

**ALLISON D. GIBBS, PETITIONER AND APPELLEE, VS. THE
GOVERNMENT OF THE PHILIPPINE ISLANDS, OPPOSITOR AND
APPELLANT. THE REGISTER OF DEEDS OF THE CITY OF MANILA,
RESPONDENT AND APP...**

G.R. No. 35694. December 23, 1933

Ponente: BUTTE, J.

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BUTTE, J.:

This is an appeal from a final order of the Court of First Instance of Manila, requiring the register of deeds of the City of Manila to cancel certificates of title Nos. 20880, 28336 and 28331, covering lands located in the City of Manila, Philippine Islands, and issue in lieu thereof new certificates of transfer of title in favor of Allison D. Gibbs without requiring him to present any document showing that the succession tax due under Article XI of Chapter 40 of the Administrative Code has been paid.

The said order of court of March 10, 1931, recites that the parcels of land covered by said certificates of title formerly belonged to the conjugal partnership of Allison D. Gibbs and Eva Johnson Gibbs; that the latter died intestate in Palo Alto, California, on November 28, 1929; that at the time of her death she and her husband were citizens of the State of California and domiciled therein.

It appears further from said order that Allison D. Gibbs was appointed administrator of the estate of his said deceased wife in case No. 36795 in the same court, entitled "In the Matter of the Intestate Estate of Eva Johnson Gibbs, Deceased"; that in said intestate proceedings, the said Allison D. Gibbs, on September 22, 1930, filed an ex parte petition in which he alleged "that the parcels of land hereunder described belong to the conjugal partnership of your petitioner and his wife, Eva Johnson Gibbs", describing in detail the three tracts here involved; and further alleging that his said wife, a citizen and resident of California, died on November 28, 1929; that in accordance with the law of California, the community property of spouses who are citizens of California, upon the death of the wife previous to that of the husband, belongs absolutely to the surviving husband without administration; that the conjugal partnership of Allison D. Gibbs and Eva Johnson Gibbs, deceased, has no obligations or debts and no one will be prejudiced by adjudicating said parcels of land (and seventeen others not here involved) to be the absolute property of the said Allison D. Gibbs as sole owner. The court granted said petition and on September 22, 1930, entered a decree adjudicating the said Allison D. Gibbs to be the sole and absolute owner of said lands, applying section 1401 of the Civil Code of California. Gibbs presented this decree to the register of deeds of Manila and demanded that the latter issue to him a "transfer certificate of title".

Section 1547 of Article XI of Chapter 40 of the Administrative Code provides in part that:

"Registers of deeds shall not register in the registry of property any document transferring real property or real rights therein or any chattel mortgage, by way of gifts mortis causa, legacy or inheritance, unless the payment of the tax fixed in this article and actually due thereon shall be shown. And they shall immediately notify the Collector of Internal Revenue or the corresponding provincial treasurer of the nonpayment of the tax

discovered by them.

Acting upon the authority of said section, the register of deeds of the City of Manila, declined to accept as binding said decree of court of September 22, 1930, and refused to register the transfer of title of the said conjugal property to Allison D. Gibbs, on the ground that the corresponding inheritance tax had not been paid. Thereupon, under date of December 26, 1930, Allison D. Gibbs filed in the said court a petition for an order requiring the said register of deeds "to issue the corresponding titles" to the petitioner without requiring previous payment of any inheritance tax. After due hearing of the parties, the court reaffirmed said order of September 22, 1930, and entered the order of March 10, 1931, which is under review on this appeal.

On January 3, 1933, this court remanded the case to the court of origin for new trial upon additional evidence in regard to the pertinent law of California in force at the time of the death of Mrs. Gibbs, also authorizing the introduction of evidence with reference to the dates of the acquisition of the property involved in this suit and with reference to the California law in force at the time of such acquisition. The case is now before us with the supplementary evidence.

For the purposes of this case, we shall consider the following facts as established by the evidence or the admissions of the parties: Allison D. Gibbs has been continuously, since the year 1902, a citizen of the State of California and domiciled therein; that he and Eva Johnson Gibbs were married at Columbus, Ohio, in July, 1906; that there was no antenuptial marriage contract between the parties; that during the existence of said marriage, the spouses acquired the following lands, among others, in the Philippine Islands, as conjugal property:

- A parcel of land in the City of Manila, represented by transfer certificate of title No. 20880, dated March 16, 1920, and registered in the name of "Allison D. Gibbs casado con Eva Johnson Gibbs".
- A parcel of land in the City of Manila, represented by transfer certificate of title No. 28336, dated May 14, 1927, in which it is certified "that the spouses Allison D. Gibbs and Eva Johnson Gibbs are the owners in fee simple" of the land therein described.
- A parcel of land in the City of Manila, represented by transfer certificate of title No. 28331, dated April 6, 1927, which states "that Allison D. Gibbs married to Eva Johnson Gibbs" is the owner of the land described therein; that said Eva Johnson Gibbs died intestate on November 28, 1929, leaving surviving her her husband, the appellee, and two sons, Allison J. Gibbs, now aged 25, and Finley J. Gibbs, now aged 22, as her sole heirs at law.

Article XI of Chapter 40 of the Administrative Code entitled "Tax on inheritances, legacies, and other acquisitions mortis causa" provides in section 1536 that "Every transmission by virtue of inheritance * * * of real property * * * shall be subject to the following tax." It results that the question for determination in this case is as follows: Was Eva Johnson Gibbs at the time of her death the owner of a descendible interest in the Philippine lands above-mentioned?

The appellee contends that the law of California should determine the nature and extent of the title, if any, that vested in Eva Johnson Gibbs under the three certificates of title Nos. 20880, 28336 and 28331 above referred to, citing article 9 of the Civil Code. But that, even if the nature and extent of her title under said certificates be governed by the law of the Philippine Islands, the laws of California govern the succession to such title, citing the second paragraph of article 10 of the Civil Code.

Article 9 of the Civil Code is as follows:

"The laws relating to family rights and duties, or to the status, condition, and legal capacity of persons, are binding upon Spaniards even though they reside in a foreign country." It is argued that the conjugal right of the California wife in community real estate in the Philippine Islands is a personal right and must, therefore, be

settled by the law governing her personal status, that is, the law of California. But our attention has not been called to any law of California that incapacitates a married woman from acquiring or holding land in a foreign jurisdiction in accordance with the *lex rei sitæ*. There is not the slightest doubt that a California married woman can acquire title to land in a common law jurisdiction like the State of Illinois or the District of Columbia, subject to the common-law estate by the curtesy which would vest in her husband. Nor is there any doubt that if a California husband acquired land in such a jurisdiction his wife would be vested with the common law right of dower, the prerequisite conditions obtaining. Article 9 of the Civil Code treats of purely personal relations and status and capacity for juristic acts, the rules relating to property, both personal and real, being governed by article 10 of the Civil Code. Furthermore, article 9, by its very terms, is applicable only to "Spaniards" (now, by construction, to citizens of the Philippine Islands).

The Organic Act of the Philippine Islands (Act of Congress, August 29, 1916, known as the "Jones Law") as regards the determination of private rights, grants practical autonomy to the Government of the Philippine Islands. This Government, therefore, may apply the principles and rules of private international law (conflict of laws) on the same footing as an organized territory or state of the United States. We should, therefore, resort to the law of California, the nationality and domicile of Mrs. Gibbs, to ascertain the norm which would be applied here as law were there any question as to her status.

But the appellant's chief argument and the sole basis of the lower court's decision rests upon the second paragraph of article 10 of the Civil Code which is as follows:

"Nevertheless, legal and testamentary successions, in respect to the order of succession as well as to the amount of the successional rights and the intrinsic, validity of their provisions, shall be regulated by the national law of the person whose succession is in question, whatever may be the nature of the property or the country in which it may be situated."

In construing the above language we are met at the outset with some difficulty by the expression "the national law of the person whose succession is in question", by reason of the rather anomalous political status of the Philippine Islands. (Cf. Manresa, vol. 1, *Codigo Civil*, pp. 103, 104.) We encountered no difficulty in applying article 10 in the case of a citizen of Turkey. (*Miciano vs. Brimo*, 50 Phil., 867.) Having regard to the practical autonomy of the Philippine Islands, as above stated, we have concluded that if article 10 is applicable and the estate in question is that of a deceased American citizen, the succession shall be regulated in accordance with the norms of the State of his domicile in the United States. (Cf. *Babcock Templeton vs. Rider Babcock*, 52 Phil., 130, 137; *In re Estate of Johnson*, 39 Phil., 156, 166.)

The trial court found that under the law of California, upon the death of the wife, the entire community property without administration belongs to the surviving husband; that he is the absolute owner of all the community property from the moment of the death of his wife, not by virtue of succession or by virtue of her death, but by virtue of the fact that when the death of the wife precedes that of the husband he acquires the community property, not as an heir or as the beneficiary of his deceased wife, but because she never had more than an inchoate interest or expectancy which is extinguished upon her death. Quoting the case of *Estate of Klumpke* (167 Cal., 415, 419), the court said: "The decisions under this section (1401 Civil Code of California) are uniform to the effect that the husband does not take the community property upon the death of the wife by succession, but that he holds it all from the moment of her death as though acquired by himself. * * * It never belonged to the estate of the deceased wife."

The argument of the appellee apparently leads to this dilemma: If he takes nothing by succession from his deceased wife, how can the second paragraph of article 10 be invoked? Can the appellee be heard to say that there is a legal succession under the law of the Philippine Islands and no legal succession under the law of California? It seems clear that the second paragraph of article 10 applies only when a legal or testamentary succession has taken

place in the Philippines in accordance with the law of the Philippine Islands; and the foreign law is consulted only in regard to the order of succession or the extent of the successional rights; in other words, the second paragraph of article 10 can be invoked only when the deceased was vested with a descendible interest in property within the jurisdiction of the Philippine Islands.

In the case of *Clarke vs. Clarke* (178 U. S., 186, 191; 44 Law. ed., 1028, 1031), the court said:

"It is a principle firmly established that to the law of the state in which the land is situated we must look for the rules which govern its descent, alienation, and transfer, and for the effect and construction of wills and other conveyances. (*United States vs. Crosby*, 7 Cranch, 115; 3 L. ed., 287; *Clark vs. Graham*, 6 Wheat., 577; 5 L. ed., 334; *McGoon vs. Scales*, 9 Wall., 23; 19 L. ed., 545; *Brine vs. Hartford F. Ins. Co.*, 96 U. S., 627; 24 L. ed., 858.)" (See also *Estate of Lloyd*, 175 Cal., 704, 705.) This fundamental principle is stated in the first paragraph of article 10 of our Civil Code as follows: "Personal property is subject to the laws of the nation of the owner thereof; real property to the laws of the country in which it is situated."

It is stated in 5 Cal. Jur., 478:

"In accord with the rule that real property is subject to the *lex rei sitæ*, the respective rights of husband and wife in such property, in the absence of an antenuptial contract, are determined by the law of the place where the property is situated, irrespective of the domicile of the parties or of the place where the marriage was celebrated." (See also *Saul vs. His Creditors*, 5 Martin [N. S.], 569; 16 Am. Dec., 212 [La.]; *Heidenheimer vs. Loring*, 26 S. W., 99 [Texas].)

Under this broad principle, the nature and extent of the title which vested in Mrs. Gibbs at the time of the acquisition of the community lands here in question must be determined in accordance with the *lex rei sitæ*.

It is admitted that the Philippine lands here in question were acquired as community property of the conjugal partnership of the appellee and his wife. Under the law of the Philippine Islands, she was vested of a title equal to that of her husband. Article 1407 of the Civil Code provides:

"All the property of the spouses shall be deemed partnership property in the absence of proof that it belongs exclusively to the husband or to the wife." Article 1395 provides:

"The conjugal partnership shall be governed by the rules of law applicable to the contract of partnership in all matters in which such rules do not conflict with the express provisions of this chapter." Article 1414 provides that "the husband may dispose by will of his half only of the property of the conjugal partnership." Article 1426 provides that upon dissolution of the conjugal partnership and after inventory and liquidation, "the net remainder of the partnership property shall be divided share and share alike between the husband and wife, or their respective heirs." Under the provisions of the Civil Code and the jurisprudence prevailing here, the wife, upon the acquisition of any conjugal property, becomes immediately vested with an interest and title therein equal to that of her husband, subject to the power of management and disposition which the law vests in the husband. Immediately upon her death, if there are no obligations of the decedent, as is true in the present case, her share in the conjugal property is transmitted to her heirs by succession. (Articles 657, 659, 661, Civil Code; cf. also *Coronel vs. Ona*, 33 Phil., 456, 469.)

It results that the wife of the appellee was, by the law of the Philippine Islands, vested of a descendible interest, equal to that of her husband, in the Philippine lands covered by certificates of title Nos. 20880, 28336 and 28331, from the date of their acquisition to the date of her death. That appellee himself believed that his wife was vested of such a title and interest is manifest from the second of said certificates, No. 28336, dated May 14, 1927, introduced by him in evidence, in which it is certified that "the spouses Allison D. Gibbs and Eva Johnson Gibbs are the owners in fee simple of the conjugal lands therein described."

The descendible interest of Eva Johnson Gibbs in the lands aforesaid was transmitted to her heirs by virtue of inheritance and this transmission plainly falls within the language of section 1536 of Article XI of Chapter 40 of the Administrative Code which levies a tax on inheritances. (Cf. *Re Estate of Majot*, 199 N. Y., 29; 92 N. E., 402; 29 L. R. A. [N. S.], 780.) It is unnecessary in this proceeding to determine the "order of succession" or the "extent of the successional rights" (article 10, Civil Code, *supra*) which would be regulated by section 1386 of the Civil Code of California which was in effect at the time of the death of Mrs. Gibbs.

The record does not show what the proper amount of the inheritance tax in this case would be nor that the appellee (petitioner below) in any way challenged the power of the Government to levy an inheritance tax or the validity of the statute under which the register of deeds refused to issue a certificate of transfer reciting that the appellee is the exclusive owner of the Philippine lands included in the three certificates of title here involved.

The judgment of the court below of March 10, 1931, is reversed with directions to dismiss the petition, without special pronouncement as to the costs.

Avanceña, C. J., Malcolm, Villa-Real, Abad Santos, Hull, and Vickers, JJ., concur.
Street, J., dissents.

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