Original Certificate of Title (OCT) No. 3014 was issued to and under his name by the Register of Deeds.[1]

On August 12, 1943, Jose Balilo died intestate.[2] Sometime in 1948, Niniana Balilo, the sister of Jose Balilo, filed a petition in the Court of First Instance (CFI) of Pampanga, for the guardianship of the property and the person of Jovencio Balilo whom she alleged to be the son of her brother, Jose Balilo; hence, her nephew. The case was docketed as Special Proceeding No. 262. Niniana filed a motion in the said case, for authority to execute, for and in behalf of her ward, a deed of absolute sale over the property covered by OCT No. 3014 in favor of Jose Septimo for P750.00. The CFI granted the motion. Niniana executed the deed of absolute sale over the property in favor of Jose Septimo who, thereafter, declared the property in his name for taxation purposes and paid the realty taxes thereon.

However, Jose Septimo failed to register the deed in the Office of the Register of Deeds and, consequently, to secure a torrens title over the property in his name. The guardianship case was terminated on September 24, 1951 per the Order of the CFI of even date.[3]

Thereafter, on October 12, 1963, Jovencio Balilo filed a complaint against Jose Septimo in the CFI of Occidental Mindoro, to compel the latter to resell the property to him. The case was docketed as Civil Case No. R-159. Jovencio alleged therein that he was the only legitimate child of the spouses Jose Balilo and Juana Villarama, and that the latter died on August 30, 1946. He prayed that, after due proceedings, judgment be rendered in his favor, thus:

WHEREFORE, it is most respectfully prayed that an order be issued requiring the Defendant to resell the said Lot No. 1649, Pls-33, situated in San Jose, Occidental Mindoro, to the herein Plaintiff upon tender to the herein Defendant the sum of SEVEN HUNDRED FIFTY (P750.00) PESOS, Philippine Currency, or any such sum as this Honorable Court finds just and fair, and requiring said Defendant to deliver possession of said homestead land to the herein Plaintiff.

Plaintiff further prays for other relief as may be deemed just and proper in the premises.[4]

Jovencio amended the complaint and impleaded Placido Robles as party-defendant, on his claim that the latter purchased a five-hectare portion of the property before the complaint was filed. On November 8, 1966, the CFI rendered judgment dismissing the complaint. The CFI ruled that Jovencio had no right to repurchase the property,

the five-year period under Section 119 of Commonwealth Act No. 141 having long expired. Jovencio failed to appeal the decision.[5]

On March 3, 1987, Purificacion Balilo-Montero filed a complaint with the Regional Trial Court (RTC) of San Jose, Occidental Mindoro, Branch 46, against the respondents, Eugenia Septimo, the surviving spouse of Jose Septimo, and the spouses Placido Robles and Consuelo Robles, for recovery of possession of the said property. However, despite the allegation in his complaint in Civil Case No. R-159 that he was the only legitimate child of Jose Balilo, she impleaded Jovencio Balilo as party-plaintiff.

The complaint alleged, inter alia, that the parties were the children and only legal heirs of the late Jose Balilo who, before his death, was the owner of Lot No. 1649 covered by OCT No. 3014 located in San Jose, Occidental Mindoro; only a year before the complaint was filed, Purificacion learned that she was one of the co-owners of the property; that the respondents claimed ownership over the property and installed tenants thereon; and despite their demands, the respondents and their tenants refused to do so.

Jovencio and Purificacion prayed that, after due proceedings, judgment be rendered in their favor:

WHEREFORE, it is respectfully prayed of this Honorable Court that judgment be rendered for the plaintiffs and against the defendants:

- Restoring possession of the landholdings in question unto the plaintiffs;
- Ordering defendants to reimburse plaintiffs the rentals on the landholdings to be determined by this Honorable Court;
- Ordering the defendants to pay the plaintiffs the sum of P20,000.00 as attorney's fees and litigation expenses;
- Ordering the defendants to pay the costs of suit; and
- Extending unto the plaintiffs such other reliefs to which they may be entitled in law and equity.[6]

The summons and complaint were served on respondents Eugenia Septimo and Consuelo Robles. As per the return of the sheriff, Placido Robles was already dead.

In her answer to the complaint, respondent Eugenia Septimo alleged that her late husband Jose Septimo had purchased the property from Jovencio Balilo, through his guardian, and that the sale was approved by the CFI of Pampanga in Special Proceeding No. 262. She specifically denied, for lack of information sufficient to form a belief as to the truth thereof, the allegation of Purificacion Montero that she was one of Jose Balilo's children and one of his heirs. Consuelo Robles was declared in default for her failure to file her answer to the complaint.[7]

On October 15, 1991, the trial court rendered judgment in favor of Jovencio and Purificacion. The fallo of the decision reads:

Premises thoroughly and fairly considered, judgment is hereby rendered:

- Ordering defendant Eugenia Septimo as successor-in-interest of decedent Jose Septimo to recovery (sic) to plaintiff Purificacion Balilo-Montero one-half of the parcel of agricultural land covered by Original Certificate of Title No. 3014;
- Denying claim for damages; and
- Dismissing counterclaim.

SO ORDERED.[8]

Only respondent Eugenia Septimo appealed the decision to the Court of Appeals (CA), where she alleged the following:

- That the trial court erred in finding that the plaintiff Purificacion Balilo-Montero did not lost (sic) her right to recover the property from the defendants, because she was not a party to the sale and for not having actual knowledge on the guardianship proceedings.
- That the trial court erred in ruling that the sale of the land by the legal guardian of Jovencio Balilo duly authorized and approved by the Court which (sic) the guardianship proceedings was being held did not affect the share of plaintiff Purificacion Balilo-Montero because the sale was not registered.
- The trial court erred in ordering defendant Eugenia Septimo to reconvey 1/2 of the property in question covered by TCT No. T-3014 to plaintiff Purificacion Balilo-Montero.[9]

In a Decision dated April 11, 2001, the CA affirmed with modification the decision of the trial court. The CA applied the Old Civil Code on testate succession, and ruled that the property was registered in the name of Jose Balilo whose civil status was stated as single. Considering that he was survived by Purificacion Montero, his wife Juana Villarama and their son Jovencio Balilo when he died in 1943; and when Juana Villarama died intestate, was, in turn, survived by her son Jovencio Balilo and Purificacion Montero, Jovencio was entitled to two-thirds undivided portion of the property, while Purificacion Montero was entitled to one-third undivided portion of the property. Respondent Eugenia Septimo did not file any motion for the reconsideration of the decision. However, Purificacion Montero filed a motion for the partial reconsideration of the decision, alleging that, applying the provisions of the Old Civil Code on intestate succession, she was entitled to an undivided one-half portion of the property. The CA, however, denied the said motion.

Purificacion Montero, now the petitioner, filed the instant petition for review, contending that:

THE COURT OF APPEALS GRAVELY ERRED IN HOLDING THAT THE PETITIONER IS ENTITLED ONLY TO ONE-THIRD (1/3) SHARE OF THE PROPERTY SOUGHT TO BE RECOVERED HEREIN, SAID ADJUDICATION FINDING NO LEGAL SUPPORT UNDER THE CIVIL CODE OF SPAIN WHICH WAS THE LAW THEN PREVAILING.[10]

The petitioner maintains that the CA should have applied the provisions of the Old Civil Code on intestate succession because Jose Balilo died intestate in 1943 before the New Civil Code took effect. She posits that she and Jovencio Balilo were entitled to inherit the property from Jose Balilo in equal shares, because there is no competent evidence on record to prove that Jose Balilo and Juana Villarama, the mother of Jovencio, were married.

The petition is granted.

We agree with the contention of the petitioner that there is no evidence on record that Jose Balilo and Juana Villarama were married, or that they cohabited with each other as husband and wife. Even Jovencio Balilo opted not to testify. Neither was Jose Balilo survived by any ascendants. However, we agree with the ruling of the CA that Jose Balilo and Gertrudes Nicdao were not, likewise, married.

The contention of the petitioner that the CA erred in applying the law on testate succession under the Old Civil Code is, likewise, correct. The appellate court should have applied the provisions of the Old Civil Code on intestate succession considering that Jose Balilo died intestate in 1943, before the effectivity of the New Civil Code.

Article 931 of the Old Civil Code provides that when a person dies intestate, his legitimate children and their descendants succeed him, without distinction of sex, or age, even though they spring from different marriages.

Article 932 of the same Code provides that the children of the deceased shall always inherit from him in their own right, dividing the inheritance in equal shares. Moreover, under Article 939 of the Old Civil Code, in the absence of legitimate descendants or ascendants, the natural children legally acknowledged and those legitimated by royal succession shall succeed to the entire estate of the deceased.

When Jose Balilo died intestate on August 12, 1943, he was survived by his daughter, the petitioner herein, his son Jovencio Balilo, and Gertrudes Nicdao and Juana Villarama. Conformably to Article 939 of the Old Civil Code, only the petitioner and Jovencio Balilo inherited the property in equal shares, to the exclusion of Juana Villarama and Gertrudes Nicdao. Neither of them was the lawful wife of Jose Balilo. Besides, under Article 946 of the Old Civil Code, the surviving spouse shall inherit only in default of the persons enumerated “in the three sections next preceding.”

Consequently, when Jovencio Balilo, through his guardian Niniana Balilo, executed the deed of absolute sale over the entire property on May 26, 1948 in favor of Jose Septimo, the latter did not acquire title over the entire property, but only to an undivided one-half portion thereof which Jovencio Balilo had inherited from Jose Balilo. Jose Septimo could not have purchased and acquired the other half of the property from Jovencio Balilo because the latter was not the owner thereof. Hence, the CA erred in holding that Jovencio Balilo inherited an undivided two-thirds portion of the property, and that Jose Septimo acquired title over the said two-thirds undivided portion.

IN LIGHT OF ALL THE FOREGOING, the petition is GRANTED. The assailed Decision and Resolution of the Court of Appeals are REVERSED AND SET ASIDE. The Decision of the Regional Trial Court is REINSTATED. No pronouncement as to costs.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Tinga, and Chico-Nazario, JJ., concur.

[*] “Ovencio” in the records.

[1] Records, p. 106.

[2] Id. at 168.

[3] Id. at 166.

[4] Id. at 166-167.

[5] Id. at 175.

[6] Id. at 2.

[7] Id. at 33.

[8] Id. at 226.

[9] CA Rollo, p. 28.

[10] Rollo, p. 20.

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