

THE DIRECTOR OP LANDS, APPLICANT, VS. PEDRO AGUAS ET AL., CLAIMANTS. TEODORO SANTOS ET AL., APPELLANTS, AND CAYETANO GUESA, APPELLEE.

G. R. No. 42737. August 11, 1936

Ponente: RECTO, J.

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RECTO, J.:

This appeal was taken by Teodoro Santos, Amado L. Santos, Mercedes Santos and Bartola Santos from an order of the Court of First Instance of Paznpanga in cadastral case No. 4, 6. L. R. O. Cadastral Record No. 127, ordering the cancellation of transfer certificate of title No. 4811 of the deceased Lucina Guesa to the land designated as lot No. 2450-B of the cadastral case in question, and the issuance of another certificate in favor of the appellee Cayetano Guesa. The appellants' petition, which was denied by the court, sought the issuance of the new certificate in their name, alleging that they were the ones favored by the reservation to which the land described in said certificate of title was subject.

The land in question had belonged to Isidoro Santos. He donated it to Tomas Santos upon whose death, which took place on April 29, 1927, the property was inherited by the tatter's legitimate son, Romeo Santos. Upon the death of Romeo Santos on April 23, 1928, it passed to his legitimate mother Lucina Guesa to whom transfer certificate of title No. 4311 was issued with the notation that the property was subject to the provisions of article 811 of the Civil Code. Lucina Guesa died on April 14, 1933, and was succeeded by her legitimate father Cayetano Guesa as sole heir. Tomas Santos was an adulterous son, and the appellants and petitioners are the legitimate children of Isidoro Santos. Therefore, the appellants are not legitimate relatives of Romeo Santos, although, with relation to him, they are within the third degree and belong to the same line.

The above-stated facts are not disputed by the parties. The principal question raised in this appeal is whether or not the reservation established by article 811 of the Civil Code, for the benefit of the relatives within the third degree belonging to the line of the descendant from whom the ascendant reservor received the property, should be understood as made in favor of all the relatives within said degree and belonging to the line above-mentioned, without distinction between legitimate, natural and illegitimate ones not having the legal status of natural children.

Such question has already been settled in this jurisdiction as well as in the country of origin of the legal provision in question. The Supreme Court of Spain, in one of the findings of its decision dated June 10, 1918, stated:

"It appears, with respect to the second question raised and referred to in the first finding, that both the extraordinary reservation of article 811 of the Civil Code and the ordinary reservation of article 968 thereof are established in favor of legitimate relatives; and furthermore, with respect to the extraordinary reservation, the petitioner cannot allege that she belongs to the line from which the property claimed by her came because said line is formed by generations from validly celebrated marriages, and said petitioner is not a legitimate granddaughter descendant of the person who contracted the first marriage; and with respect to the second reservation, it ceased upon the death of said petitioner's natural father, in accordance with article 971 of the Civil Code, and in so holding, the branch of the court which rendered the decision has not violated the laws

cited in the other grounds of the appeal."

In *Maria Nieva and Alcala vs. Alcala and Deocampo* (41 Phil., 915), decided on October 27, 1920, this court, without having the aforesaid decision of the Supreme Court of Spain before it, decided the question in the same terms, accepting the view stated thereon by the eminent commentators of the Civil Code, Manresa and Scaevola. This court then said:

"There can be no question whatever but that, under said article 811 of the Civil Code, the plaintiff would be entitled to the property in question if she were a legitimate daughter of Juliana Nieva. (*Edrbo vs. Sablan*, 25 Phil., 295.) But in said article 811 the legislator uses the generic terms 'ascendant,' 'descendant,' and 'relatives/without specifying whether or not they have to be legitimate. Does the legislator, then, refer to legitimate as well as to illegitimate relatives? Counsel for the appellant, in a lengthy and carefully prepared brief, attempts to maintain the affirmative.

"This question, so far as our investigation shows, has not been decided before by any court or tribunal. However, eminent commentators on the Spanish Civil Code, who have devoted their lives to the study and solution of the intricate and difficult problems that may arise under the provisions of that Code, have dealt with the very question now before us, and are unanimous in the opinion that the provisions of article 811 of the Civil Code apply only to legitimate relatives. One of such commentators, undoubtedly the best known of them all, is Manresa. We believe we can do no better than to adopt his reasons and conclusions, in deciding the question before us. In determining the persons who are obliged to reserve under article 811, he says:

" 'Is every ascendant, whether legitimate or not, obliged to reserve? Should the natural father or grandfather reserve the properties proceeding from the mother or other natural ascendant? Article 811 does not distinguish; it speaks of the ascendant, without attaching the qualification of legitimate, and, on the other hand, the same reason that exists for applying the provision to the natural family exists for applying it to the legitimate family. Nevertheless, the article in referring to the ascendant in an indeterminate manner shows that it imposes the obligation to reserve only upon the legitimate ascendant.

" 'Let us overlook for the moment the question whether the Code recognizes or does not recognize the existence of the natural family, or whether it admits only the bond established by acknowledgment between the father or mother who acknowledges and the acknowledged children. However it may be, it may be stated as an indisputable truth, that in said Code, the legitimate relationship forms the general rule and the natural relationship the exception; which is the reason why, as may be easily seen,' the law in many articles speaks only of children or parents, of ascendants or descendants, and in them reference is of course made to those who are legitimate; and when it desires to make a provision applicable only to natural relationship, it does not say father or mother, but natural father or natural mother; it does not say child, but natural child; it does not speak of ascendants, brothers or parents in the abstract, but of natural ascendants, natural brothers or natural parents. (See, for example, articles 294, 302, 809, 810, 846, 935 to 938, 944 and 945 and 946 to 955.)

" 'Articles 809 and 810 themselves speak only of ascendants. Can it in any way be maintained that they refer to legitimate as well as to natural ascendants? They evidently establish the legitime of the legitimate ascendants included as forced heirs in number 2 of article 807. And article 811,—and as we will see also article 812,—continues to treat of this same legitime. The right of the natural parents and children in the testamentary succession is wholly included in the eighth section and is limited to the parents, other ascendants of such class being excluded in articles 807, No. 3, and 846. Therefore, the place which article 811 occupies in the Code is proof that it refers only to legitimate ascendants. And if there were any doubt, it disappears upon considering the text of article 938, which states that the provision of article 811 applies to intestate succession, which is just established in favor of the legitimate direct ascending line, the text of articles 939 to 945, which treat of intestate succession of natural parents, as well as that of articles 840 to 847, treating of their testamentary succession; which do not allude directly or indirectly to that provision.

" 'Lastly, the principle which underlies the exception which article 811 creates in the right to succeed neither admits of any other interpretation. Whether the provision is due to the desire that the properties should not pass, by reason of new marriages, out of the family to which they belonged, or is directly derived from the system of the so-called *reserva troncal*, and whether the idea of reservation or that of lineal rights (*troncalidad*) predominate the patrimony which is intended to be preserved is that of the legitimate family. Only to legitimate ascendants and descendants do articles 968 et seq. of the Code refer, arising as they do from the danger of second or subsequent marriage; only to legitimate parents do the special laws of Navarra, Aragon, Vizcaya and Cataluna concede the right to succeed with respect to lineal properties (*bienes troncales*); only to the legitimate ascendants does article 811 impose the duty to reserve.

" 'The convenience of amplifying the precept to natural parents and ascendants may be raised just as the question whether it would be preferable to suppress it altogether may be raised; but in the realm of the statute law there is no remedy but to admit that article 811, the interpretation of which should on the other hand be strict was drafted by the legislator with respect only to legitimate ascendants/ (Manresa, *Codigo Civil*, vol. 6, 3d ed., pp. 249, 250.)

'The same jurist, in determining the persons in whose favor the reservation is established, says:

" 'Persons in whose favor the reservation is established.— This is one of the most delicate points in the interpretation of article 811. According to this article, the reservation is established in favor of the parents who are within the third degree and belong to the line from which the properties came.

" 'It treats of blood relationship, which is applicable to questions on succession, according to articles 915 to 920. It could not be otherwise, because relationship by affinity is established between each spouse and the family of the other, by marriage, and to admit it, would be to favor the transmission of the properties of the family of one spouse to that of the other, which is just what this article intends to prevent.

" 'It also treats of legitimate relationship. The person obliged to reserve is a legitimate ascendant who inherits from a descendant property which proceeds from the same legitimate family, and this being true, there can be no question, because the line from which the properties proceed must be the line of that family and only in favor of that line is the reservation established. Furthermore, we have already said, the object is to protect the patrimony of the legitimate family, following the precedents of the foral law. And it could not be otherwise. Article 943 denies to legitimate parents the right to succeed the natural child and vice versa from which it must be deduced that natural parents neither have the right to inherit from legitimate ones; the law in the article cited establishes a barrier between the two families; properties of the legitimate family shall never pass by operation of law to the natural family.' (Ibid., pp. 251, 252.)

" 'Scaevola, after a very extended discussion of this same subject, arrives at the same conclusion as Manresa. 'La reserva del articulo 811 es privilegio de la familia legitima. (The reservation in article 811 is a privilege of the legitimate family.)' (See Scaevola, *Codigo Civil*, vol. 14, pp. 211-224, 301-305.)"

Sanchez Roman and Valverde are of the same opinion:

"As article 811 uses the words ascendant and descendant without any qualification, one might think that, as the law makes no distinction it applies to legitimate as well as illegitimate or natural relationship. There is no doubt that only the former refers to the obligation to reserve and consequently it applies only to the legitimate ascendant who inherits from a legitimate descendant. The same thing may be said of the preceding articles 809 and 810 which likewise lack the qualification legitimate, and it appears that they refer only to legitimate ones as the following article 811 which is their exception and limitation.

"Furthermore, it is so affirmed by the said foundation of this Uneal or familiar reservation, taking into consideration the fact that the Code's concept of the line and of the family is nothing more than that it refers to legitimate relationship, not to the illegitimate, as all juridical relationships, whether lineal or familiar, limiting

itself to recognizing rights proceeding from illegitimate relationship in favor of the persons of the natural son, father, mother or brothers and sisters but not in favor of the line of descendants or ascendants, and when it so names them it always adds the qualification natural thereto (art. 945), because once it speaks of the representation of the natural child by the descendants, as in article 843 (1), it requires that the latter be legitimate; neither does it equalize legitimate and illegitimate relationships, generally, in civil cases and, absolutely, in successions mortis causa, nor is the only doctrine similar to that of article 811, that is the reservation by the surviving spouse who contracts a second marriage, in favor of the children of the first marriage, or legitimate relationship, applicable to illegitimate relationship, it being clear that said article 968 declares the homogeneity of the juridical character of a reservation with article 811.

"Another argument in favor of this interpretation as an expression of the general spirit of the Code, is inferred from article 943 which prohibits all successory reciprocity mortis causa between legitimate and illegitimate relatives, and it even carries the prohibition further in providing that the natural and legitimated children have no right to succeed ab intestato the legitimate children and relatives of the father or mother who has acknowledged it, nor shall such children or relatives so inherit from the natural or legitimated children. Therefore, as stated by a learned jurist, the reservation of article 811 has not been established in favor of the natural brother of a legitimate child, that is, of the descendant from whom his ascendants inherited which is the case with article 811, because collateral natural relatives are not entitled to succeed legitimate relatives." (Sanchez Roman, Civil Code, vol. 6, pp. 996, 997.)

"The persons in whose favor the reservation is established are the relatives within the third degree, who must be legitimate and of the same blood, as may be inferred from the general principles of succession and the spirit pervading article 811." (Valverde, Spanish Civil Law, vol. 5, pp. 235, 236.)

In volume 8, page 395, of the Spanish edition of Colin and Capitant's book on the Civil Code, amplified with notes on the Spanish Civil Code by Demofilo de Buen, Professor of Civil Law of the University of Seville, appears the following brief commentary:

"The prevailing doctrine has considered the reservation of article 811 applicable only to legitimate relatives; and it was so held by the Supreme Court." (Decision of June 10, 1918.)

Said Professor De Buen, treating this matter in volume XXVII, page 349, of the Enciclopedia Juridica Española, says:

"Personal elements.—The reservation of article 811 presupposes a great complexity of personal elements. Those that enter therein are as follows: 1. The reserver or an ascendant who inherits certain property. 2. The descendant from whom the reserver has inherited said property. 3. The ascendant or the brother from whom the descendant referred to in the preceding number, in turn, has inherited the property transmitted by him to the descendant. 4. The reservees.

"As a general question applicable to all the preceding personal elements, it may be asked: Is it necessary that they all be joined by the bonds of legitimate relationship, or will the reservation be applied also to natural relatives? The question is important and has been the subject of careful consideration by authors. On our part, as we have always been inclined to associate the bonds of blood relationship with those of legitimacy as far as the law permits, we feel like giving an answer favorable to the application of article 811 also to the natural family. We must confess, however, guided by an objective examination of the prevalent doctrine and by the principle underlying our Civil Code that article 811 seems to have been written exclusively for the legitimate family. Two reasons—especially support this point of view: the inclusion of article 811 where the Code treats of the legitime of legitimate parents and ascendants, and the traditional interpretation of the doctrine of lineal rights which inspired this article, as such doctrine always favored legitimate relationship alone. Furthermore, says Mucius Scaevola (op. cit., vol. XIV, p. 2207), it is sufficient to read what constitutes the exposition of the purposes of article 811, that is, the book of Alonso Martinez, The Civil Code in its relation to foral legislation,

to acquire such conviction. See also the reasons given by Sanchez Roman in favor of said opinion (pp. cita., pp. 996, 997), now affirmed by the decision of June 10, 1919."

In fact we know of no legal doctrine or of any opinion of a competent commentator that might support the appellants' contention that the benefits of the reservation created by article 811 are not limited to legitimate relationship but extend to natural relationship.

After all, as these applicants are illegitimate relatives, not having the legal status of natural ones, of the descendant from whom the reservor ascendant acquired the land in question, their position is even more untenable than if their relationship with said descendant, though illegitimate, were at least natural in character. In intestate succession, the Civil Code recognizes certain successory rights although limited, among natural relatives. Thus, in the absence of legitimate descendants and ascendants the natural children legally acknowledged succeed to the entire estate of the deceased (art. 939); the hereditary rights granted to a natural child is transmitted upon its death to its (legitimate) descendants who inherit by right of representation from their deceased grandparent (art. 941); if an acknowledged natural child dies without issue, either legitimate or acknowledged by it, the father or mother who acknowledged such child succeeds to its entire estate; and if both acknowledged it and are alive, they inherit from it, share and share alike (art. 944). However, a natural child has no right to succeed ab intestato the legitimate children and relatives of the father or mother who has acknowledged it, nor do such children or relatives so inherit from said natural child (art. 943). On the other hand, such successory rights are denied by the Code to the parents and illegitimate children not having the legal status of natural children, their rights and obligations being limited to owing each other by way of support all the help necessary for their subsistence and the duty of such parents to defray the expenses necessary to give such children an elementary education and teach them some profession, art or trade (arts. 139, 143). As to illegitimate brothers and sisters not having said status, they not only do not succeed each other but also do not owe each other anything even by way of support.

It being undisputed that Tomas Santos, father of Romeo Santos, the descendant from whom the ascendant reservor received the land in question by operation of law, was an adulterous child of Isidoro Santos, the legitimate father of the appellants, it appears that the latter are merely said descendant's illegitimate relatives not having the legal status of natural relatives, or vice versa, and therefore they cannot claim any right to the reservation. After the death of the ascendant reservor Lucina Guesa, with no legitimate relatives within the degree and belonging to the line prescribed by article 811 existing at the time of her death, the property in question ceased to be reservable property and should pass to the person or persons entitled to it in accordance with the natural order of succession established by law, as the provision of article 811 is a case of successory reversion, a rule of exception adopted by the legislator as an equitable solution of the conflict between the system of lineal rights and that of proximity in degree. It appears that Lucina Guesa died intestate leaving no descendants but an ascendant, the appellee Cayetano Guesa, and the inheritance in question should be surrendered to him as provided in articles 935 and 936 of the Civil Code.

The sentimental rather than juridical argument is also advanced that since the Civil Code is hard on the illegitimate family, it is but just to moderate the rigor of its provisions by adopting a liberal interpretation of article 811 so that the fate of illegitimate relatives may thereby be rendered less cruel. This argument refutes and answers itself. It being admitted by the appellants that the criterion of the Code is implacable, so to speak, to the illegitimate family, and taking for granted that there exists organic unity and absolute harmony throughout the Code, the interpreters thereof have no other recourse than to examine all its provisions in the light of such criterion, unless it may be reasonably inferred from the language of some of said provisions that the legislator has decided "to establish an exception in some particular case. In matters of succession the general rule is that the same takes place among legitimate relatives, and when the Code has seen it fit to recognize the existence of rights

outside said relationship, as in the case of natural relationship, it has been careful enough to so express in plain language.

In other respects, the appellants' defense of the illegitimate family does not seem to be consistent with their position within the family of Tomas Santos. They are the legitimate children and Tomas Santos is the adulterous son of Isidoro Santos. Strictly speaking, Tomas Santos and his son Romeo Santos were the illegitimate relatives of the appellants, although the legal effect, for purposes of article 811, is the same as if the appellants were the illegitimate descendants of Isidoro Santos and the former the legitimate ones. Neither the appellants nor their legitimate father Isidoro Santos could have been succeeded, by operation of law, by their adulterous brother Tomas Santos and their adulterous nephew Romeo Santos by reason of that insurmountable legal barrier of illegitimate relationship. The juridical situation created by such relationship was such that in order that Isidoro Santos might transfer the lucrative title to the land in question to his adulterous son Tomas Santos, he had to make a donation in favor of the latter within the limits of the law because there was no way by which Tomas Santos could succeed him by operation of law. Therefore under what rule of equity or natural justice may the appellants now seek reciprocity?

We find no merit in the argument advanced by the appellants in the lower court and reiterated by them in this instance regarding the legal effect of the continuous notation in the certificate of title of the land in question, which notation subjected Lucina Guesa's right of ownership to the provisions of article 811 of the Civil Code. The appellants contend that said notation could have referred to no other persons except them both at the time of said notation and of Lucina Guesa's death and they should therefore be considered as having a vested right to the reservation in question which now stand indisputable. The innocuousness of this reasoning is self-evident. The fact that Lucina Guesa's ownership of the land in question was conditioned by the provisions of article 811 and it was so stated in the transfer certificate of title issued in her name, could not perform the miracle of creating the persons in whose favor the reservation in question has been established by law, that is, relatives within the third degree belonging to the line of the descendant from whom the ascendant reservor has received the reservable property, who must also be legitimate relatives, in accordance with the legal doctrine interpreting this provision. Persons who, like the appellants herein are not so related to said descendant cannot claim themselves alluded to by the terms of such notation. They are in no better position than a stranger to claim any right, if any, derived therefrom.

The reservable character of a property is but a resolutory condition of the ascendant reservor's right of ownership. If the condition is fulfilled, that is, if upon the ascendant reservor's death there are relatives having the status provided in article 811, the property passes, in accordance with this special order of succession, to said relatives, or to the nearest of kin among them, which question, not being pertinent to this case, need not now be determined. But if this condition is not fulfilled, the property is released and will be adjudicated in accordance with the regular order of succession. The fulfillment or nonfulfillment of the resolutory condition, the efficacy or cessation of the reservation, the acquisition of rights or loss of the vested ones, are phenomena which have nothing to do with whether the reservation has been noted or not in the certificate of title to the property. The purpose of the notation is nothing more than to afford to the persons entitled to the reservation, if any, due protection against any act of the reservor, which may make it ineffective. In the absence of such persons, the notation produces no effect whatsoever and the result is the same as if the notation has never been made. In obligations, it is like the condition of not doing an impossible thing which, under article 1116 of the Civil Code, is to be disregarded. A right, which is inexistent because the beginning of its juridical existence depended upon the realization of a fact which has not been realized, neither arises nor is created just because it has been noted in the registry.

The appealed order is affirmed with costs to the appellants.

Avanceña, C. J., Abad Santos, Imperial, Diaz, and Laurel, JJ., concur.

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