

**AMELIA P. ARELLANO, REPRESENTED BY HER DULY APPOINTED
GUARDIANS, AGNES P. ARELLANO AND NONA P. ARELLANO,
PETITIONER, VS. FRANCISCO PASCUAL AND MIGUEL PASCUAL,
RESPONDENTS.**

G.R. No. 189776. December 15, 2010

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Angel N. Pascual Jr. died intestate on January 2, 1999 leaving as heirs his siblings, namely: petitioner Amelia P. Arellano who is represented by her daughters[1] Agnes P. Arellano (Agnes) and Nona P. Arellano, and respondents Francisco Pascual and Miguel N. Pascual.[2]

In a petition for "Judicial Settlement of Intestate Estate and Issuance of Letters of Administration," docketed as Special Proceeding Case No. M-5034, filed by respondents on April 28, 2000 before the Regional Trial Court (RTC) of Makati, respondents alleged, inter alia, that a parcel of land (the donated property) located in Teresa Village, Makati, which was, by Deed of Donation, transferred by the decedent to petitioner the validity of which donation respondents assailed, "may be considered as an advance legitime" of petitioner.

Respondent's nephew Victor was, as they prayed for, appointed as Administrator of the estate by Branch 135 of the Makati RTC.[3]

Respecting the donated property, now covered in the name of petitioner by Transfer Certificate of Title No. 181889 of the Register of Deeds of Makati, which respondents assailed but which they, in any event, posited that it "may be considered as an advance legitime" to petitioner, the trial court, acting as probate court, held that it was precluded from determining the validity of the donation.

Provisionally passing, however, upon the question of title to the donated property only for the purpose of determining whether it formed part of the decedent's estate,[4] the probate court found the Deed of Donation valid in light of the presumption of validity of notarized documents. It thus went on to hold that it is subject to collation following Article 1061 of the New Civil Code which reads:[5]

Every compulsory heir, who succeeds with other compulsory heirs, must bring into the mass of the estate any property or right which he may have received from the decedent, during the lifetime of the latter, by way of donation, or any other gratuitous title in order that it may be computed in the determination of the legitime of each heir, and in the account of the partition.

The probate court thereafter partitioned the properties of the intestate estate. Thus it disposed:

WHEREFORE, premises considered, judgment is hereby rendered declaring that:

- The property covered by TCT No. 181889 of the Register of Deeds of Makati as part of the estate of Angel N. Pascual;

- The property covered by TCT No. 181889 to be subject to collation;
- 1/3 of the rental receivables due on the property at the mezzanine and the 3[rd] floor of Unit 1110 Tanay St., Makati City form part of the estate of Angel N. Pascual;
- The following properties form part of the estate of Angel N. Pascual:
 - 1/3 share in the House and Lot at 1110 Tanay St., Rizal Village Makati TCT No. 348341 and 1/3 share in the rental income thereon;
 - 1/3 share in the Vacant Lot with an area of 271 square meters located at Tanay St., Rizal Village, Makati City, TCT No. 119063;
 - Agricultural land with an area of 3.8 hectares located at Puerta Galera Mindoro covered by OCT No. P-2159;
 - Shares of stocks in San Miguel Corporation covered by the following Certificate Numbers: A0011036, A006144, A082906, A006087, A065796, A11979, A049521, C86950, C63096, C55316, C54824, C120328, A011026, C12865, A10439, A021401, A007218, A0371, S29239, S40128, S58308, S69309;
 - Shares of stocks in Paper Industries Corp. covered by the following Certificate Numbers: S29239, S40128, S58308, S69309, A006708, 07680, A020786, S18539, S14649;
 - ¼ share in Eduardo Pascual's shares in Baguio Gold Mining Co.;
 - Cash in Banco De Oro Savings Account No. 2 014 12292 4 in the name of Nona Arellano;
 - Property previously covered by TCT No. 119053 now covered by TCT No. 181889, Register of Deeds of Makati City;
 - Rental receivables from Raul Arellano per Order issued by Branch 64 of the Court on November 17, 1995.
- AND the properties are partitioned as follows:
 - To heir Amelia P. Arellano-the property covered by TCT No. 181889;
 - To heirs Francisco N. Pascual and Miguel N. Pascual-the real properties covered by TCT Nos. 348341 and 119063 of the Register of Deeds of Makati City and the property covered by OCT No. 2159, to be divided equally between them up to the extent that each of their share have been equalized with the actual value of the property in 5(a) at the time of donation, the value of which shall be determined by an independent appraiser to be designated by Amelia P. Arellano, Miguel N. Pascual and Francisco N. Pascual. If the real properties are not sufficient to equalize the shares, then Francisco's and Miguel's shares may be satisfied from either in cash property or shares of stocks, at the rate of quotation. The remaining properties shall be divided equally among Francisco, Miguel and Amelia. (emphasis and underscoring supplied)

Before the Court of Appeals, petitioner faulted the trial court in holding that

I

. . . THE PROPERTY DONATED TO APPELLANT AMELIA PASCUAL ARELLANO IS PART OF THE ESTATE OF ANGEL PASCUAL, JR.

II

. . . THE PROPERTY DONATED TO APPELLANT IS SUBJECT TO COLLATION UNDER ARTICLE 1061 OF THE NEW CIVIL CODE.

III

. . . APPELLEES WHO ARE MERELY COLLATERAL RELATIVES OF DECEASED ANGEL N. PASCUAL JR. AS HIS COMPULSORY HEIRS ENTITLED TO LEGITIMES.

x x x x

and

v

. . . IN NOT PARTITIONING THE ESTATE OF ANGEL N. PASCUAL JR. EQUALLY AMONG HIS LEGAL OR INTESTATE HEIRS.[6] (underscoring supplied)

By Decision[7] of July 20, 2009, the Court of Appeals found petitioner's appeal "partly meritorious." It sustained the probate court's ruling that the property donated to petitioner is subject to collation in this wise:

Bearing in mind that in intestate succession, what governs is the rule on equality of division, We hold that the property subject of donation inter vivos in favor of Amelia is subject to collation. Amelia cannot be considered a creditor of the decedent and we believe that under the circumstances, the value of such immovable though not strictly in the concept of advance legitime, should be deducted from her share in the net hereditary estate. The trial court therefore committed no reversible error when it included the said property as forming part of the estate of Angel N. Pascual.[8] (citation omitted; emphasis and underscoring supplied)

The appellate court, however, held that, contrary to the ruling of the probate court, herein petitioner "was able to submit prima facie evidence of shares of stocks owned by the [decedent] which have not been included in the inventory submitted by the administrator."

Thus, the appellate court disposed, quoted verbatim:

WHEREFORE, premises considered, the present appeal is hereby PARTLY GRANTED. The Decision dated January 29, 2008 of the Regional Trial Court of Makati City, Branch 135 in Special Proceeding Case No. M-5034 is hereby REVERSED and SET ASIDE insofar as the order of inclusion of properties of the Intestate Estate of Angel N. Pascual, Jr. as well as the partition and distribution of the same to the co-heirs are concerned.

The case is hereby REMANDED to the said court for further proceedings in accordance with the disquisitions herein.[9] (underscoring supplied)

Petitioner's Partial Motion for Reconsideration[10] having been denied by the appellate court by Resolution[11] of October 7, 2009, the present petition for review on certiorari was filed, ascribing as errors of the appellate court its ruling

I

. . . THAT THE PROPERTY DONATED BY ANGEL N. PASCUAL, JR. TO PETITIONER AMELIA PASCUAL ARELLANO IS PART OF HIS ESTATE AT THE TIME OF HIS DEATH.

II

. . . THAT THE PROPERTY DONATED TO PETITIONER IS SUBJECT TO COLLATION UNDER ARTICLE 1061 OF THE NEW CIVIL CODE.

III

. . . THAT RESPONDENTS ARE COMPULSORY HEIRS OF THEIR DECEASED BROTHER ANGEL N. PASCUAL JR. AND ARE ENTITLED TO LEGITIMES.

IV

. . . IN NOT PARTITIONING THE ESTATE OF ANGEL N. PASCUAL, JR. EQUALLY AMONG PETITIONER AND RESPONDENTS, AS HIS LEGAL OR INTESTATE HEIRS.[12] (underscoring supplied)

Petitioners thus raise the issues of whether the property donated to petitioner is subject to collation; and whether the property of the estate should have been ordered equally distributed among the parties.

On the first issue:

The term collation has two distinct concepts: first, it is a mere mathematical operation by the addition of the value of donations made by the testator to the value of the hereditary estate; and second, it is the return to the hereditary estate of property disposed of by lucrative title by the testator during his lifetime.[13]

The purposes of collation are to secure equality among the compulsory heirs in so far as is possible, and to determine the free portion, after finding the legitime, so that inofficious donations may be reduced.[14]

Collation takes place when there are compulsory heirs, one of its purposes being to determine the legitime and the free portion. If there is no compulsory heir, there is no legitime to be safeguarded.[15]

The records do not show that the decedent left any primary, secondary, or concurring compulsory heirs. He was only survived by his siblings, who are his collateral relatives and, therefore, are not entitled to any legitime - that part of the testator's property which he cannot dispose of because the law has reserved it for compulsory heirs.[16]

The compulsory heirs may be classified into (1) primary, (2) secondary, and (3) concurring. The primary compulsory heirs are those who have precedence over and exclude other compulsory heirs; legitimate children and descendants are primary compulsory heirs. The secondary compulsory heirs are those who succeed only in the absence of the primary heirs; the legitimate parents and ascendants are secondary compulsory heirs. The concurring compulsory heirs are those who succeed together with the primary or the secondary compulsory heirs; the illegitimate children, and the surviving spouse are concurring compulsory heirs.[17]

The decedent not having left any compulsory heir who is entitled to any legitime, he was at liberty to donate all his properties, even if nothing was left for his siblings-collateral relatives to inherit. His donation to petitioner, assuming that it was valid,[18] is deemed as donation made to a "stranger," chargeable against the free portion of the estate.[19] There being no compulsory heir, however, the donated property is not subject to collation.

On the second issue:

The decedent's remaining estate should thus be partitioned equally among his heirs-siblings-collateral relatives, herein petitioner and respondents, pursuant to the provisions of the Civil Code, viz:

Art. 1003. If there are no descendants, ascendants, illegitimate children, or a surviving spouse, the collateral relatives shall succeed to the entire estate of the deceased in accordance with the following articles. (underscoring supplied)

Art. 1004. Should the only survivors be brothers and sisters of the full blood, they shall inherit in equal shares. (emphasis and underscoring supplied)

WHEREFORE, the petition is GRANTED. The Court of Appeals Decision ordering the collation of the property donated to petitioner, Amelia N. Arellano, to the estate of the deceased Angel N. Pascual, Jr. is set aside.

Let the records of the case be REMANDED to the court of origin, Branch 135 of the Makati Regional Trial Court, which is ordered to conduct further proceedings in the case for the purpose of determining what finally forms part

of the estate, and thereafter to divide whatever remains of it equally among the parties.

SO ORDERED.

Peralta,[*] Bersamin, Mendoza,**] and Sereno, JJ., concur.

[*] Additional member per raffle dated January 6, 2010.

**] Additional member per Special Order No. 921 dated December 13, 2010.

[1] Records (Vol. II), p. 646.

[2] Id. at 542.

[3] Records (Vol. I), p. 137.

[4] CA rollo at p. 29.

[5] Id. at 30.

[6] CA rollo at p. 47.

[7] Penned by now Supreme Court Associate Justice Martin S. Villarama, Jr., and concurred in by Associate Justices Jose C. Reyes, Jr. and Normandie B. Pizarro, rollo, pp. 21-41.

[8] Id. at 37.

[9] Id. at 40-41.

[10] CA rollo at p. 138.

[11] Rollo at 43.

[12] Id. at 13-14.

[13] III TOLENTINO, 1992 Edition, p. 332, citing 10 Fabres 295-299 Colin & Capitant 526-528; 2-11 Ruggiero 394; 5 Planiol & Ripert 67; De Buen; 8 Colin & Capitant 340.

[14] III TOLENTINO, 1992 Edition, pp. 331-332, citing 6 Manresa 406.

[15] III TOLENTINO, 1992 Edition, p. 337, citing 6 Manresa 413.

[16] Article 886, Civil Code.

[17] III TOLENTINO, 1992 Edition, p.252.

[18] It appears that its validity is in issue in Sp. Proc. No. M-3893 (for guardianship over the person and estate of Angel N. Pascual, Jr.) before Br. 139 of the Makati RTC, vide petition, par. 6, Record, pp. 1-4.

[19] Vide III TOLENTINO, 1992 Edition, p. 341.

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