

**TESTATE ESTATE OF AMOS G. BELLIS, DECEASED PEOPLE ’S
BANK & TRUST COMPANY, EXECUTOR MARIA CRISTINA BELLIS
AND MIRIAM PALMA BELLIS, OPPOSITORS-APPELLANTS, VS.
EDWARD A. BELLIS, ET...**

G.R. No. 23678. June 06, 1967

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

This is a direct appeal to Us, upon a question pure-ly of law, from an order of the Court of First Instance of Manila dated April 30, 1964, approving the project of partition filed by the executor in Civil Case No. 37089 therein.

The facts of the case are as follows:

Amos G. Bellis, born in Texas, was "a citizen of the State of Texas and of the United States." By his first wife, Mary E. Mallen, whom he divorced, he had five legi-timate children: Edward A. Bellis, George Bellis (who predeceased him in infancy), Henry A. Bellis, Alexander Bel-lis and Anna Bellis Allsman; by his second wife, Violet Kennedy, who survived him, he had three legitimate chil-dren: Edwin G. Bellis, Walter S. Bellis and Dorothy Bel-lis; and finally, he had three illegitimate children: Amos Bellis, Jr., Maria Cristina Bellis and Miriam Palma Bellis.

On August 5, 1952, Amos G. Bellis executed a will in the Philippines, in which he directed that after all taxes, obligations, and expenses of administration are paid for, his distributable estate should be divided, in trust, in the following order and manner: (a) \$240,000.00 to his first wife, Mary E. Mallen; (b) P120,000.00 to his three illegitimate children, Amos Bellis, Jr., Maria Cristina Bellis, and Miriam Palma Bellis, or P40,000.00 each and (c) after the foregoing; two items have been satisfied, the remainder shall go to his seven surviving children by his first and second wives, namely: Edward A. Bellis, Henry A. Bellis, Alexander Bellis, and Anna Bellis Allsman, Edwin G. Bellis, Walter S. Bellis, and Dorothy E. Bellis, in equal shares.

Subsequently, or on July 8, 1958, Amos G. Bellis died, a resident of San Antonio, Texas, U.S.A. His will was ad-mitted to probate in the Court of First Instance of Manila on September 15, 1958.

The People's Bank and Trust Company, as executor of the will, paid all the bequests therein including the amount of \$240,000.00 in the form of shares of stock to Mary E. Mallen and to the three (3) illegitimate children, Amos Bellis, Jr., Maria Cristina Bellis and Miriam Palma Bellis, various amounts totalling P40,000.00 each in sa-tisfaction of their respective legacies, or a total of P120,000.00, which it released from time to time accord-ing as the lower court approved and allowed the various motions or petitions filed by the latter three requesting partial advances on account of their respective legacies.

On January 8, 1964, preparatory to closing its admi-nistration, the executor submitted and filed its "Execu-tor's Final Account, Report of Administration and Project of Partition" wherein it reported, inter alia, the satis-faction

of the legacy of Mary E. Mallen by the delivery to her of shares of stock amounting to \$240,000.00, and the legacies of Amos Bellis, Jr., Maria Cristina Bellis and Miriam Palma Bellis in the amount of P40,000.00 each or a total of P120,000.00. In the project of partition, the executor - pursuant to the "Twelfth" clause of the testator's Last Will and Testament - divided the residuary estate into seven equal portions for the benefit of the testator's seven legitimate children by his first and second marriages.

On January 17, 1964, Maria Cristina Bellis and Miriam Palma Bellis filed their respective oppositions to the project of partition on the ground that they were deprived of their legitimes as illegitimate children and, therefore, compulsory heirs of the deceased.

Amos Bellis, Jr. interposed no opposition despite notice to him, proof of service of which is evidenced by the registry receipt submitted on April 27, 1964 by the executor[1]

After the parties filed their respective memoranda and other pertinent pleadings, the lower court, on April 30, 1964, issued an order overruling the oppositions and approving the executor's final account, report and administration and project of partition. Relying upon Art. 16 of the Civil Code, it applied the national law of the decedent, which in this case is Texas law, which did not provide for legitimes.

Their respective motions for reconsideration having been denied by the lower court on June 11, 1964, oppositors-appellants appealed to this Court to raise the issue of which law must apply - Texas law or Philippine law.

In this regard, the parties do not submit the case on, nor even discuss, the doctrine of renvoi, applied by this Court in *Aznar v. Christensen Garcia*, L-16749, January 31, 1963. Said doctrine is usually pertinent where the decedent is a national of one country, and a domicile of another. In the present case, it is not disputed that the decedent was both a national of Texas and a domicile thereof at the time of his death.[2] So that even assuming Texas has a conflict of law rule providing that the domiciliary system (law of the domicile) should govern, the same would not result in a reference back (renvoi) to Philippine law, but would still refer to Texas law. Nonetheless, if Texas has a conflicts rule adopting the situs theory (*lex rei sitae*) calling for the application of the law of the place where the properties are situated, renvoi would arise, since the properties here involved are found in the Philippines. In the absence, however, of proof as to the conflict of law rule of Texas, it should not be presumed different from ours.[3] Appellants' position is therefore not rested on the doctrine of renvoi. As stated, they never invoked nor even mentioned it in their arguments. Rather, they argue that their case falls under the circumstances mentioned in the third paragraph of Article 17 in relation to Article 16 of the Civil Code.

Article 16, par. 2, and Art. 1039 of the Civil Code, render applicable the national law of the decedent, in intestate or testamentary successions, with regard to four items: (a) the order of succession; (b) the amount of successional rights; (c) the intrinsic validity of the provisions of the will; and (d) the capacity to succeed. They provide that -

"Art. 16. Real property as well as personal property is subject to the law of the country where it is situated.

"However, intestate and testamentary successions, both with respect to the order of succession and to the amount of successional rights and to the intrinsic validity of testamentary provisions, shall be regulated by the national law of the person whose succession is under consideration, whatever may be the nature of the property and regardless of the country wherein said property may be found."

"Art. 1039. Capacity to succeed is governed by the law of the nation of the decedent."

Appellants would however counter that Art. 17, paragraph three, of the Civil Code, stating that ?

"Prohibitive laws concerning persons, their acts or property, and those which have for their object public order, public policy and good customs shall not be rendered ineffective by laws or judgments promulgated, or by determinations or conventions agreed upon in a foreign country."

prevails as the exception to Art. 16, par. 2 of the Civil Code afore-quoted. This is not correct. Precisely, Congress deleted the phrase, "notwithstanding the provisions of this and the next preceding article" when they incorporated Art. 11 of the old Civil Code as Art. 17 of the new Civil Code, while reproducing without substantial change the second paragraph of Art. 10 of the old Civil Code as Art. 16 in the new. It must have been their purpose to make the second paragraph of Art. 16 a specific provision in itself which must be applied in testate and intestate successions. As further indication of this legislative intent, Congress added a new provision, under Art. 1039, which decrees that capacity to succeed is to be governed by the national law of the decedent.

It is therefore evident that whatever public policy or good customs may be involved in our system of legitimes, Congress has not intended to extend the same to the succession of foreign nationals. For it has specifically chosen to leave, inter alia, the amount of successional rights, to the decedent's national law. Specific provisions must prevail over general ones.

Appellants would also point out that the decedent executed two wills - one to govern his Texas estate and the other his Philippine estate - arguing from this that he intended Philippine law to govern his Philippine estate. Assuming that such was the decedent's intention in executing a separate Philippine will, it would not alter the law, for as this Court ruled in the *Miciano v. Brimo*, 50 Phil. 867, 870, a provision in a foreigner's will to the effect that his properties shall be distributed in accordance with Philippine law and not with his national law, is illegal and void, for his national law cannot be ignored in regard to those matters that Article 10 - now Article 16 - of the Civil Code states said national law should govern.

The parties admit that the decedent, Amos G. Bellis, was a citizen of the State of Texas, U.S.A., and that under the laws of Texas, there are no forced heirs or legitimes. Accordingly, since the intrinsic validity of the provision of the will and the amount of successional rights are to be determined under Texas law, the Philippine law on legitimes cannot be applied to the testacy of Amos G. Bellis.

WHEREFORE, the order of the probate court is hereby affirmed in toto, with costs against appellants.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Regala, Makalintal, Zaldivar, Sanchez, and Ruiz Castro, JJ., concur.

[1] He later filed a motion praying that as a legal heir he be included in this case as one of the oppositors--appellants; to file or adopt the opposition of his sisters to the project of partition; to submit his brief after paying his proportionate share in the expenses incurred in the printing of the record on appeal; or to allow him to adopt the briefs filed by his sisters - but this Court resolved to deny the motion.

[2] San Antonio, Texas, was his legal residence.

[3] *Lim v. Collector*, 36 Phil. 472; *In re Testate Estate of Suntay*, 95 Phil. 500.

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