

LUIS MIRASOL, SPECIAL ADMINISTRATOR OF THE INTESTATE ESTATE OF THE DECEASED SERAFIN UY PIAOCO, PLAINTIFF AND APPELLEE, VS. MARIA LIM, DEFENDANT AND APPELLANT.

G. R. No. 39389. March 16, 1934

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

This is an appeal taken by the defendant Maria Lim from the judgment rendered by the Court of First Instance of Manila, the dispositive part of which reads as follows:

"In view of the foregoing, it is declared that the is described in transfer certificates of title Nos. 17676, 17677, 19743, 20226, 20281, 22212, 23905, 24083, 33502, 34411, 34412, 36400, 36401 belong to the conjugal partnership of Serafin Uy Piaoco his wife, the herein defendant Maria Lim, the latter is hereby ordered to deliver the said property, within the period of ten (10) days from the date this decision becomes final, to the administrator of the intestate estate of the said Serafin Uy Piaoco, in case No. 38210 of this court, with the costs against the said defendant. The defendant's counterclaim is hereby dismissed for lack of merit. So ordered."

In support of her appeal the appellant assigns nine alleged errors as committed by the court a quo in its aforesaid judgment, which will be discussed in the course of this decision.

This case originated from a complaint filed by the plaintiff-appellee Luis Mirasol, praying, under the facts alleged therein as a cause of action, that the parcels of l described in the said complaint, together with the improvements thereon, be declared conjugal property of the deceased Serafin Uy Piaoco his wife, the herein defendant Maria Lim, that the latter be ordered to deliver the possession management of the said property to the regular administrator appointed in the intestate proceedings of the said deceased Serafin Uy Piaoco, to be inventoried, managed, disposed of distributed in accordance with the law on the subject.

The defendant-appellant Maria Lim, answering the said complaint, denies each every allegation contained therein, by way of special defense, alleges that she is the sole exclusive owner of the property in question that before contracting marriage with her deceased husbandand Serafin Uy Piaoco, they executed a deed of marriage settlements whereby they agreed to live under the regime of separation of property, interests business, prays that she be absolved from the complaint, with costs against the plaintiff.

The following facts have been proven at the trial, some without question others by a preponderance of evidence, to wit:

On or about August 23, 1904, the defendant-appellant Maria Lim, sixteen years of age, who was already an orphan by her father's death, was given in marriage by her mother to the deceased Serafin Uy Piaoco. Maria Lim felt no affection for her proposed fiance, but inasmuch as her mother insisted, she, in filial obedience, agreed on condition that they should keep all their present future business affairs property separate apart. Upon her father's death, Maria Lim inherited a store of miscellaneous merchandise, which she had already been managing even

during the lifetime of her father, about P30,000 in cash. On August 18, 1904, before the celebration of the said marriage, the future spouses signed an instrument entitled "Marriage Settlements" (Exhibit 1), before the justice of the peace of Apalit, Pampanga.

After the celebration of the marriage, the newlyweds established their residence in Manila where the deceased Serafin Uy Piaoco engaged in the purchase sale of textiles which he obtained on credit from Wise Co., establishing himself on Rosario Street of this city. Little by little the defendant Maria Lim liquidated her store other business in Pampanga, among which were the purchase sale of bamboo money-lending, transferred her commercial activities to Manila, having been authorized by her husband to sell her own property, to acquire others to engage in business (Exhibit C-1). Pursuant to their agreement contained in document Exhibit 1, both husband wife engaged in their respective business, absolutely independent of each other. As years passed by, the defendant-appellant Maria Lim acquired the real properties which are the subject matter of the litigation, in the manner on the dates specified as follows:

"1. September 11, 1920.—On this date the spouses Rufino Abdon Leonida Hernez, for the sum of P4,500, sold to the defendant, with pacto de retro within six months, extendible to another six months, six parcels of l with improvements thereon situated on Mangahan Street, Manila, together with a truck an automobile (Exhibit F). On July 10, 1923, the defendant presented to the register of deeds an affidavit (Exhibit F-1) to the effect that the parcels of l in question had not been redeemed that the period of redemption thereof had already expired, for which she prayed that the vendor's certificate of title be cancelled a new one issued in her favor, which was done, certificate of title No. 20226 (Exhibit F-2) was issued in her name. Part of the purchase price of these parcels of l was paid by the defendant with her check Exhibit 4 (t. s. n., pp. 111-113).

"2. June 15, 1922.—On this date, Lorenza Teco, for the sum of P350, sold to the defendant her rights interest in a lot of 150 square meters in the Hacienda Solocan (Exhibit C), for a like sum the same vendor conveyed to the said defendant another lot with the same area situated in the same hacienda (Exhibit D). Certificate of title No. 17676 (Exhibit C-2) was issued to the defendant for the former lot certificate of title No. 17677 (Exhibit D-1), for the latter lot. The price of these lots was paid by the said defendant with her check Exhibit 2 (t. s. n., pp. 111-113).

"3. May 11, 1923.—Under a deed of this date, Go Pengco resold to the defendant, as assignee, for P10,000 of the rights interest of Buenaventura E. Jao Oge, a certain property situated on Caballeros Street, Manila, which said Jao Oge had sold with pacto de retro to Go Pengco. In consideration thereof, the defendant, having been subrogated to Jao Oge, repurchase the property in question for the sum of P30,000 (Exhibit E). Certificate of title No. 19743 (Exhibit E-1) was issued in favor of defendant for this property. The purchase price thereof was paid by the defendant with her 17 checks marked Exhibit 3 (t. s. n., pp. 111-113).

"4. July 31, 1923.—Under a deed of this date, Nicasio Leon, for the sum of P500, sold to the defendant two lots of the Hacienda Mayhaligue with a total area of 218.50 square meters (Exhibit G). Consequently, certificate of title No. 20821 (Exhibit G-1) was issued in her favor. Part of the price of these lots was paid by the defendant with her check Exhibit 5 (t. s. n., pp. 111-113).

"5. October 22, 1923.—On this date Hilaria Tanhueco, for the sum of P400, sold to the defendant, with pacto de retro within the period of three months, 14 lots of the Rizal Park Subdivision (Exhibit H). The lots in question were not redeemed, the full ownership thereof having vested in the defendant (Exhibit H-1), certificate of title No. 22212 (Exhibit H-2) was issued in her favor. The price thereof was paid by the defendant with her two checks marked Exhibit 6 (t. s. n., pp. 111-113).

"6. December 9, 1924.—On this date Rafael Crame, attorney-in-fact of Maria Rosario Perez de Tagle, sold to the defendant, for the sum of P12,000, a certain property situated on Magdalena Street, Manila (Exhibit J), certificate of title No. 24083 (Exhibit J-1) was issued in her favor. Part of the price thereof was paid by the defendant with her 4 checks marked Exhibit 3 (t. s. n., pp. 111-113).

"7. March 26, 1925.—On this date, the spouses Uy Cansuy Petra Chantongco sold to the defendant, for the sum of P548.87, including a lien of P348.87.4 lots of Rizal Park, each with an area of 105 square meters (Exhibit I). For these lots, certificate of title No. 23405 (Exhibit 1-2) was issued in favor of the defendant. The purchase price of this property was paid by the defendant with her two checks marked Exhibit 7 (t. s. n., pp. 111-113).

"8. September 28, 1926.—On this date Juana Viviezca, for the sum of P1,797.50, sold to the defendant 2 lots of 123 120 sq. m., respectively (Exhibit M), situated on Oroquieta Street. Certificate of title No. 36400 (Exhibit M-1) was issued to her for the first lot, certificate of title No. 36401 (Exhibit M-2), for the second lot. Part of the price thereof was paid by Maria Lim with her check Exhibit 11 (t. s. n., pp. 111-113).

"9. December 12, 1928.—On this date Matilde Panlilio sold to the defendant, for the sum of P2,000, 2 lots of the Hacienda Solocan with an area of 150 square meters each (Exhibit L), certificate of title No. 34412 (Exhibit L-2) was issued in her favor. Part of the price thereof was paid by the defendant with her two checks marked Exhibit 10 (t. s. n. (pp. 111-113).

"10. July 19, 1929.—On this date Serapio M. Rioja sold to the defendant, for the sum of P2,000, a lot with an area of 437.20 square meters situated in the Hacienda Solocan (Exhibit K), certificate of title No. 33502 (Exhibit K-1) was issued in her favor. The price of this lot was paid by the defendant with her two checks marked Exhibit 9."

After Maria Lim had established her residence in Manila, she received money from her mother which amounted to P15,000.

On October 25, 1921, Serafin Uy Piaoco, the deceased husband of the defendant-appellant Maria Lim, together with Buenaventura E. Jao Oge, Joe Banchiong Uy Piaoco Jo Bian Juat Te Parte executed a promissory note (Exhibit A), reading as follows:

"We promise to pay jointly severally to Mr. Luis Mirasol the sum of nine thousand Philippine pesos (P9,000) with interest thereon at the rate of twelve per cent per annum from September 25th of this year, as follows:

"FIRST: That we bind ourselves to pay one thousand Philippine pesos monthly beginning with January 10, 1922, likewise on the same date of every month thereafter uninterruptedly without more or less reasonable excuses until the principal debt, together with the corresponding interest thereon, is fully paid.

"SECOND: It is hereby agreed stipulated that the property 'La Ciudad' Cigarette Factory, situated on 353 Elcano, Manila, may answer for the whole or part of this indebtedness we bind ourselves to keep the said property free from all liens encumbrances during the time this indebtedness remains unpaid.

"THIRD: That we shall grant to the said Mr. Luis Mirasol all the necessary rights to institute proceedings to compel any of us to pay the attorney's fees, costs, or damages in case of delay or non-compliance with the terms of the entire document or part thereof, as well as authorize him to attach our property without the necessity of filing any bond in the courts.

"In witness whereof, we have hereunto affixed our signatures in Manila, this 25th day of October, 1921.

(Sgd.) "BUENAVENTURA E. JAO OGE

" 'La Ciudad' Cigarette Factory

(Sgd.) "S. UY PIAOCO

(Sgd.) "JOE BANCHIONG UY PIAOCO

(Sgd.) "JO BIAN JUAT TE PARTE"

The records of the Bureau of Internal Revenue (Exhibit 0-1) disclose that Serafin Uy Piaoco started in business in the City of Manila in the month of January, 1922, continued it until his death, the volume of his transactions being as follows:

1922	
	P270,002.72
1923	
180,890.79	
1924	
241,835.21	
1925	
231,805.88	
1926	
225,321.17	
1927	
231,855.64	
1928	
207,883.31	
1929	
126,409.47	
1930, for first three quarters only.....	
49,995.06	

Serafin Uy Piaoco became indebted to Wise & Company in the amount of P1,000,000. The said company, seeing the impossibility of collecting the debt, took over the said debtor's store sold it to another, applying the proceeds thereof to the aforesaid debt. Inasmuch as there still remained an unpaid balance of from P25,000 to P30,000 in view of the fact that Serafin Uy Piaoco was seriously ill, his creditor remitted the said unpaid balance.

When upon the death of Serafin Uy Piaoco, intestate proceedings were instituted his son Jose Uy Piaoco was appointed administrator of his estate, the latter found nothing but a judgment credit for P520 which he included in his inventory (Exhibit B-3).

The first question to be decided in this appeal, which is raised in the second assignment of error, is whether or not the document Exhibit 1, entitled "Marriage Settlements" is valid, under the provisions of article 1318 of the Civil Code.

In order that a minor may validly execute a deed of marriage settlements, it is indispensable that the persons designated by law to give consent to the marriage, consent to the execution of such deed (article 1318 of the Civil Code) that such marriage settlements be recorded in a public instrument executed before the celebration of the

marriage (article 1321, id.). In the case at bar, the alleged deed of marriage settlements was executed by the defendant-appellant Maria Lim when she was only sixteen years of age. Her mother, who is the person designated by law to give consent to her marriage by reason of the father's death, was present at the time the contract was executed before the justice of the peace of Apalit, Pampanga, who was not then authorized to act as a notary public. Although the said justice of the peace, who authenticated the deed of marriage settlements, may be considered a notary public de facto, however, the said deed cannot be considered legally valid on the ground that it was not signed by the mother of the defendant-appellant Maria Lim, who was a minor at the time of the execution thereof (article 1318. Civil Code).

The second question to be decided is whether the 13 parcels of land described in the certificates of title presented in the case are paraphernal property of the aforesaid defendant-appellant Maria Lim or property of the conjugal partnership of the said defendant her deceased husband Serafin Uy Piaoco.

As may be noted in the statement of proven facts hereinbefore stated, when the defendant-appellant Maria Lim was only 16 years of age, she was already helping her deceased Chinese father, Manuel Buencamino Lim, in the management of his store of miscellaneous merchandise in the town of Apalit, Pampanga, she had her own business consisting, among other things, of the purchase sale of bamboo money-lending. After her father had died his property apportioned, she was given as her share the store, which she liquidated two years later, the sum of P30,000. Having moved to Manila with her husband, she continued to engage in business in her own name independently of her husband, as agreed upon in the alleged marriage settlements, having obtained the corresponding authority from her said husband, who, in the same instrument of authorization dated August 27, 1921 (Exhibit C-1) acknowledged that his wife had exclusive property of her own. Serafin Uy Piaoco also engaged in his own business of buying selling textiles which he obtained on credit from Wise & Company. In fact he opened a store for that purpose on Rosario Street. It appears that Maria Lim had a current account in the Bank of the Philippine Islands. It likewise appears that the deceased Serafin Uy Piaoco was heavily indebted to Wise & Company, such indebtedness having amounted to P1,000,000. In order to collect the said debt, Wise & Company took over Serafin Uy Piaoco's store sold it to another, applying the proceeds thereof to the debt in question. Inasmuch as there still remained an unpaid balance of from P25,000 to P30,000 the said creditor, realizing that its debtor was seriously ill, remitted the said unpaid balance.

The mere fact that the deceased Serafin Uy Piaoco had paid merchant's tax amounting to hundreds of thousands of pesos is not conclusive evidence that he made much of a profit that part of said profit was invested by his wife, the herein defendant-appellant Maria Lim, in her own business in the purchase of the property now under consideration. The very fact that Serafin Uy Piaoco owed large sums of money to Wise & Company, from which he obtained the textiles which he sold in his store, shows that he had suffered losses in his business that his profits were insufficient to pay his debts to the aforesaid company.

Therefore, the preponderance of evidence shows that the defendant-appellant Maria Lim brought to the marriage her own capital amounting to P30,000 that during her marriage she received from her mother the sum of P15,000 which she invested in her own business, for the transactions of which she had her own current account in the bank. Consequently, all that she possesses valued at P45,000 is paraphernal property (articles 1381 1396, Civil Code), the rest constitutes the fruits of her paraphernal property.

As to the fruits of the said paraphernal property, although they form part of the assets of the conjugal partnership are subject to the payment of the debts expenses of the spouses (article 1385, par. 1, Civil Code), it not having been alleged in the complaint nor proven at the trial that claims for the payment of Serafin Uy Piaoco's personal obligations, which redounded to the benefit of his family, were presented in his intestate proceedings, there is no legal justification for ordering the delivery of the said fruits to the administrator of his intestate estate inasmuch as

the fruits of the paraphernal property only answer for the personal obligations of the husband when such obligations were productive of some benefit to the family (article 1386, Civil Code).

The question of whether or not the paraphernal property of the wife the fruits thereof are subject to the payment of the husband's personal obligations not having been raised in this case, there is no occasion to discuss it in this decision.

In view of the foregoing, this court is of the opinion so holds (1) that marriage settlements executed by a minor, in order to be valid, must be consented to signed by the persons designated by law to give consent to the marriage of such minor; (2) that a deed of marriage settlements containing all the requisites of the law, executed, for lack of a notary public, before a justice of the peace whom the parties believe to be authorized for that purpose, is valid, on the ground that the said justice of the peace acts as a de facto notary public; (3) that under the law, property acquired by a married woman with money brought by her to the marriage with the consent of her husband, paying for it with her own checks issued on a bank in which she has a current account, is paraphernal property; (4) that inasmuch as it has not been alleged in the complaint nor proven at the trial that in the intestate proceedings of the husband there are claims for the payment of his personal obligations which redounded to the benefit of his family, there is no legal justification for ordering the delivery of the fruits of the wife's paraphernal property to the administrator of the said intestate estate (article 1386, Civil Code).

Wherefore, the judgment appealed from is hereby reversed the defendant-appellant is absolved from the complaint, which is dismissed, with the costs of both instances against the plaintiff-appellee. So ordered.

Malcolm, Hull, Imperial, Goddard, JJ., concur.

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