

BEATRIZ, ALLAN, MARY ANN, JOCELYN, WELMA, ROWEL AND SOFRONIO WENDEL II, ALL SURNAMED ACRE, PETITIONERS, VS. EVANGELINE YUTTIKKI, RESPONDENT.

G.R. No. 153029. September 27, 2007

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

For our resolution is the instant Petition for Review on Certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision[1] dated March 11, 2002 rendered by the Court of Appeals in CA-G.R. CV No. 64656, entitled "Beatriz Acre, et al., plaintiffs-appellants, v. Evangeline Yuttikki, defendant-appellant."

Beatriz Acre, petitioner, and Sofronio Acre, Jr. were married on November 8, 1957. Their union produced six children, also petitioners.

Sometime in 1972, Sofronio left the conjugal dwelling because of constant marital dispute. Later, petitioners found that he married Evangeline Yuttikki, respondent, on May 18, 1972 while his marriage to Beatriz was still subsisting. On November 16, 1996, Sofronio died. His union with respondent lasted for more than 24 years.

During respondent's marriage with Sofronio, they acquired the following properties: (a) a motor vehicle; (b) two parcels of land covered by Transfer Certificate of Title (TCT) No. 116740 in the name of "Evangeline Y. Acre, married to Sofronio V. Acre, Jr."; (c) and TCT No. 100087 registered in the names of "Evangeline Y. Acre, married to Sofronio V. Acre, Jr. and Nellie Y. Del Mar, married to Jose Del Mar."

Petitioners filed with the Regional Trial Court, Branch 58, Cebu City, a complaint for reconveyance and recovery of properties and/or partition with damages. They alleged that Sofronio alone acquired the subject properties with his funds.

In a Decision dated November 24, 1998, the trial court dismissed the complaint concluding that the two parcels of land are owned in common by respondent and Sofronio. Thereupon, petitioners filed a notice of appeal which was likewise dismissed by the Court of Appeals in its Resolution of March 11, 2002 for lack of merit, finding that "In view of the failure of the plaintiffs-appellants to prove by preponderance of evidence their entitlement to the properties in question, the land covered by TCT No. 100087 is exclusively owned by defendant-appellee and with respect to the property covered by TCT No. 116740, the defendant-appellee co-owned such property with her sister Nellie Del Mar."

Petitioners contend that the Court of Appeals erred in declaring respondent the owner of the contested properties.

Undeniably, the marriage between respondent and Sofronio is bigamous considering that their union was celebrated while he was still married to Beatriz. As such, their property regime is covered by Article 148 of the Family Code providing that all properties acquired by the parties out of their actual joint contribution of money, property, or industry shall be governed by the rules on co-ownership.[2] Hence, if there is no contribution from

either or both of the spouses, there can be no co-ownership.[3]

Petitioners failed to present any evidence to establish that Sofronio made an actual contribution in acquiring the contested properties. Clearly, co-ownership does not exist here.

The Court of Appeals held:

In the instant case, the property covered by TCT No. 100087 contains a recital that the property is registered in the name of Evangeline Y. Acre, married to Sofronio V. Acre, Jr. On the other hand, RCT No. 116740 shows that the property described therein was registered in the names of Evangeline Y. Acre, married to Sofronio Acre, and Nellie Y. Del Mar, married to Jose Del Mar. Therefore, the certificates of title on its face show that the disputed properties were exclusively owned by defendant-appellee (with respect to TCT No. 100087) and co-owned by the defendant-appellee with her sister Nellie (with regard to TCT No. 116740). The rule is well-settled that the words "married to" preceding Sofronio Acre, Jr. are merely descriptive of the civil status of the defendant-appellee.

WHEREFORE, we DENY the instant petition and AFFIRM the assailed Decision of the Court of Appeals in CA-G.R. CV No. 64656. Costs against petitioners.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Azcuna, and Garcia, JJ., concur.

[1] Penned by Associate Justice Perlita J. Tria-Tirona (retired) and concurred in by Associate Justice Eubolo G. Verzola (deceased) and Associate Justice Bernardo P. Abesamis (retired), Annex "A" of the Petition, Rollo, pp. 40-48.

[2] *Mallillin, Jr. v. Castillo*, G.R. No. 136803, June 16, 2000, 333 SCRA 628.

[3] *Tumlos v. Fernandez*, G.R. No. 137650, April 12, 2000, 330 SCRA 718.

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