

**GREGORIO GUECO, ET AL., PLAINTIFFS AND APPELLEES, VS.
ATANASIA VDA. DE LACSON, ET AL., DEFENDANTS. ATANASIA VDA.
DE LACSON, DEFENDANT AND APPELLANT.**

G.R. No. 16928. September 30, 1963

Ponente: PADILLA, J.

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PADILLA, J.:

Appeal from a judgment rendered on 31 October 1959 by the Court of First Instance of Pampanga in Civil Case No. 1235, the dispositive part of which is—

Wherefore, judgment is hereby rendered condemning the defendant- executrix, Atanasia Lacson, to convey to the plaintiffs that portion of land described in the decision of the cadastral court dated February 4, 1928, with the area indicated therein, free from any and all liens or encumbrances; and in default thereof, judgment is hereby further rendered condemning the defendant-executrix, Atanasia Lacson to pay unto the plaintiffs the value of the land and the produce therefrom from December 13, 1955, both of which may be proved at the hearing of the motion for the issuance of a writ of execution, with legal interest from December 13, 1955 until fully paid. Defendant shall pay the costs. The complaint is dismissed as to the Philippine National Bank.

The action brought by the plaintiffs is to compel the defendant, as executrix of the last will of the late Emilio B. Lacson, to segregate a part of a tract of land, lot 343 of the Cadastral Survey of Magalang, containing an area of 880,657 square meters, the registration of which was decreed by the Court of First Instance of Pampanga on 4 February 1928 in the name of Faustina Baron, subject to a "reserva troncal" (Exhibit A), in Cadastral Case No. 5, G.L.R.O. Cad. Record No. 128, annotated on the original certificate of title No. 17493 issued pursuant to the decree by the Registrar of Deeds in and for the Province of Pampanga (Exhibit (B)); to exclude the aforesaid part of the tract of land from the inventory of the estate of the land of the late Emilio B. Lacson; to deliver it to them (plaintiffs) ; to pay them (plaintiffs) P1,300, the liquidated annual value of the products of the land beginning 1955 until possession be delivered to them by the defendant; to exclude said part of the land from the mortgage constituted in favor of the Philippine National Bank; and to pay attorney's fees and costs.

A motion to dismiss the complaint for lack of capacity to sue, the resolution of which was deferred, and the answer of the defendant raised the legal question that the plaintiffs, the reservees (reservatarios) not being relatives of the prepositus within the third degree are not according to law entitled to the parcel of land reserved to the reservees (reservatarios) as provided for by law; and that the Land Registration Court had no jurisdiction to declare and hold who were the reservees or reservatarios at the time of entering the decree of registration, because such declaration may be made only upon or after the death of the reservist or reservista.

On 23 July 1958, the parties submitted the following stipulation of facts:

- Parties agree as to the existence and the personal circumstances of the parties as alleged in paragraph 1 of the complaint.
- In conformity with the certified copy of Transfer Certificate of Title No. 4190 covering Lot No. 343, plaintiffs

agree that the correct boundary of said lot on the NW is Lot 362, not 363 as described in the complaint. Parties also agree as to the identity of the property, subject matter of the Complaint, which is a portion of 18 hectares, 57 ares and 60 centares of Lot 343 of the Cadastral Survey of Magalang, which Lot No. 343 is described in T.C.T. No. 4190.

- Parties agree that there appears as incumbrance on T.C.T. No. 4190 indicated as No. 10 on the face thereof, which reads as follows:

"Que una extension superficial de 18 hectareas, 57 areas y 60 centiareas de este lote es de caracter reservable en favor de Manuel, Gregorio, Cipriano, Cristina, Andres, Pedro, Gregorio, Roman e Isabel appellidados Gueco, y Rosa Marciano, Modesta y Jose, appellidados Gantioqui, siempre que los mismos sobre- vivieran a Faustina Baron."

On 14 November 1958, the parties submitted an additional partial stipulation of facts, as follows:

- That the deceased Emilio B. Lacson, executed a real estate mortgage in "favor of the Philippine National Bank, Tarlac Branch, for W00,000.00 on July 7, 1950, giving as security thereof the property described under TCT No. 4190 of the Land Records of Pampanga, together with other real properties described also in the Deed of Mortgage, which mortgage appears annotated on said TCT No. 4190 on July 8, 1950 as Entry No. 10862;

- That the deceased, Emilio B. Lacson, executed another real estate mortgage in favor of the Philippine National Bank, Tarlac Branch, for P80,000.00 on September 26, 1951, giving as security thereof the same property described under TCT No. 4190 of the Land Records of Pampanga, together with other properties described also in the mortgage deed, which mortgage also appears inscribed on said title TCT No. 4190, on September 27, 1951, as per entry No. 15879;

- That the following annotation; to wit:

"Que una extension superficial de 18 hectareas, 57 areas y 60 centiareas de este lote es de caracter reservable en favor de Manuel, Gregorio, Cipriano, Cristina, Andres, Pedro, Gregorio, Roman, k appellidados Gantioqui, siempre que los. mismos sobrevivieran a Isabel appellidados Gueco, y Rosa Marciano, ModeBta y Jose, Faustina Baron."

Appears described on the face of the Original Certificate of Title No. 17493, of the Land Records of Pampanga, covering Lot No: 343, of the Magalang Cadastre which OCT was canceled by TCT No. 4190 of the Land Records of Pampanga, and that the above annotation was transferred in said TCT No. 4190.

After the presentation and admission of the exhibits for the plaintiffs and the defendants, both parties rested their case.

From Exhibit 21 it appears that on 26 March 1949 Faustina Baron sold the tract of land (Lot 343) to her only son Emilio B. Lacson. The "caracter reservable" annotation on Original certificate of title No. 17493 was carried over to and annotated on transfer certificate of title No. 4190 issued on 26 April 1950 in the name of Emilio B. Lacson married to Atanasia Lacson by the Registrar of Deeds in and for the Province of Pampanga (Exhibits C and C-1). On 25 May 1952, Emilio B. Lacson died (Exhibit 17), and on 12 December 1955, Faustina Baron also died (Exhibit D). After the death of Emilio B. Lacson, his widow, Atanasia Vda. de Lacson, was appointed executrix of the last will and testament of the late Emilio B. Lacson. In the inventory of the estate of the late Emilio B. Lacson the parcel of land subject to "reserva troncal" was included.

On 31 August 1956, the attorney for the plaintiffs, the only surviving reservees (reservatarios), demanded from counsel of the defendant, Atanasia Vda. de Lacson, the enforcement of the "reserva troncal" annotated on transfer certificate of title No. 4190 (Exhibit E). In view of the refusal of the defendant to comply with their demand,

plaintiffs brought this action, as stated at the beginning of this opinion, impleading the Philippine National Bank, as mortgagee of the tract of land subject to reservation.

After submittal of memoranda by the parties, the trial court rendered judgment the dispositive part of which is quoted at the outset of this opinion.

The appellant claims that the trial court committed the following errors:

I. The trial court erred in not declaring that plaintiffs-appellees are relatives of the fourth degree of the prepositus Felix Layug, and therefore not entitled to the reservable property.

II. The trial Court erred in not holding that the erroneous inclusion by name of plaintiffs-appellees in the cadastral decision (Exh. A) as among the relatives within the third degree of Felix Layug when in truth they are his fourth degree relatives, was mere surplusage which did not vest any right to the appellees on the reservable property, for the right of the reservee in "reserva troncal" is conferred by law and not by judicial fiat, as what the law does not recognize cannot be created by judgment either by collusion or negligence of the parties, and therefore the declaration in the cadastral decision stretching the concept of "reserva troncal" to include fourth degree relatives as reservees³ like the plaintiffs-appellees herein, was ultra vires and without jurisdiction on the part of the court, and is null and void from the beginning.

III. The trial Court erred in not declaring that plaintiffs-appellees are guilty of fraud in procuring the registration of their non-existent right to the reservable property in question by fraudulently making themselves appear in the cadastral proceedings of, said land to be supposedly relatives within the third degree of Felix Layug, when in truth they are only his fourth degree relation, and since no innocent purchaser for value has acquired interest on the reservable property, the plaintiffs-appellees are duly bound under the broad principles of law and equity to reconvey the reserved land to the estate of Emilio B. Lacson, successor-in-interest of Faustina Baron in whom the ownership of the reservable property ought to have been consolidated during her lifetime were it not for the fraudulent acts of plaintiffs-appellees in misleading the cadastral court in mentioning them to be among the relatives within the third degree of Felix Layug, or at least answer to said estate for the full value of said land and the fruits they shall benefit therefrom in the event the reserved property is no longer reconveyable.

The argument advanced by counsel for the appellant, citing comment of Manresa on the point in support, to the effect that the time to determine who are entitled to the property subject to "reserva troncal" is upon or after the death of the reservist (reservista) is correct according to the provisions of the Civil Code, but the comment cannot be invoked and applied when the determination of the questions arising upon application in land registration and cadastral cases is made, because the court is vested with jurisdiction or "power to hear and determine all questions arising upon such applications, and also have jurisdiction over such other questions as may come before it under this Act, * * *" (Section 2, Act 496 as amended). The right of the reservee (reservatario) affects the land the registration of which is applied for under the Land Registration Act. So that if the Court hearing the application for registration is apprised of such right it cannot refuse to pass upon it. The Cadastral Court in deciding or determining whether there exists a right of a reservee affecting the land sought to be registered in a land registration or cadastral case is clothed with and has jurisdiction conferred by law so to do. If the determination is erroneous, the party adversely affected thereby may appeal from such determination or judgment.

In *Cano vs. Director of Lands, et al.*, 105 Phil., 1, this Court held:

The decree having become final, all persons (appellees (appellants) included) are barred thereby from contesting the existence of the constituent elements of the reserva. The only requisites for the passing of the title from the reservists (reservista) to the appellee (reservee-reservatario) are: (1) the death of the reservista, and (2) the fact that the reservatario has survived the reservista.

The judgment appealed from is affirmed, with costs against the appellant.

Bengzon, C. J., Bautista Angelo, Labrador, Concepcion, Barrera, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

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