

MARIANO CARAGAY, PLAINTIFF AND APPELLEE, VS. FRANCISCO URQUIZA ET AL., DEFENDANTS AND APPELLANTS.*G.R. No. 30074. March 25, 1929*

Ponente: VILLAMOR, J.

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From what appears of record, Francisco Urquiza contracted a second marriage on August 16, 1883 with Escolastica Antonio, begetting two sons, one of whom lived only one week, and the other, named Atanasio, lived about twenty years without leaving any descendants, before the death of Escolastica Antonio on December 8, 1918.

On February 20, 1919, a brother of the deceased Escolastica Antonio began proceedings for the settlement of her intestate estate, under No. 539 of the Court of First Instance of Bataan. Francisco Urquiza was appointed administrator of the estate of Escolastica Antonio, but was removed from the office by an order dated March 11, 1924, Exhibit R, and Mariano Caragay was appointed in his stead. Caragay filed the present complaint against ex-administrator Francisco Urquiza and others, alleging that the latter had made fraudulent transfers of the property of the estate, and prayed that each and every one of the transfers made by him and his codefendants with respect to the property detailed in paragraph 3 of the complaint be declared null and void, that they be ordered to deliver to the plaintiff all the property in their possession, or the value thereof, plus the proper rents and profits, and that each and every one of the defendants be sentenced to pay P30,000 damages, and the costs of the action.

After demurring to the complaint, which demurrer was overruled by the trial court, the defendants filed their answer, denying the allegations contained in the complaint, and setting up six special defences, and as counterclaim they prayed that the plaintiff be ordered to pay them P2,500 damages, this being the amount incurred for attorney's fees and other judicial costs.

The plaintiff filed an amended complaint, which the court admitted, giving the defendants a chance to amend their answer also. And after the proper trial, the court below decided the case, absolving the defendant Francisco Urquiza from the complaint in so far as it refers to the credits of Isabel Baluyot and Francisco Banzon, the boats Filipinas, Matiaga and Libertad, and the nets of the boat Consuelo. Defendants were also absolved with respect to parcel 6, described in paragraph 3 of the amended complaint. The trial court held that the boats Mirasol and Sampaguita with their respective equipment and nets belong to the intestate estate of the deceased Escolastica Antonio, and ordered that said boats, with their equipment and nets, be delivered to the plaintiff, as administrator of the intestate estate of the deceased Escolastica Antonio, to form a part of the property of said estate. The trial court likewise held that parcels Nos. 1, 2, 3, 4, 5, 7, 8 and 9, described in paragraph 3 of the amended complaint belong to the intestate estate of said deceased Escolastica Antonio, and ordered that the possession thereof be delivered to the herein plaintiff, as judicial administrator, for the purposes mentioned.

As to the damages, the trial court ordered Francisco Urquiza, the intestate estate of Anselma V. Angeles, Alberto Aquino, Estanislao Urquiza and Silvino Rodriguez, to pay five hundred pesos (P500) per annum, jointly and

severally, to the intestate estate of the deceased Eseolastica Antonio, for each of the boats Mirasol and Sampaguita, from the date of the filing of the complaint until said boats are delivered to the plaintiff herein.

By way of damages in connection with parcels Nos. 1, 2, 3, 4, 5, 7 and 8, the trial court also ordered Francisco Urquiza, the testate estate of Mariano G. Angeles, Alberto Aquino, Estanislao Urquiza and Silvino Rodriguez, to pay jointly and severally, the sum of four thousand five hundred pesos (P4,500) per annum, from August 3, 1928, when the complaint was filed, until said parcels of land are restored to the possession of the plaintiff. Likewise as damages, and in connection with the fishing portion of parcels 7 and 8, the trial court, ordered Francisco Urquiza, the estate of Mariano G. Angeles, Alberto Aquino, Estanislao Urquiza and Silvino Rodriguez, to pay jointly and severally, the amount of seventy pesos (P70) per annum, from the date when the complaint was filed until parcels 7 and 8 are wholly delivered to the plaintiff's possession for the purposes already indicated. Lastly, the trial court ordered defendants Pedro Navarro and Constanica Urquiza to pay to herein plaintiff jointly and severally, the sum of sixty pesos (P60), as yearly rental for the occupation of the lot where the two sheds in question are built, which are hereby held to be the property of the spouses Pedro Navarro and Constanica Urquiza, said annual rental of sixty pesos (P60) to be computed from the month of January 1922, when said spouses began to occupy the said lot, until it is finally decided in the proceedings for the settlement of the estate of the deceased Escolastica Antonio, to whom the lot where said sheds are located shall be apportioned.

As defendant Francisco Urquiza is the surviving spouse, the trial court held that he may waive the portion of the rents which may accrue to him exclusively, and from the damages, the amount or amounts accruing to Francisco Urquiza are to be deducted, as his half of the conjugal property, and his aliquot part in the widower's usufruct, in accordance with articles 837 and 838 of the Civil Code.

With respect to the defendants' counterclaim, the trial court, absolved the plaintiff.

No special pronouncement as to costs is made.

From this judgment the defendants appealed through the proper bill of exceptions, and in their brief now pray for its reversal on account of the errors which, they allege, were committed by the court below.

The principal question raised by the appellants has reference to the interpretation of Act No. 3176, passed by the Philippine Legislature on November 24, 1924, amending section 685 of the Code of Civil Procedure.

The appellants allege that the present action was improperly brought and contravenes the aforesaid Act, since, the proceedings for the settlement of the intestate estate of the deceased Escolastica Antonio having been instituted on February 20, 1919 (years before the passage of Act No. 3176), the property left by her should not be governed by this Act, which, being subsequent to the death of the deceased, cannot have a retroactive effect.

In the case of *Uy Coque vs. Navas L. Sioca* (45 Phil., 430), the majority of this court held that, "while a husband has the power to dispose of property pertaining to the conjugal partnership either during the life of his wife or afterwards, nevertheless where a transfer of conjugal property is made by the husband upon a fictitious consideration for the purpose of defrauding the wife and her collateral heirs, such transfer is invalid, and its nullity will be declared in an action instituted by the heirs of the wife after her death. But in such case the nullity only extends to that interest in the property which would have pertained to the heirs if the transfer had not been made. The transferee under such a conveyance acquires the interest of the husband as well as his usufructuary right in the share of his wife. An action by the collateral heirs of the wife can be maintained against the husband and his vendees to compel liquidation of the conjugal estate in conjunction with an action to declare the nullity of the conveyances made in fraud of their rights."

It should now be noted, that even under the doctrine laid down in *Nable Jose vs. Nable Jose* (41 Phil., 713), which

recognizes unlimited powers in the surviving, husband to dispose of the property of the conjugal partnership, the hereditary right of the predeceased spouse's relatives was secured when it was required as a condition for the validity of the transfers the husband may make of the common property, that said transfer be not made in fraud of the rights of the deceased spouse.

And in order to give a greater protection to the rights of the heirs, the Legislature deemed it proper to amend section 685 of Act No. 190 by Act No. 3176, which provides:

"SEC. 685. When the marriage is dissolved by the death of the husband or wife, the community property shall be inventoried, administered, and liquidated, and the debts thereof shall be paid, in the testamentary or intestate proceedings of the deceased spouse, in accordance with the provisions of this Code relative to the administration and liquidation of the estates of deceased persons, or in an ordinary liquidation and partition proceeding, unless the parties, being all of age and legally capacitated, avail themselves of the right granted to them by this Code of proceeding to an extrajudicial partition and liquidation of said property.

"In case it is necessary to sell any portion of said community property in order to pay the outstanding debts and obligations* of the same, such sale shall be made in the manner and with the formalities established by this Code for the sale of the property of deceased persons. Any sale, transfer, alienation or disposition of said property effected without said formalities shall be null and void, except as regards the portion that belonged to the vendor at the time the liquidation and partition was made."

In the case of Cruz vs. De Jesus (5& Phil., 870), interpreting the same law, we said: "It is to be noted that this legal provision establishes two methods of liquidating the property of a conjugal partnership, if the marriage is dissolved by the death of one of the spouses: the first by a testate or intestate proceeding according to whether the deceased died with or without a will; and the other by an ordinary proceeding for liquidation and partition.

"According to the legal provision quoted above, when the marriage is dissolved by the death of the wife, the legal power of management of the husband ceases, passing to the administrator appointed by the court in the testate or intestate proceedings instituted to that end if there be any debts to be paid, and when there is no debt pending, the liquidation and partition may be made in an ordinary proceeding for that purpose."

It is thus seen that the amendment introduced by this Act consists in authorizing the institution of testate or intestate proceedings for the settlement of the estate of a deceased spouse, or of an ordinary action for the liquidation and partition of the property of a conjugal partnership. Prior to the amendment, the settlement of a conjugal partnership was carried out in accordance with the provisions of the Civil Code and section 685 of the Code of Civil Procedure (before it was amended), as held in Alfonso vs. Natividad (6 Phil., 140); Falcon vs. Manzano (15 Phil., 441); Nable Jose vs. Nable Jose (41 Phil., 713). But after the amendment, in addition to the method provided in the former laws cited, the liquidation of the conjugal property may also be made in the testate or intestate proceeding concerning the estate of the deceased spouse.

It is true that Escolastica Antonio, the second wife of Francisco Urquiza, died on December 8, 1918; but it is no less true that the liquidation of that conjugal partnership to date is still pending, and, being so, we believe that Act No. 3176, which establishes a new method of making said liquidation, is applicable to the present case, it being no bar that Escolastica Antonio died before the passage of the said law.

Wherefore, we are of the opinion that this case involving a law of a procedural character such as Act No. 3176, the same is applicable to the instant case of administration of the estate of the deceased wife for the liquidation of the conjugal partnership; and we are further of the opinion that when it is alleged that the husband transferred property belonging to the conjugal partnership for a fictitious cause or consideration for the purpose of defrauding the deceased Escolastica Antonio's collateral heirs, the administrator appointed by the court may ask for the annulment of said transfers in so far as they relate to the property of the wife, as held in Uy Coque vs.

Navas L. Sioca, *supra*.

As to whether the transfers of the conjugal property made by defendant Francisco Urquiza are legal or illegal, the court below held that said transfers are fraudulent. And in order to point out the evidence it took into account in arriving at this conclusion, the trial court says:

"But the facts which the court had particularly in mind in holding that the transfers both of the boats Mirasol and Sampaguita and of parcels 1, 2, 3, 4; 5, 7 and 8, described in paragraph 3' of the amended complaint, are fictitious, were the following: Let it be noted that on February 7, 1920, it occurred to Anselma V. Angeles to sell the boats Mirasol and Sampaguita to Alberto Aquino, and that on the same date, it also occurred to Mariano G. Angeles to sell the realty acquired from Francisco Urquiza, to Alberto Aquino, in separate instruments but before the same notary and with the same witnesses. It is noteworthy that it did not occur either to Anselma V. Angeles or Mariano G. Angeles to sell to Alberto Aquino, property other than that acquired from Francisco Urquiza. On October 20, 1922, after the general elections of that year, Alberto Atfuino sold all the boats and realty that had come from Francisco Urquiza to Estanislao Urquiza, the former's son by his first marriage, separate instruments being also prepared for the boats and the realty, drawn up and ratified also on the same day before the same notary and the same witnesses. And on April :1S, 1923, Estanislao Urquiza sold the boats and realty derived originally from Francisco Urquiza, and again separate instruments were executed, also on the same dates, and before the same notary and the same witnesses."

This court has repeatedly held that the findings of fact of the trial judge shall not be disturbed, unless the case contains facts which had escaped the notice of the judge and which, had they been taken into account, would have changed the result of the judgment.

However, in the instant case, we find that the trial judge failed to consider the fact that for several years, from 1906 or 1907, defendant Urquiza had been supporting a son of his by the deceased JEscolastica, named Atanasio Urquiza, afflicted with leprosy, who died in 1911, and that during those same years, that is from 1908 or 1909, he was also supporting his aforesaid wife Escolastica Antonio, who also suffered from that illness which caused her death towards the close of the year 1918. The fact of having to take care of persons thus lafflicted, his desire to conceal them from the vigilance of health and municipal authorities, several times changing their residence from one town to another, his anxiety to secure their cure outside of the leper institutions; all these naturally occasioned Francisco Urquiza, the father and the husband, much expense, which obliged him several times to borrow money of those near to him, and to his then sick wife, Escolastica Antonio. It does not positively appear in what degree Francisco Urquiza was related to Anselma V. Angeles and Mariano Angeles. But it seems that they are distant relatives of said Urquiza, though near enough to Escolastica Antonio, Mariano Angeles being her baptismal brother, and she used to call him "Kuya Ano", a familiar term used by Filipinos for their near relatives who are older than they.

Under such circumstances, we find nothing extraordinary in the fact that, a little before and after the death of Escolastica Antonio, the husband, Urquiza, should have to liquidate his debts to the point of selling the property acquired during his marriage with the deceased Escolastiea, the boats on November 10,1918, and the lands on February 8, 1919, crediting in payment, the debts he had previously incurred.

The plaintiff, who attempted to impeach the validity of the transfers made by defendant Francisco Urquiza to Anselma V. Angeles and Mariano G. Angeles, did not adduce any direct evidence to show the lack of cause or consideration in the said transfers; while the latter, as they are evidenced by public documents, bear the presumption of a just cause. Again, defendant Francisco Urquiza testified, and his testimony has not been contradicted, that when he sold the boats to Anselma V. Angeles on November 10, 1918, he received P1,500 from her which, together with the sum of P2,000 which he had previously received gradually ever since 1907 in order to defray the expenses incurred in the cure of his wife and child, constituted the price of the two boats Mirasol and

Sampaguita, that is, P3,500. In like manner, defendant Urquiza testified that when he sold the lands in question to Mariano G. Angeles on February 8, 1919, he received P1,000 which, added to the P6,000 which he had received from the same gradually ever since 1909 as a loan which he used for the cure of his wife and child, made up the price of said lands, that is, P7,000.

That these properties, boats and lands, had been successively transferred by Anselma V. Angeles and Mariano G. Angeles to Alberto Aquino, and by the latter to Estanislao Urquiza, and by him, finally, to defendant Silvino Rodriguez, does not by itself alone show the presence of any fraud imputable to defendant Francisco Urquiza, not only because the latter has disclaimed all participation in these successive transfers, but also because there is no conclusive evidence that he took part therein. And above all, as these transactions have been evidenced by public documents, and it appearing that the boats are duly registered in the customhouse in the name of Silvino Rodriguez, just as the lands are registered with a certificate of title in favor of the said Silvino Rodriguez, we do not believe that by the simple testimony of witnesses, such as were presented by the plaintiff, said titles may be declared void, and the legal effects they "should produce, invalidated. And it should be noted that, according to the documents exhibited in the case, the last purchaser, Silvino Rodriguez, acquired said property from a person who also appeared as the owner thereof in the public registers. Besides this, Silvino Rodriguez testified in the case that he paid Estanislao Urquiza, its vendor, the price of the lands and boats at the time when the instrument was executed, and his testimony has not been rebutted by any evidence to the contrary.

No matter how suspicious the successive transfers of the property in question until it reached defendant Silvino Rodriguez may seem, we are of the opinion that, considering all the circumstances of the instant case, it cannot be concluded that the existence of fraud which may be ground for annulling the aforesaid transfers has been duly established.

Having arrived at this conclusion, we believe it is unnecessary to discuss the other questions raised by the appellants. And by virtue of the premises, we are of opinion and so hold, that the judgment appealed from should be reversed, and the defendants should be, as they are hereby, absolved from the complaint, without special pronouncement as to costs. So ordered.

Johnson, Malcolm, Ostrand, Johns, Romualdez, and Villa-Real, JJ., concur.

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